

Title V

BUSINESS REGULATIONS

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HISTORY:

CHAPTER 1 (*Ord. 580, 12-14-76, last amended by Ord. 686, 6-9-87*) promulgated fees for "amusement devices." CHAPTER 2 was an earlier regulation of amusement devices repealed by Ord. 580 (*12-14-76,*

eff. 1-1-77). CHAPTER 4 (*Ord. 429, 12-6-56*) was the original "Green River Ordinance" which declared peddling and solicitation unlawful; when it was repealed, the replacement ordinance regulating peddling and solicitation became CHAPTER 14. CHAPTER 12 incorporates the City's Cable Franchise Agreement with Chambers Cable, and replaced the original CATV Ordinance upon the expiration of the original cable franchise agreement.

Chapter 1

[Repealed by Ord. 720, 8-10-93]

Chapter 2

*[Repealed by Ord. 580, 12-14-76, eff.
1-1-77]*

Chapter 3

[Repealed by Ord. 607, 11-7-78]

Chapter 4

[Repealed by Ord. 700, 4-11-89]

Chapter 5

MOBILE HOMES AND TRAILERS

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5.5.1 DEFINITIONS

Definitions as used *[sic]* in this Chapter, the following words shall have the meaning as follows:

Person: The word "person" shall include individuals, co-partnerships, corporations, owners, partners, leasees *[sic]*, licensees and their agents.

Trailer: The word "trailer" shall include trailer coaches or any vehicle used for sleeping or living quarters but which is not equipped with running water, bath facilities, flush toilets and necessary sanitary conditions.

Mobile Homes: "Mobile Homes" shall be determined to be a unit similar to a trailer or any vehicles used for sleeping or living quarters which is equipped with running water, bath facilities, flush toilets, with City water and sanitary connections.

Individual Mobile Homes: "Individual Mobile Home" is *[sic]* any mobile home which is the only one (1) on a lot or parcel of land at least two thousand three hundred and fifty square feet (2350 sq.ft.) in area.

Permittee: "Permittee" is any person receiving a permit to conduct, operate or maintain mobile home park or individual mobile home as the case may be.

Mobile home park: "Mobile Home Park" is any privately owned land within the City upon which two (2) or more mobile homes or trailers are situated and are intended to be used and occupied as sleeping or living quarters, upon which there shall be installed proper facilities for toilet and sanitary uses for persons occupying trailers thereon. (*Ord 434, 4-7-60*)

5.5.2 TRAILERS PROHIBITED

No person shall use, maintain or operate a trailer as defined in Section 5.5.1, except in an approved mobile home park, or in accordance with the provisions of Article VII, Chapter Three, Recreational Vehicle Parking.

A single-wide mobile home may be permitted to be sited on an individual residential lot as a conditional use pursuant to Section 8.2.2 of Title VIII (Zoning), subject to the standards set forth in Section 8.9.6 of Title VIII and the requirements of this Chapter. (*Ord. 778, 8-26-97, eff. 9-26-97; amended by 799, 6-8-99*)

5.5.3 PLANNING COMMISSION RESPONSIBILITY

- (A) It shall be the duty of the Planning Commission to enforce the provisions of this Chapter and any amendments thereto, and for the purpose of such enforcement the City Manager or his designee shall have the right to enter upon any premises on which any mobile home or trailer may be located or about to be located, or upon the premises where any mobile home park is located, or proposed to be located, and inspect the same and the sanitary condition thereof, at any time.
- (B) The Planning Commission is further empowered to issue orders granting, renewing, or revoking such permits or licenses as provided for pursuant to this Chapter and are empowered to formulate from time to time such reasonable rules and regulations as the Commission may deem proper relating to the operation of mobile home parks, which rules and regulations must be approved by resolution regularly adopted by the City Council. (*Ord. 778, 8-26-97, eff. 9-26-97, amended by Ord. 832, 3-11-2003*)

5.5.4 PERMIT REQUIRED

- (A) No person shall establish, maintain or operate a mobile home park, or establish or operate a single-wide mobile home without first having obtained a permit therefor.
- (B) Permits issued pursuant to this Section shall be for a term of one (1) year from the date of issuance, and shall be renewable annually, subject to the terms of this Chapter, unless revoke.
- (C) The permit required by the City shall be in addition to, not in lieu of, any permits which may be required by the state or county for the above activity. (*Ord. 778, 8-26-97, eff. 9-26-97*)

5.5.5 APPLICATION FOR PERMIT

The application for a permit hereunder shall be made to the City Manager in writing on forms provided by the City for that purpose. The application shall contain the name and address of the applicant and if the applicant be a lessee, licensee, or other than the owner of the premises and the operator of the mobile home park, shall contain the name and address of the owner thereof. The application shall be signed by the applicant, and if the applicant is other than the owner of the premises, shall also be signed by the owner thereof.

The applicant for any mobile home park permit shall submit with any application a certificate from the County Health Officer showing compliance with all requirements under the health and sanitation laws of the state for operation of a business of this character, plus an application fee of fifty dollars (\$50.00). The application fee is subject to revision by resolution of the City Council.

Renewal of an already-granted permit shall not require an application fee. (*Ord. 778, 8-26-97, eff. 9-26-97, amended by Ord. 832, 3-11-2003*)

5.5.6 PERMIT FEES

The annual fee for permit for individual mobile homes or mobile home park shall be payable annually to the City as follows:

(A) Single-wide mobile home on individual lot	\$5.00
(B) Mobile home park:	
Not to exceed ten (10) units	5.00
11 to 15 units	10.00
16 to 20 units	15.00
21 to 25 units	20.00
26 to 30 units	25.00
31 to 35 units	30.00
in excess of 35 units	35.00

The above fees are subject to revision by resolution of the City Council. (*Ord. 778, 8-26-97, eff. 9-26-97*)

5.5.7 REVOCATION AND SUSPENSION

Any permit granted hereunder may be revoked or suspended by the City Council for violation of any provision of this Chapter or for failure to comply with health and sanitation rules of the State of Oregon. (*Ord. 778, 8-26-97, eff. 9-26-97*)

5.5.8 HEARINGS

- (A) The Planning Commission may call a public hearing regarding any application for a permit hereunder,
- (1) if in their judgement, the circumstances require such action, or
 - (2) if requested in writing by the applicant for a permit.
- (B) Hearings by the Planning Commission pursuant to this Chapter shall require the same notice as hearings by the Planning Commission on variance applications pursuant to Sec. 8.10.3 of Title VIII (Zoning).
- (C) Any hearing by the Planning Commission pursuant to this Chapter shall not eliminate the requirement of additional hearings or actions by the Planning Commission, if required pursuant to Title VIII (Zoning) or Title IX (Subdivision) of the City Code. (*Ord. 778, 8-26-97, eff. 9-26-97*)

5.5.9 APPEALS

An action or ruling of the Planning Commission authorized by this Chapter may be appealed to the City Council within fifteen (15) days after the Commission has rendered its decision by filing written notice with the City Manager. If no appeal is made within the fifteen (15) day period, the decision of the Planning Commission shall be final. If an appeal is filed, the City Council shall receive a report and recommendation from the Planning Commission and shall hold a public hearing on the appeal. Notice of the public hearing shall be by one (1) publication in the official City newspaper not less than eight (8) days prior to the date of the hearing. In the case of an appeal, the decision of the City Council shall be final. (*Ord. 778, 8-26-97, eff. 9-26-97, amended by Ord. 832, 3-11-2003*)

Chapter 6

WRECKING YARDS

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5.6.1 WRECKING YARD DEFINED

Any place where more than one motor vehicle is kept for the purpose of being wrecked, dismantled, permanently disassembled or substantially altered in form, is hereby declared to come within the meaning of the term "Wrecking Yard".

5.6.2 ENCLOSURE REQUIRED

It shall be unlawful to operate within the City, a business commonly known as a Wrecking Yard or any place where old, used, or obsolete motor vehicles are wrecked, dismantled, permanently disassembled, or substantially altered in form, unless the operator thereof shall keep the motor vehicles and the bodies, chassis, and other parts thereof completely [sic] within a building used for that purpose, provided, however, that the vehicles or bodies, chassis or other parts thereof may be kept in the open if the owner or operator of the wrecking yard shall completely enclose the premises on which the same are kept with a sturdy fence not less than six feet (6') in height, that visually screens the interior from public view. *(Amended by Ord. 856, 8-12-2008)*

5.6.3 FENCES TO BE KEPT IN GOOD REPAIR

All fences used to enclose wrecking yards within the City must be kept in good and proper state of repair and be kept so painted as to avoid all unsightly appearances. *(Ord. 191, 7-24-39)*

Chapter 7

[Repealed by Ord. 607, 11-7-78]

Chapter 8

FOR HIRE VEHICLES

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5.8.1 LICENSE REQUIRED

Every person who shall hereafter operate and manage or cause to be operated and managed within the Corporate Limits, the common carrying of property, shall pay to the Treasurer an annual license fee of thirty dollars (\$30.00) for each vehicle so operated or caused to be operated by such person.

5.8.2 LICENSE FEE

The license fee shall be payable in twelve (12) equal monthly installments of two dollars and fifty cent *[sic]* (\$2.50) which installments shall be payable on or before the tenth day of each month.

5.8.3 MISDEMEANOR DECLARED

Every person who shall hereafter operate and manage, or cause to be operated and managed within the Corporate Limits for the common carrying of property without first having paid the license fee above stated, for the month then current, shall be deemed guilty of a misdemeanor. (*Ord. 183; 11-18-38*)

Chapter 9

[Repealed by Ord. 607, 11-7-78]

Chapter 10

[Repealed by Ord. 607, 11-7-78]

Chapter 11

[Repealed by Ord. 607, 11-7-78]

Chapter 12

CABLE COMMUNICATIONS FRANCHISE

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5.12.1 PURPOSE

- (A) *Repeal and Replacement of Ordinance.* Chapter 12 of Title V of the Vale City Code, entitled "CATV System", enacted September 26, 1978 as Ordinance Number 602, is hereby repealed and replaced with the provisions of this Ordinance, which shall be entitled "Cable Communications Franchise."
- (B) *Grant of Non-Exclusive Cable Franchise.* A non-exclusive franchise is hereby granted Chambers Cable of Oregon, Inc., hereinafter referred to as "Grantee", to install, construct, operate, and maintain, a cable communications system within the public streets, ways, alleys, public utility easements, and places of the City of Vale, hereinafter referred to as "Grantor". This franchise shall constitute both a right and an obligation to provide the service of a cable communications system as required by the provisions of this ordinance. The City reserves the right to grant a franchise with similar terms and conditions for the use of said streets, alleys, public ways, and places to any person, firm and corporation at any time during the period.

5.12.2 DEFINITIONS

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

- a. "City": The City above named, a municipal corporation of the State of Oregon, in its present incorporated form or in any other reorganized, consolidated changed forms.
- b. "Council": The present governing body of the City or any future body constituting the legislative body of the City.
- c. "Grantee": The person, firm or corporation to whom or to which a franchise under this ordinance is granted by the Council, and the lawful successor or assignee of said person, firm or corporation.
- d. "Street": The surface of, and the space above and below, any public street, road, highway, freeway, lane, alley, court, sidewalk, parkway drive or other public property, hereafter existing as such within the City.
- e. "Cable Communications System" or "System": means a system of antennas, cable, amplifiers, towers, microwave links, waveguides, laser beams, satellites, earth stations, or any other conductors, converters, equipment, or facilities, designed and constructed for the purpose of producing, receiving, amplifying, storing, processing or distributing audio, video, digital, or other forms of electronic or electrical signals.
- f. "Converter": means an electronic device, which converts signals to a frequency not susceptible to interference within the television receiver of a subscriber, and increases the number of channels the subscriber may select.
- g. "Gross Annual Revenues": means any and all compensation in whatever form, grant, subsidy, exchange, or otherwise, directly or indirectly received by Grantee, including advertising revenue, except of the standard initial installation charge with the exception of all bad debts.
- h. "Pay Television": means television signals for which the Grantee pays a fee or charge other than statutory copyright fees, on a per program, per channel, per subscriber, or similar basis, and which are offered individually to subscribers on a similar additional cost basis over an above the charge for basic service.
- i. "Rate Schedule": means the charge of subscriber service.
- j. "Standard Installation Charge": means the cost to the subscriber for connection to the Cable Communications System in the amount specified in the current rate schedule.
- k. "Subscriber": means any person, firm, corporation, or other entity receiving electronic signals by means of the Grantee's Cable Communications System.

5.12.3 GRANTEE RULES

The Grantee shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable said Grantee to exercise its rights and perform its obligations under this franchise and to assure uninterrupted service to each and all of its customers. Provided, however, that such rules, regulations, terms and conditions shall not be in conflict with the provisions hereof, the rules of the Federal Communications Commission or the laws of the State of Oregon. Examples of all rules, regulations, terms and conditions, including subscriber agreements, shall be kept current on file with the City Manager. (*Ord. 832, 3-11-2003*)

5.12.4 COMPLIANCE WITH CONSTRUCTION AND TECHNICAL STANDARDS

Grantee shall construct, install, operate and maintain its System in a manner consistent with applicable local construction standards, governmental requirements, FCC technical standards, and detailed standards submitted by Grantee and approved by the City Council. In addition, Grantee shall provide the City, upon the City's request, with a written report of the results of Grantee's annual proof of performance tests conducted pursuant to FCC standards and requirements.

The Grantee shall perform all work and construction herein authorized in a workmanlike manner and shall conform to all requirements of the National Electrical Code and the laws of the State of Oregon, and Ordinances of the City of Vale.

5.12.5 USE OF PUBLIC WAYS

- (A) *Street Openings or Obstructions.* Any opening or obstruction in or disturbance of the streets made by the Grantee in the exercise of its rights under this franchise agreement shall be done in compliance with the standard specifications of the Grantor and all other applicable federal, state and local laws, ordinances, traffic manual and regulations. No hard surface pavement shall be cut or street broken by the Grantee without first obtaining a permit from the Grantor, which requires a plan submittal and approval before installation begins.
- (B) *Undergrounding and Pole Use.* The Cable Communications System cable, wires an associated equipment or facilities shall be placed underground in areas of the franchise territory where telephone and electric utility lines are underground. At no time shall the cable system be the only aerial facility. Undergrounding of Grantee's equipment and facilities shall be done in compliance with code provisions of the Grantor, and in cooperation with the telephone company and electric utility board operating in the area. In all matters relating to undergrounding, Grantor shall not discriminate against Grantee with respect to any requirements imposed or benefits to telephone or electric utilities required by state law. Arrangements shall be made by the Grantee with the telephone company or utility board for the use of existing poles in areas where the utilities are above ground, and no poles shall be erected by the Grantee without prior approval of the Grantor. Before placing equipment or facilities underground, or above ground, it shall be the responsibility of Grantee to determine whether necessary easements exist, and except as otherwise provided in this ordinance, to secure easements, if needed, and to show said easements on each plan submitted for proposed construction.
- (C) *Restoration and Repair of Streets.* Whenever the Grantee disturbs any of the streets, it shall restore them as soon as practicable, to good order and condition, as they were at the time of the disturbance using the kind and quality of material with which the street was improved prior to the disturbance, and making the repair or restoration under the direction, and inspection, and to the satisfaction of the Grantor. The Grantor shall have the right to fix a reasonable time within which such restoration and repair of streets shall be completed, and upon failure of Grantee to make the restoration and repair within the allotted time, the Grantor may cause such restoration and repair to be made at the expense of Grantee.
- (D) *Grantor's Use of Streets.* Nothing in this franchise shall be construed in any way to prevent the proper authorities of the Grantor from sewerage, grading, planking, rocking, paving, repairing, altering or improving any of the streets, alleys, easements, avenues, thoroughfares, and public ways within the franchise territory in or upon which the poles, wires or other equipment of said Grantee shall be placed. All such work or improvements shall be done, if possible, so as not to obstruct or prevent the free use of said poles, wires, conduits, or other equipment.
- (E) *Tree Trimming.* Where tree trimming is necessary on public streets for the operation of the lines, wires, scales and antennas or other appurtenances of the Grantee, the trimmings shall be done

by competent employees, agents or contractors of the Grantee after application for and granting of a written permit by the Grantor, and it shall be done without cost or expense to the Grantor.

- (F) *Grantor's Use of Poles.* Grantor reserves to itself the right at any time to use the poles and other installations of Grantee erected or installed under the authority granted in this ordinance for any Grantor-owned facilities of whatsoever nature, but it is agreed that such use shall not interfere or compete with Grantee's use thereof. Grantor shall hold Grantee harmless from any and all liability which may arise as a result of its use of Grantee' poles or other installation.
- (G) *Equipment Maintenance.* Grantee shall, at all times, keep and maintain all of its poles, fixtures, conduits, wires, and its entire System in a good state of repair and shall indemnify and save harmless the Grantor of and from any and all damages of any kind or character growing out of or arising by reason of Grantee's failure to so maintain the Cable Communications System in the franchise territory.
- (H) *Temporary Removal of Facilities:*
- (1) Grantee shall, at its expense, protect, support, temporarily disconnect or relocate any of its equipment when required to do so by Grantor by reason of traffic conditions, public safety, street vacation, freeway and street construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines, and tracks, or any other type of structures or improvements by the Grantor.
 - (2) Grantee shall, within seven (7) days' written request of any person holding an appropriate permit issued by the Grantor, temporarily raise or lower its lines or other equipment to permit the moving of any building or other structure, machinery, or object, and the actual expense of the same shall be paid by the person making the request. The person making the request will indemnify and save harmless said Grantee of any and all damages or claims of whatsoever kind or nature caused directly or indirectly from such temporary rearrangement of the equipment of the Grantee, and if required by Grantee, shall provide a cash deposit or a good and sufficient bond to pay any and all such costs as estimated by Grantee.
 - (3) All installations, rearrangements, removals, lowering or raising of aerial cables or wiring or other apparatus shall be done in conformance with the requirements of the National Electric Safety Code, and the laws of the State of Oregon and the ordinances of the Grantor.
- (I) *Maps and Records.* The Grantee shall file with the Grantor a System "as built" map drawn to accurate scale, and shall amend the map annually or as often as necessary to keep the Grantor informed as to the location of all facilities installed in the franchise territory. The map shall clearly indicate location of trunks, distribution of lines, and amplifiers within the public rights of way.
- (J) *Emergency Removal of Facilities.* If, at any time, in case of fire or disaster in the franchise territory, it shall become necessary in the reasonable judgment of the Grantor to cut or move any of the wires, cables, amplifiers, or their appurtenance to the system of the Grantee such cutting or moving may be done and any repairs rendered necessary thereby shall be made by the Grantee, at its sole expense, provided that such repairs are not necessitated by a negligent act of the Grantor, in which case costs for repairs shall be borne by the Grantor.
- (K) *Alternate Routing of Facilities.* In the event continued use of a street is denied to the Grantee by the Grantor for any reason, the Grantee shall provide service to affected subscribers over such alternate routes as shall be determined by Grantees within a reasonable period of time. Grantee shall be afforded the opportunity to recover the extraordinary costs incurred by such event from users served by such alternate routing.

- (L) *Common Trench Coordination.* The Grantor shall coordinate with other utility providers, subdividers, and the Grantee to enhance and encourage the usage of common trenching whenever feasible. The Grantor shall notify the Grantee at time of preliminary plat filing for intended subdivisions.

5.12.6 EXTENSION OF SERVICE

- (A) *Service Availability and Request Record.* The Grantee shall provide cable communications service throughout the franchise territory pursuant to the provisions of this section and shall keep a record for at least three years of all requests for service received by the Grantee. This record shall be available for inspection by the City Manager or his designee at the local office of the Grantee during regular office hours, providing reasonable notice is given prior to such inspection.
- (B) *Plan for Extension and Reconstruction of the Cable System.*
- (1) In areas within the Urban Growth Boundary (UGB), but outside the corporate limits of Vale, where a joint management agreement exists between the City of Vale and the County of Malheur, the Grantee shall provide the Grantor plans for extension of service to those areas. To an extent possible, the Grantee shall coordinate construction in a manner consistent with the City's Comprehensive Plan for development of those areas.
 - (2) *Additional Extension of System.* Extension of the system into any areas not specifically mentioned herein shall be made under the following terms and conditions: In areas not meeting the requirements for mandatory extension service, Grantee shall provide, upon request of five or more potential subscribers desiring service, an estimate of costs required to extend service to said subscribers, and the amount by which said costs exceed what would be the cost of mandatory extension under this section. Grantee shall extend service to any such dwelling units upon advance payment (or assurance of payment satisfactory to the Grantee) of the additional cost. Such payments shall be nonrefundable, and in the event the areas subsequently reaches the density required for mandatory extension, such payments shall be treated in full or in part as consideration for early extension of service.
- (C) *Service to Individual Subscribers from Existing System.* After initial installation, where a subscriber can be served from the Grantee's existing System, without extension of trunk or distribution cable, the Grantee shall serve the potential subscriber upon request on the following terms and conditions:
- (1) The dwelling unit shall be connected to cable at the standard installation charge if the connection can be made with an aerial drop and does not exceed 150 feet.
 - (2) If the aerial connection drop exceeds 150 feet, the potential subscriber may be charged the actual cost for the distance exceeding 150 feet plus standard installation charge, and Grantee may request advance payment for such installation.
 - (3) After the initial installation, if the requested installation is to be placed underground, the potential subscriber must pay for or furnish an open trench, as specified by the Grantee, backfilling and restoring to original conditions and Grantee may request advance payment for such work.
 - (4) The potential subscriber shall arrange for all necessary easements over or under private property.
- (D) *Underground Extension of System:*

- (1) Installation of System. In cases of new construction or property development where utilities are to be placed underground, the developer or property owner shall give Grantee reasonable notice of such construction or development, including a copy of any final plat, and of the particular date on which open trenching will be available for Grantee's installation of conduit, pedestals, and/or vaults, and laterals to be provided at Grantee's expense. Grantee shall also provide specifications as needed for trenching.
 - (2) Costs of trenching and easements required to bring service to the development shall be borne by the developer or property owner; except that if Grantee fails to install its conduit, pedestals and/or vaults, and lateral within two (2) working days of the date the trenches are available, as designated in the notice given by the developer or property owner, then should the trenches be closed after the two-day period, the cost of new trenching is to be borne by Grantee.
 - (3) Activation of Service. Grantee shall promptly provide service upon request at the standard installation rate where the potential subscriber can be served by extension of distribution cable past occupied dwelling units equivalent to a density of ten (10) dwelling units per quarter mile of cable contiguous to the already-activated system. Such density shall be computed on the basis of dwelling units which can be served on either side of the cable.
- (E) *Aerial Extension of System.* In any area where utility lines are permitted above ground, Grantee shall extend its System and provide service upon request as provided herein, where the potential subscriber can be served by extension of distribution cable past occupied dwelling units equivalent to a density of ten (10) dwelling units per quarter mile of cable contiguous to the activated System. Such density shall be computed on the basis of dwelling units which can be served on either side of the cable. (*Ord. 832, 3-11-2003*)

5.12.7 FRANCHISE FEE

As compensation for the permit granted herein and in consideration of permission to use the streets and public ways of the Grantor in the franchise territory, the Grantee shall pay to the City quarterly and within sixty (60) days after the end of each period for which this franchise is granted, an amount equal to 5% of gross annual revenues as defined in Section 5.12.2.

5.12.8 RATES FOR INSTALLATION AND SERVICES

- (A) *Schedule of Rates.* Grantee shall keep on file with the City Manager a current schedule of subscriber rates and charges.
- (B) *Prohibition of Discriminatory or Preferential Practices.* The Grantee shall not, in its rates or charges, or in making available the services or facilities of its System, or in its rules or regulations, or in any other respect, make or grant discriminatory preference or advantages to any subscriber or potential subscriber to the System, or to any user or potential user of the System; and shall not subject any such persons to any prejudice or disadvantage; provided nothing herein shall prevent Grantee from establishing different rates for uniform classes of subscribers or reducing rates.
- (C) *Disconnections, Failure to Pay.* If a subscriber has failed to pay a properly due monthly subscriber fee within 15 days after the due date of the fee, Grantee may cause disconnection of the subscriber's cable installation after ten (10) days prior written notice; however, upon payment in full of the delinquent monthly subscriber fee, and the reconnection charge, the Grantee shall promptly reinstate the subscriber's service.

- (D) *Subscriber Refunds.* If any subscriber terminates, for personal reasons, any monthly service prior to the end of a prepaid period, a proportional amount of any prepaid monthly service fee, corresponding to the number of days remaining in the prepaid period, shall be refunded to the subscriber by the Grantee if the amount equals \$5.00 or more.
- (E) *Service to Institutions.* Upon request, the Grantee shall make single installations of its Cable Communication System facilities to each fire and police station, public school, City Hall, and all public libraries within the franchise territory of this Ordinance except no standard installation fee shall be imposed for such installations. No monthly service charge shall be made for distribution of the basic service to these locations. At such time as service available, Grantee shall provide one service drop to the water treatment plant. The installation shall be at no cost and the monthly fee shall be at the then current rate. (*Ord. 832, 3-11-2003*)

5.12.9 RATE CHANGE PROCEDURES

Should Federal or other legislation empower the Grantor rate review authority, the following procedures may be used, in accordance with such legislation.

- (A) The Grantor is empowered to review and pass upon requests by the Grantee to change its rates for basic services when such changes exceed 4% within any twelve (12) month period of time.
- (B) Requests for rate changes in excess of 4% shall be in writing and shall be supported by financial data conforming to a reporting format approved by and filed with the Grantor. Such requests must then be considered by the Grantor within thirty (30) days of the receipt of such request, or such request shall be considered approved and may be put into effect immediately.
- (C) In the event the Grantor elects to review a requested rate change in excess of 4%, the Grantor may conduct such public hearings as are necessary and appropriate to the issues, but shall confine testimony in such hearings to the issue of rate change.
- (D) Rate changes not subject to review by the Grantor will be submitted to the City Manager by the Grantee as provided in Section 5.12.8. Such submission shall be thirty (30) days prior to the effective date of such changes. (*Ord. 832, 3-11-2003*)

5.12.10 COMPANY LIABILITY AND INDEMNIFICATION

- (A) *Public Liability Insurance.* Grantee shall indemnify and save the Grantor free and harmless from any and all liability, loss, cost, damage or expense from accident or damage, either to itself or to persons or property of others which may occur by reason of the exercise of the rights and privileges herein granted; and shall, for the purpose of carrying out the provisions of this section, and prior to commencing construction of any kind, have in full force and effect, and file evidence thereof with the Grantor, a good and sufficient policy (or policies) covering \$500,000.00 personal injury each person, \$1,000,000.00 personal injury each occurrence, \$300,000.00 property damage each person, and \$500,000.00 property damage each occurrence with the policy (or policies) to be executed by an insurance company (or companies) authorized and qualified to do business in the State of Oregon, and conditioned to indemnify and save harmless the Grantor from and against any and all claims, actions, suits, liabilities, loss, cost, expense or damage of any kind or description which may accrue to or be suffered by the Grantor or by anyone by reason of the erection, construction, reconstruction, relocation, replacing, readjustment, repair, maintenance or operation of the coaxial cable and appurtenances thereto, or by reason of anything that has been done or may be done by the Grantee hereunder which may in any way cause liability by reason thereof.
- (B) *Reimbursement of Costs.* The Grantee shall pay all expenses incurred by the Grantor in defending itself with regard to all damages and penalties mentioned in subsection (1) above. These expenses shall include all out-of-pocket expenses, such as consultants or attorney fees.

- (C) *Notice of Cancellation or Reduction in Coverage.* The insurance policies mentioned above shall contain an endorsement stating that the policies are extended to cover the liability assumed by the Grantee under the terms of this ordinance and shall contain the following endorsement:

It is hereby understood and agreed that this policy may not be canceled nor the amount of coverage thereof reduced until thirty (30) days after receipt by the City of Vale by registered mail of a written notice of such intent to cancel or reduce the coverage.

- (D) *Evidence of Insurance Filed with Grantor.* Grantee shall provide to grantor evidence of its insurance coverage in compliance with this Section 5.12.10 before the franchise term begins and within 30 days before any modification or cancellation of such insurance.

5.12.11 RESPONSIBILITIES TO PUBLIC

The Cable Communications System shall be installed and maintained in accordance with the highest and best standards of the industry to the end that subscribers shall receive the best service possible. To this end Grantee shall:

- (A) Supply to the City, upon the City's request, a copy of each report of technical compliance it prepared in conformance with orders of the Federal Communications Commission. Upon request by City, Grantee shall supply a qualified electronic technician who is satisfactory to City to test the performance of Grantees' technical facility. If the electronic technician selected is not employee of Grantee, then the Grantee and City shall share equally in the costs incurred.
- (B) Limit System failures to minimum time duration by locating and correcting malfunctions promptly, but in no event longer than twenty-four (24) hours after occurrence, irrespective of holidays or other non-business hours. In the event of service interruption of a duration longer than twenty-four (24) hours, the Grantee shall notify the Grantor on the next business day of the reason for the failure and its expected duration.
- (C) Render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible; such interruptions in so far as possible shall be preceded by notice given to subscribers twenty-four (24) hours in advance and shall occur during periods of minimum use of the system.
- (D) Maintain test equipment for routine and performance tests.
- (E) Any damage caused to the property of building owners or users or any other person, by the Grantee shall be repaired fully and promptly by the Grantee.
- (F) Upon termination of Service to any subscriber, the Grantee shall remove promptly all its above ground external facilities and equipment from the premises of the subscriber at the owner's written request.
- (G) Grantee shall maintain an office in the City of Ontario, which shall be open during all the usual business hours with its telephone listed in directories of the telephone company serving the franchise territory, and be so operated that complaints and requests for repairs or adjustments may be received at any time, day or night, seven days a week. The phone number and address of this office shall be furnished to each subscriber by the Grantee. Original records including service records pertaining to complaints received by the Grantee, and of the office procedures followed to satisfy those complaints, shall be maintained by the Grantee for a period of not less than three years and made available for inspection by the City Manager on reasonable notice to the Grantee.

5.12.12 COMPLAINT RESOLUTION POLICY

The Grantee shall make every effort to satisfactorily resolve all customer complaints. Should a resolution not be made, the complainant shall have the ability to file a written complaint with the City Manager. The City Manager shall review all available facts and issue a finding within ten (10) days of receipt of the written complaint. If the complainants or the Grantee feels the resolution is unsatisfactory, the complainant or the Grantee may, within ten (10) days of written notice by the City Manager, file an appeal for review by the City Council. Such review shall be held at the next regular City Council meeting. The decision of the City Council shall be considered as final. Grantee shall make the complaint resolution policy readily available to the public. (*Ord. 832, 3-11-2003*)

5.12.13 PROGRAMMING

At least thirty (30) calendar days prior to any change in programming, the Grantee shall provide notice to the Grantor of these changes, including reasons for the change. A lesser notification period will be accepted if the change was due to circumstances beyond the control of Grantee or circumstances were such that earlier notification was not possible. Grantee shall document reasons for lesser notification period to the Grantor.

5.12.14 DURATION OF CONDITIONS FOR ACCEPTANCE OF FRANCHISE

The franchise and all rights and privileges and authority hereby granted shall take effect and be in force from and after final passage hereof, as provided by law, and shall continue in force and effect for a term of fifteen years, provided that, within 30 days after the date of passage of this ordinance, the Grantee shall file with the City Manager, in writing, duly executed by the proper officials, the following documents. (*Ord. 832, 3-11-2003*)

5.12.15 LIMITATIONS OF FRANCHISE

This franchise shall be a privilege to be held in personal trust by the original Grantee. It cannot, in any event, be sold, transferred, leased, assigned or disposed of, in whole or in part, either by forced or involuntary sale. Merger, consolidation or otherwise, without consent of the Council. Such sale, transfer, lease, assignment, disposition of all or any part, either by forced or involuntary sale, merger, consolidation or otherwise of this franchise shall not be unreasonably withheld by the Grantor.

5.12.16 SEPARABILITY

If any section, sentence, clause or phrase of this ordinance or any part thereof is for any reason found to be unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance or any part thereof.

5.12.17 MISCELLANEOUS PROVISIONS

- (A) Time is the essence of this franchise. The Grantee shall not be relieved of its obligations to comply promptly with any of the provisions of this ordinance or by failure to the City to enforce prompt compliance.
- (B) The Grantee shall have no recourse against the City for any loss, cost, expenses or damage arising out of any provisions or requirements of this ordinance or its enforcement.

- (C) The Grantee shall not repair, maintain, sell or recommend any television or radio equipment or recommend radio and television repairmen. Any repair work done to subscriber sets shall be performed by repairmen other than employees, directly or indirectly, employed by the Grantee.
- (D) Theft of Service. The Grantee will adopt ordinance language that will provide Grantor private right of action allowing civil action, including recovery of attorney fees for theft of service.

5.12.18 TERM OF FRANCHISE

The term of this franchise shall be for a period of fifteen (15) years commencing September 26, 1998, and continuing to September 25, 2013. (*Ord. 791, 10-13-98*)

Chapter 13

PERMITS IN GENERAL

Sections

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5.13.1 GENERAL CONDITIONS AFFECTING THE GRANTING OF PERMITS

- (A) *Granting Permit:* The granting or refusal to grant a permit shall rest exclusively with the City Manager or his designated employees of the City.
- (B) *Appeal:* Anyone aggrieved by the issuance or refusal to issue a permit may submit his appeal to the City Council and the decision of the Council shall be final.
- (C) *Waiver of Permit Requirements:* Any of the requirements and limitations of this Ordinance may be waived by motion of the City Council upon written application by the person desiring such waiver, giving the reason for requesting such waiver.
- (D) *Penalty:* Any violation of this Ordinance shall subject such violator to a fine not to exceed two hundred fifty dollars (\$250.00) and revocation of such person’s permit.
- (E) *Severability:* The provisions of this Ordinance are severable. If a section, sentence, clause or phrase of this Ordinance is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of this Ordinance. (*Ord. 605, 10-10-78, amended by Ord. 832, 3-11-2003*)

5.13.2 GARAGE SALES

- (A) *Definition:* Garage sale shall mean and include all general sales open to the public for the purpose of disposing of personal property including, but not limited to, all sales entitled "Garage", "Lawn", "Yard", "Attic", "Porch", "Room", "Back Yard", or "Patio" sale. This definition shall not include a situation where no more than five (5) specific items are held out for sale and all advertisement for such sale specifically names those items to be sold. For the purpose of this definition of "Garage Sales", personal property shall mean property which is utilized, owned and maintained by an individual or by members of his or her residence and acquired in the normal course of living in or maintaining a residence.

- (B) *Permit Required:* No garage sale shall be conducted unless and until the individuals desiring to conduct such sale shall obtain a permit from the Vale City Manager. Members of more than one residence may join in obtaining a permit for a garage sale to be conducted at the residence of one of them.
- (C) *Permit Fee:* An administrative fee of four dollars (\$4.00) shall be assessed. This fee is subject to revision by resolution of the City Council from time to time.
- (D) *Permit Conditions:*
- (1) A permit shall allow for such sale not to exceed three (3) consecutive days during the daylight hours, being a total of three (3) days in a row.
 - (2) No more than one permit every six (6) months may be issued to one residence and/or family household.
- (E) *Display and Removal of Sale Property:*
- (1) No property offered for sale shall be displayed on any public right of way.
 - (2) Immediately following such sale, all items not sold, debris, signs and waste material shall be removed from the view of anyone using the City streets and/or sidewalks and the property restored to its original appearance.
- (F) *Judicial Sales:* The provisions of this Section shall not be applicable to judicial sales conducted by the Sheriff of Malheur County or his deputies, trustees, or referees in bankruptcy, executors, administrators, receivers, or other public officers acting under judicial process, nor shall it apply to any business or retail store in the usual course of its business for sidewalk sales occasionally; provided, however, the terms "business" or "retail store" shall not include any business designed primarily for the sale of personal property outside of an established building or place of business. (*Ord. 686, 6-9-87; amended by Ord. 832, 3-11-2003*)

5.13.3 TRANSIENT VENDORS

- (A) *Definition:* Transient vendors shall include all those offering goods for sale at one or more specific locations, who do not own or rent property in the City, whether or not they are sponsored by an established business in Vale. Transient vendors do not include participants in sidewalk sales or flea markets sponsored by local civic or business organizations.
- (B) *Permit Required:* No transient vendor shall offer goods for sale in the City without first obtaining a permit from the City Manager.
- (C) *Permit Fee:* For transient vendors sponsored by a business located within the City limits of the City, a fee of ten dollars (\$10.00) shall be assessed. For transient vendors without a sponsor, a fee of sixty five dollars (\$65.00) shall be assessed. The fees set for herein are subject to revision by resolution of the City Council from time to time.
- (D) *Permit Conditions:*
- (1) The permit shall be good for no more than seven (7) consecutive days.
 - (2) Upon expiration of the permit the property shall be restored to its pre-sale appearance and all debris, signs and waste material shall be removed from the premises upon which the sale was conducted.
 - (3) No property shall be displayed on any public right of way.
 - (4) The permit shall be posted in a conspicuous place so as to be readily seen by the public and the City police.

- (E) *Bond:* Every applicant for a transient vendor's permit shall file with the City Manager a surety bond running to the City in the amount of one thousand dollars (\$1,000.00) with surety acceptable to and approved by the Vale City Council, conditioned that the said applicant, if issued a permit, will fully comply with all the provisions of the ordinances of the City and the statutes of the State of Oregon, will not practice any fraud or deceit upon purchasers of personal property from him or suffer or permit any person in his employ to practice any such fraud or deceit, and will pay all damages which may be sustained by any reason of fraud, deceit, negligence or other wrongful act on the part of the permittee, his agents or employees, in the conduct of his vending. A liability insurance policy issued by an insurance company authorized to do business in the State of Oregon which conforms to the above requirements may be permitted by the City Manager, as well as posting one thousand dollars (\$1,000.00) in cash with the City Manager, in his discretion, in lieu of a bond. (*Ord. 686, 6-9-87; amended by Ord. 832, 3-11-2003*)

5.13.4 BLOCKING OF STREETS

- (A) *Permit Required:* No person shall block, obstruct, prevent or interrupt the travel or free passage of pedestrians and vehicular traffic without first obtaining a permit from the City Manager. Permittees shall act only under the direction and control of authorized City personnel.
- (B) *Permit Conditions:* Before a permit is issued the applicant shall show that such blockage shall not be a hazard to the health, safety and welfare of the citizens of the City of Vale.
- (C) *Duration of Permit:* The permit shall be issued for a reasonable length of time as determined by the City Manager.
- (D) *Permit Fee:* A permit fee of twenty dollars (\$20.00) shall accompany each application.
- (E) *Additional Locations:* In the event that an applicant requests a permit for more than one location, an additional charge of ten dollars (\$10.00) will be imposed for each additional location.
- (F) *Extraordinary Expenses:* Any extraordinary expenses incurred by the City caused by the permit shall be assessed against the permittee.
- (G) *Restoration of Premises:* Upon expiration of the permit, the property shall be restored to its original appearance and all debris, signs and waste material shall be removed from the premises.
- (H) *Penalty:* Violation of any of the provisions of this Ordinance shall be punishable by a fine not to exceed \$750, plus the reasonable and necessary expenses incurred by the City resulting from the violation including charges for labor and materials. (*Ord. 792, 12-22-1998; amended by Ord. 832, 3-11-2003*)

5.13.5 POSSESSION OF INTOXICATING LIQUOR IN CITY PARKS

- (A) *Permit Required:* No person or group of persons shall possess any intoxicating liquor within any City park without first obtaining a permit from the City Manager or from the Vale Police Department.
- (B) *Permit Conditions:*
- (1) An application for a permit shall contain the following:
 - (a) The name of the person, group or organization applying for a permit;
 - (b) A statement of whether the person, group or organization is a natural person, partnership, corporation, or association;

- (c) If the applicant is a natural person, the business or residence address and telephone number of the person;
 - (d) If the applicant is a partnership, the name, principal business address, and telephone number of the partnership;
 - (e) If the applicant is a corporation, the state of organization, mailing address, business location, and telephone number of the corporation;
 - (f) If the applicant is an unincorporated association or other group, the names, addresses, and telephone numbers of all group members, unless the group exceeds five (5) in number, in which case the permit application shall contain the name, address, and telephone number of a responsible party, and shall contain a description of the group membership;
 - (g) A statement that all federal, state and local laws and regulations pertaining to the possession and/or service of intoxicating liquor will be complied with and that all required permits will be obtained;
 - (h) A statement that the permittee(s) will not provide intoxicating liquor to any person under the influence of intoxicants, that no intoxicating liquor will be provided to any person not included within the terms of the permit, and that the permittee(s) will indemnify and hold the City harmless from any and all claims or damages of any kind arising out of the possession, consumption, delivery or service of intoxicating liquor by the permittee(s) or by anyone within any group, association, or organization holding the permit;
 - (i) A statement certifying that neither the applicant, nor, to the applicant's knowledge, anyone to be authorized to possess intoxicating liquor pursuant to the permit, has been convicted of any offense or violation involving the use of intoxicating liquor within a City park within one year preceding the date of the application.
- (2) The permit shall be issued for a reasonable length of time, as determined by the City Manager or the Vale Police Department, not to exceed twelve (12) hours.
 - (3) The City Manager or the Vale Police Department may revoke or refuse to issue a permit if any applicant, permittee, or anyone to be authorized to possess intoxicating liquor pursuant to a permit has been convicted of any offense or violation involving the use of intoxicating liquor within a City park within a period of one year preceding the date of the application for a permit. The City shall have no obligation, however, to conduct any investigation to determine the existence of such a conviction. (*Ord. 832, 3-11-2003*)
- (C) *Permit Fee:* Every permit application shall be accompanied by a non-refundable permit fee of five dollars (\$5.00) to compensate the City for the cost of administering the permit program. (*Ord. 708, 6-9-92*)

Chapter 14

SOLICITATION

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5.14.1 DEFINITION

For the purposes of this Chapter the terms "solicit" and "solicitation" shall mean the entry onto real property used for residential purposes by a person for the purpose of communicating with an occupant of the property, whether the communication is verbal, visual or in writing.

5.14.2 PROHIBITED ACTS, PENALTIES

- (A) It is unlawful for any person to:
- (1) Solicit before nine o'clock (9:00) A.M. or after nine o'clock (9:00) P.M. when the local time is daylight savings time or after eight o'clock (8:00) P.M. when the local time is standard time, without the consent of the occupant to do so.
 - (2) Solicit without first having obtained a registration certificate pursuant to Section 5.14.7, if required by that Section.
 - (3) Violate the terms of a registration certificate issued pursuant to subsection 5.14.7(A).
 - (4) Solicit after a registration certificate has been revoked, pursuant to subsection 5.14.7(B).
 - (5) Allow, suffer or permit any person soliciting on their behalf or under their direction to commit any act prohibited by this Section.
 - (6) Provide false or fraudulent information on a registration statement.
 - (7) Leave written materials upon real property where a sign conforming to the requirements of Section 5.14.9 is posted.

- (8) Solicit upon real property where a sign conforming to the requirements of Section 5.14.9 is posted.
 - (9) Allow, suffer or permit any person to solicit on their behalf after a registration certificate has been revoked, pursuant to Section 5.14.7.
- (B) Violation of any provision of this Section is punishable as provided in Section 1.4.1 of this Code.

5.14.3 CONSENT TO ENTER ONTO REAL PROPERTY, EXEMPTIONS

- (A) It shall be an affirmative defense to an alleged violation of subsections 5.14.2(A)1, 5.14.2(A)7 or 5.14.2(A)8 that the person charged with the violation had received actual or constructive consent of the occupant prior to entering the real property. Constructive consent to enter real property may be implied from the circumstances of each instance, the relationship of the parties, and actual or implied contractual relationships.
- (B) The occupant of real property shall be considered to have given constructive consent to enter real property for the purpose of solicitation between the hours of nine o'clock (9:00) A.M. and nine o'clock (9:00) P.M., when the local time is daylight savings time or after eight o'clock (8:00) P.M. when the local time is standard time, if they have not posted a "No Solicitation" sign, pursuant to Section 5.14.9.
- (C) Nothing in this Section shall be construed to authorize the entry into a structure located on real property. The right to enter any structure must be otherwise provided for by law.
- (D) Officers, employees or agents of a governmental entity while performing activities within the scope of their office, employment or agency are exempt from the requirements of this Chapter.
- (E) No person may be charged with a violation of any paragraph of subsection 5.14.2(A) in connection with an act committed between four o'clock (4:00) P.M. and nine o'clock P.M. on each October 31.

5.14.4 REGISTRATION STATEMENT

- (A) All persons desiring to solicit at five (5) or more dwelling units in the City during any eight (8) hour period shall file with the City Manager a registration statement, on forms provided by the City Manager containing the following information:
 - (1) The name of the person registering and desiring to solicit.
 - (2) Whether the person registering is a natural person, partnership, corporation or association and,
 - (a) If a natural person, the business or residence address and telephone number of the person.
 - (b) If a partnership, the names of all partners and the principal business address and telephone number of each partner.
 - (c) If a corporation, the person registering must state whether it is organized under the laws of Oregon or is a foreign corporation, and must show the mailing address, business location, telephone number, name of the individual in charge of the local office of such corporation and the registered agent of the corporation, and the names of all officers and directors or trustees of said corporation, and, if a foreign corporation, the place of incorporation.

- (d) If an association, the registration statement shall show the association's principal business address and telephone number, if any, and shall show names and principal business or residence addresses and telephone numbers of all members of the association, unless they exceed ten (10) in number, in which case the application shall so state and the person registering may alternatively list the names and principal business or residence addresses and telephone numbers of the officers and directors or trustees of the association. If the association is part of a multi state organization or association, the mailing address and business location of its central office shall be given, in addition to the mailing address and business location of its local office.
 - (3) A brief description of the nature of the organization if the person registering is a partnership, association or corporation and an explanation from all persons of the intended purpose of the solicitation.
 - (4) The names, mailing address and telephone number of all individuals who will be in direct charge or control of the solicitation and the number of persons who will be actually involved in the solicitation activity. One of the named individuals shall be designated to receive any notice or communication from the City or the public concerning the solicitation activities.
 - (5) The time period within which the solicitation is to be made, giving the date of the beginning of solicitation and its projected conclusion.
 - (6) A description of the methods and means by which the solicitation is to be accomplished and the approximate locations and dates on which those locations will be visited.
 - (7) The names of any other cities in which the person registering has solicited within the past five (5) years, but in the event that the person registering has solicited in more than five (5) other cities, the person registering may list the five (5) cities located closest to Vale.
 - (8) A statement that if a certificate of registration is granted, such certificate will not be used as or represented to be an endorsement by the City or any of its officers or employees.
 - (9) The names of any officer, director, trustee, partner, corporation or any current agent or employee engaging in the solicitation who has signed a consent decree or order in the last five (5) years or who has been convicted of a felony or a misdemeanor involving moral turpitude within the past five (5) years; and the nature of the offense, or consent decree or order, the State where the conviction, or consent decree or order occurred, and the year of such conviction, or consent decree or order.
 - (10) An explanation of the reasons, if the person registering is unable to provide any of the foregoing information, why such information is not available.
 - (11) The registration statement must be signed by the applicant, if the person registering is an individual; if the person registering is a partnership, by a partner; if a person registering is a corporation or an association, by an officer. The individual signing the registration statement shall sign the statement and swear or affirm before an Oregon notary that he has carefully read the registration statement and that all the information contained therein is true and correct.
- (B) The registration statement and information submitted with the registration statement are public records available for public inspection during normal City business hours. (*Ord. 832, 3-11-2003*)

5.14.5 REGISTRATION FEE

With the exception of a registration statement submitted by persons or organizations exempted by Section 5.14.6, every registration statement shall be accompanied by a registration fee of fifteen dollars (\$15.00) to compensate the City for the cost of administering this registration program, and such fee will not be refunded if a certificate is not issued.

5.14.6 EXEMPTION FROM REGISTRATION FEE

- (A) No registration fee shall be charged to any charitable, religious, political or nonprofit organization, or to any person soliciting on behalf of such an organization or to any person soliciting for a charitable, religious, political or nonprofit purpose.
- (B) No registration fee shall be charged to any person whom the City Manager determines to be financially unable to pay the required fee. Prior to making a determination of financial inability, the City Manager may require the applicant to provide a verified financial statement and other evidence of financial status. (*Ord. 832, 3-11-2003*)

5.14.7 ISSUANCE OF CERTIFICATE OF REGISTRATION, REVOCATION

- (A) After a review of the registration statement to determine its compliance with Section 5.14.4, and, within ten (10) working days of the receipt of the registration statement, the City Manager shall either issue a certificate of registration, in the form provided by Section 5.14.8, or notify the person registering that the registration statement does not comply with the requirements of Section 5.14.4, and specifically point out what information or explanation has not been furnished that is required before a certificate of registration can be issued. If the person registering is engaged in an activity for which a business license is required by this Code, proof of a valid business license shall be furnished prior to the issuance of the certificate.
- (B) A certificate of registration shall be revoked by the City Manager if a registered person, or one or more solicitors engaged on behalf of that person, are convicted or plead guilty or no contest to a cumulative minimum of three (3) violations of Section 5.14.2 occurring within any thirty (30) calendar day period in connection with or on behalf of the solicitation of the registered person. A certified copy of the Municipal Court record of plea or conviction is conclusive proof that a violation has occurred. The period of revocation shall be for sixty (60) calendar days, during which the person may not receive a certificate of registration. Within five (5) working days of receipt of notification that a registered person has been convicted, plead guilty, or no contest to the third violation the City Manager shall notify the person designated in the registration statement to receive notice of the action to revoke, in writing, five (5) days prior to the effective date of the revocation. The person may appeal the Manager's decision to the City Council by filing a notice of appeal with the City Manager within ten (10) days of the effective date of the revocation. During the pendency of the appeal the order to revoke is stayed. (*Ord. 832, 3-11-2003*)

5.14.8 FORM OF CERTIFICATE OF REGISTRATION, TERM

- (A) The City Manager shall prescribe the form of the certificate of registration. Each such certificate shall have the following printed prominently thereon: "The issuance of this certificate of registration is not an endorsement by the City of Vale or any of its officers or employees." Each certificate of registration shall bear a registration number which is the same as the file containing the registration statement filed by the registrant.

- (B) Every certificate of registration issued by the City Manager shall contain a termination date upon which the certificate shall expire, which date shall be the termination of the solicitation period specified in the registration statement or one year from the date of issuance, whichever is less.
- (C) The certificate of registration shall contain a list of the acts prohibited by Section 5.14.2. (*Ord. 832, 3-11-2003*)

5.14.9 NO SOLICITATION SIGN

- (A) If an occupant of real property chooses to not invite solicitors onto their property, the occupant may post "No Solicitation" sign [*sic*] pursuant to this Section. The effect of the posting of such a sign is to express the refusal of the occupant to grant consent to any person to enter their real property to solicit, except to those persons exempt from these provisions by subsections 5.14.3(D) and 5.14.3(E).
- (B) Signs posted pursuant to this Section shall be posted on or near the boundaries of the property at the normal points of entry, and,
 - (1) Signs must be no smaller than six inches (6) in height by eight inches (8) in width; and
 - (2) Signs must contain the words "No Solicitation" and the reference "Vale City Code Section 5.14.2" in characters no less than one-half inch ($\frac{1}{2}$ ") in height.

For real property possessing no apparent barriers to entry at the boundaries of the property which limit access to the primary entrance of a structure located on the property, placement of the sign at the primary entrance to the structure constitutes compliance with this Section.

5.14.10 EVIDENTIARY MATTERS

- (A) It shall be *prima facie* evidence of a violation of subsection 5.14.2(A)7 if written material is found on real property upon which a sign conforming to the requirements of Section 5.14.9 has been posted. The person responsible for such written material shall be the person identified in the written material as its proponent, sponsor, distributor or potential beneficiary of the communication conveyed.
- (B) For the purposes of subsections 5.14.2(A)5 and 5.14.2(A)9, if a person solicits on behalf of a person registered pursuant to Section 5.14.4, it is presumed that the person registered allowed, suffered or permitted the solicitation. (*Ord. 700, 4-11-89*)

Chapter 15

GAMBLING

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5.15.1 CARD GAMES AUTHORIZED

Pursuant to ORS 167.121, card games which are “social games” as defined in ORS 167.117 are hereby authorized in a private business, private club or place of public accommodation where no house player, house bank, or house odds exist and there is no house income from the operation of the game, provided that the requirements of this chapter are met. In order to insure that participants in social games meet the minimum age requirement of 21 years as provided in Section 5.15.8(E), and that appropriate procedures are being followed to check the ages of participants, social games which are conducted in private businesses or private clubs shall be conducted only in private businesses or private clubs which possess a current, valid liquor license issued by the Oregon Liquor Control Commission. The failure of a private business or a private club to possess a valid, current OLCC liquor license shall be a basis for denying the issuance of, refusing to renew, or revoking, a social gaming license. Places of public accommodation which are neither private businesses nor private clubs shall not be required to possess a liquor license in order to acquire a social gaming license from the City of Vale. (*Ord. 846, 1-24-2006*)

5.15.2 LICENSE REQUIRED

It shall be unlawful for any person, firm, corporation or other entity to maintain, operate or allow the playing of any game authorized pursuant to Section 5.15.1 of this chapter without first obtaining and holding a valid license from the City of Vale.

5.15.3 LICENSE APPLICATIONS; FEE

- (A) An applicant for a license pursuant to this chapter shall submit an application to the City Manager, which application shall be under oath and shall include the true names and addresses of the applicant and all financially interested persons, the personal history, business experience and past criminal record, if any, of the applicant and all financially interested persons, a description of the location of the principal place of business of the applicant and of the location of the game when in operation, information concerning the number of game tables to be used, a statement from the applicant that there will be no house player, house odds or house income from the operation of the game, and any other matters determined by the City Council to be of necessary inquiry. The term “financially interested person” shall include all persons who share in, or have the right to share in, the profits of the establishment in which the games are to be played.
- (B) No application shall be considered complete unless accompanied by a non-refundable application fee of \$25. No application fee is required for an application to renew a current license.
- (C) No application fee shall be required for non-profit organizations. (*Ord. 832, 3-11-2003*)

5.15.4 LICENSE NOT TRANSFERRABLE

No license issued pursuant to this chapter shall be transferable.

5.15.5 GRANTING AND DENIAL OF LICENSE; APPEAL

- (A) Within five working days of receipt of a completed application the City Manager shall either approve the application and grant the license applied for or deny the application and refuse to grant the license. The license shall not be granted if:
 - 1. The applicant or a financially interested person has been convicted of a felony within the previous ten (10) years;
 - 2. The applicant or a financially interested person has been convicted of five (5) misdemeanors, excepting minor traffic offenses, the last of which was within five (5) years;
 - 3. The applicant or a financially interested person has been convicted of or forfeited bail for any crime involving gambling within the previous (5) years;
 - 4. The applicant or a financially interested person has been directly or indirectly involved in a forfeiture proceeding regarding a gambling device as defined in the Oregon Revised Statutes where such gambling device has been ordered destroyed or a bond has been forfeited in lieu of the gambling device being destroyed within the last five (5) years;
 - 5. Any false or misleading information is supplied in the application or any information requested is omitted from the application.
 - 6. The applicant or a financially interested person has had a license revoked or suspended three times by the Oregon Liquor Control Commission, the last of which was in the last five (5) years;
 - 7. The City has previously revoked a license issued to the applicant or a financially interested person pursuant to this chapter.
 - 8. The applicant or a financially interested person has engaged in any conduct involving moral turpitude.
 - 9. An applicant seeks to allow games other than as activities secondary to another primary commercial or non-profit activity or enterprise.

- (B) An applicant may appeal the denial of a license to the City Council by giving a written notice of appeal to the City Manager within ten (10) days of the date of the denial of the license. The City Council shall hear the appeal at the next regular council meeting held after the receipt of the notice of appeal. (*Ord. 832, 3-11-2003*)

5.15.6 TERM OF LICENSE; LICENSE FEE

- (A) Licenses pursuant to this chapter shall be granted for no more than one year, and may be renewed each year upon re-application by the licensee, together with payment of the license fee. Licenses shall be issued on a calendar year basis. Licenses applied for after the beginning of the calendar year may be granted for a period of no more than the remainder of that calendar year.
- (B) Prior to any license being issued pursuant to this chapter, each licensee shall pay to the City of Vale the sum of \$200 per table per year as a license fee. In the case of licenses granted for less than a full calendar year, the licensee shall pay a license fee of one-fourth the annual fee for each quarter, or portion thereof, during which the license is to be in effect.
- (C) No license fee shall be required for non-profit organizations.

5.15.7 REVOCATION OF LICENSES

- (A) The City Manager shall revoke any license hereunder if:
1. Any circumstance exists or occurs that would be grounds for denial of an application for a license;
 2. The licensee or a financially interested person violates any provision of this chapter.
 3. Rowdy and/or disorderly conduct occurs on the premises of the licensed business.
 4. Drunkenness and/or being under the influence of intoxicants occurs on the premises of the licensed business;
 5. The use, possession, sale, gift, barter or exchange by any person of any controlled substance as defined by ORS 475.005 or of any drug whose possession, sale, exchange, gift or use is made illegal by any law of the State of Oregon or of the United States occurs on the premises.
- (B) Revocation shall become effective ten (10) days after the City Manager notifies the licensee in writing of the grounds for such revocation, unless the licensee gives a written notice of appeal to the City Manager prior to the effective date of the revocation. Upon proper notice of appeal, the revocation shall be stayed until final determination by the City Council. The revocation shall not be stayed pending appeal where the Manager finds that grounds for revocation exist of an especially serious nature which grounds include, but are not limited to, conviction of any felony, or any activity which may result in a conviction for gambling-related offenses under any state, local, or federal law or regulation. (*Ord. 832, 3-11-2003*)

5.15.8 REGULATIONS FOR GAMES

It shall be unlawful to operate, or allow the operation of, any game licensed by this ordinance in violation of any of the following regulations:

- (A) Premises where games are conducted shall be open to police inspection.
- (B) No licensee or financially interested person shall participate in any licensed game or procure players, back, farm out, assign or sublet any games permitted on the premises.

- (C) Games shall be arranged as to provide free access and visibility to any interested party.
- (D) Doors to any premises where games are conducted must remain unlocked during all hours of operation.
- (E) No person under the age of 21 years shall be permitted to participate in any game.
- (F) No charge which is based on any percentage or number of games or hands played shall be collected from any player for the privilege of participating in any game.
- (G) No game shall be played between 2:00 a.m. and 10:00 a.m.
- (H) No licensee shall allow more than four (4) game tables to be utilized at any one time.
- (I) No more than three hands may be played at any one time by a player.
- (J) Bets shall be limited to a cumulative total of ten dollars per hand per player.
- (K) No game shall be played in a location or under circumstances where the game itself is the primary activity on the premises. Games shall be secondary to another commercial or non-profit activity or enterprise.

5.15.9 PENALTY

Violation of any provision of this chapter is punishable upon conviction by a fine not to exceed one thousand dollars (\$1,000).

5.15.10 SEVERANCE CLAUSE

If any section, subsection, provision, clause or paragraph of this ordinance shall be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect the validity of the remaining portions of this ordinance; and it is hereby expressly declared that every other section, subsection, provision, clause or paragraph of this ordinance enacted, irrespective of the enactment or validity of the portion hereof declared to be unconstitutional or invalid, is valid. (*Ord. 745, 8-8-95*)