

# City of Brookings WORKSHOP Agenda

## **CITY COUNCIL**

**Monday June 3, 2019, 4:00pm**

City Hall Council Chambers, 898 Elk Drive, Brookings, OR 97415

### **A. Call to Order**

### **B. Roll Call**

### **C. Topics**

1. Citizen Citation & Nuisance Ordinance Revisions [PW/DS, Pg. 2]
  - a. BMC, Chapter 1.15 Citizen Citations with edits [Pg. 3]
  - b. BMC, Chapter 8.15 Nuisance, 8.15.020 Control of Domestic Animal with edits [Pg. 4]
  - c. BMC, Chapter 8.15 Nuisances, 8.15.100 Summary Abatement with edits [Pg. 6]
2. Business License 5.05 [F&A, Pg. 7]
  - a. Draft revision of Chapter 5.05 Business License [Pg. 8]
  - b. League of Oregon Cities, Model Business License Ordinance [Pg. 22]
3. Master Fee Schedule Update [City Manager, Pg. 34]
  - a. 2018 Master Fee Schedule with proposed 2019 revisions [Pg. 36]

### **D. Council Member Requests for Workshop Topics**


### **E. Adjournment**

All public City meetings are held in accessible locations. Auxiliary aids will be provided upon request with at least 72 hours advance notification. Please contact 469-1102 if you have any questions regarding this notice.

# CITY OF BROOKINGS

## COUNCIL WORKSHOP REPORT

Meeting Date: June 3, 2019

  
Signature (submitted by)

Originating Dept: PW/DS

  
City Manager Approval

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Subject: Citizen Citation & Nuisance Ordinance Revisions

Background/Discussion: City Council received a complaint at the March 25, 2019 meeting from a resident regarding noise from a neighbors peacock(s). The abatement process applied to nuisances in general, and more specifically the control of domestic animal is procedurally problematic due to the varying frequency and difficulty for staff to witness the violation occur. The ability for a citizen to cite the violator into court will reduce citizen frustration.

Chapter 1.15 Citizen Citation was revised by ordinance 16-O-756 and reduced citizen citations to traffic violations only. Staff proposes a revisit of this change and to reconsider expanding the citizen citation to include chapter 8 Health and Safety which includes Nuisances and Control of Domestic Animals.

Staff is also proposing changes to code language in both Chapter 8.15 Nuisances, section 8.15.020 Control of Domestic Animal's and section 8.15.100 Summary Abatement.

Staff has prepared edits to various sections of BMC for review.

Attachments:

- a. Brookings Municipal Code, Chapter 1.15 Citizen Citations with edits
- b. Brookings Municipal Code, Chapter 8.15 Nuisances, 8.15.020 Control of Domestic Animals with edits
- c. Brookings Municipal Code, Chapter 8.15 Nuisances, 8.15.100 Summary Abatement with edits.

Chapter 1.15  
CITIZEN CITATIONS


Sections:

[1.15.010 Purpose.](#)

[1.15.020 Citizen citations limited to traffic violations.](#)

**1.15.010 Purpose.** 

ORS [153.058](#)(7) provides that a political subdivision may limit the commencement of proceedings for violations of its charter and ordinances to its enforcement officers. The purpose of this chapter is to regulate the circumstances under which a citizen may cite another person, or persons, into Brookings municipal court. [Ord. 16-O-756 § 2.]

**1.15.020 Citizen citations limited to traffic (Chapter 10.35), and health and safety (Chapter 8) violations.** 

A. Citizen citations may only be cited into Brookings municipal court for traffic, health and safety violations committed within the city of Brookings.

B. Only a police officer, building inspector, code enforcement officer or fire department employee shall have the authority to issue a citation for nontraffic violations of the Brookings Municipal Code.

C. Any citizen citation issued for a violation other than a traffic violation shall be automatically dismissed by the court. [Ord. 16-O-756 § 2.]

## Chapter 8.15 NUISANCES

### 8.15.020 Control of domestic animals.

#### 8.15.020 Control of domestic animals.

A. *Repealed by Ord. 14-O-736.*

B. The owner or keeper of any ~~dog or other domestic~~ animal shall not allow such animal to be a public nuisance. ~~An dog, cat, or other such~~ animal is deemed herein to be a public nuisance if it bites a person; chases persons or vehicles; damages or destroys property of persons other than the animal's owner; scatters garbage; trespasses on private property of persons other than the animal's owner; disturbs any person or neighborhood by frequent or prolonged barking, yelping, howling or any other such noise making; defecates on the property of another or of the public; or is a female in heat and running at large. Such animal shall not be considered a public nuisance if it bites a person who wrongfully is assaulting the animal or the animal's owner or if it bites a person trespassing upon premises owned or occupied by said animal's owner.

C. No person owning or harboring or having the care or custody of a vicious ~~dog or other~~ animal shall permit such animal to go unconfined beyond the premises of such person unless such an animal is securely leashed and muzzled or otherwise restrained. "Vicious" as herein defined means any ~~dog or other~~ animal or fowl with a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals, any animal which attacks a human being or domestic animal without provocation, or any ~~dog or other such~~ animal owned or harbored primarily or in part for the purpose of ~~dog or~~ animal fighting.

D. No person shall own or harbor any dog for the purpose of dog fighting or train, torment, badger, bait or use any dog for the purpose of dog fighting or for the purpose of causing or encouraging said dog to unprovoked or willfully provoked attacks upon human beings or domestic animals.

E. No ~~dog animal~~ is allowed to run at large within the corporate limits of the city of Brookings.

F. The City of Brookings hereby adopts by reference all provisions, as contained in Curry County Code Section 4.01.030 through and including Section 4.01.200 et seq.

G. The Brookings police department is authorized and directed to provide mutual aid assistance to county officers, employees and volunteers engaged in animal control activities within the city of Brookings.

H. No person shall own, harbor, take care of, or have in custody any dog without it being licensed with Curry County. Said person is responsible for payment of licensing fees, as well as securing any and all shots, vaccinations, or records which may be needed to license the animal.

I. No person shall permit the carcass of any animal owned or controlled by him to remain upon the public streets or ways to be exposed on private property for a period of time any longer than is necessary to remove the said carcass. It shall be the duty of such owner or occupant forthwith to cause such carcass to be buried or have other disposition made of the same. [Ord. 14-O-736 § 2; Ord. 14-O-729 § 2; Ord. 11-O-686 § 2; Ord. 07-O-591 § 2; Ord. 93-O-406.A § 3; Ord. 86-O-406 § 2.]

## Chapter 8.15 NUISANCES

### 8.15.100 Summary abatement.

#### **8.15.100 Summary abatement.**

The procedure provided by this chapter is not exclusive, but is in addition to procedures provided by other chapters and the general police powers of the city; and the city manager, the chief of the fire department, the chief of the police department and the building/fire safety officer may proceed summarily to abate a health or other nuisance which:

1.) unmistakably exists and which imminently endangers human life or property.

OR

2.) a property owner had been cited previously within a 12 month period.

[Ord. 11-O-686 § 2; Ord. 07-O-591 § 2; Ord. 86-O-406 § 11.]

#### **8.15.110 Penalties.**

Pursuant to Chapter [1.05](#) BMC. [Ord. 11-O-686 § 2; Ord. 10-O-671 § 3; Ord. 07-O-591 § 2; Ord. 86-O-406 § 12.]

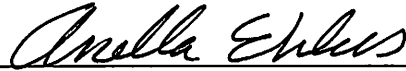
Code reviser's note: Ord. 14-O-736 stated that Section [8.15.020\(J\)](#) was repealed.

The intent of the city was to repeal Section [8.15.030\(J\)](#).

# CITY OF BROOKINGS

## COUNCIL WORKSHOP REPORT

Meeting Date: June 3, 2019

  
Signature (submitted by)

Originating Dept: Finance & Admin

  
City Manager Approval

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Subject:

Chapter 5.05 Business License Ordinance Update

Background/Discussion:

Revision of Chapter 5.05 Business Licenses is necessary to remove the outdated fee schedule within the ordinance, as business license fees are updated each year with the Master Fee Schedule. Staff review of the entire, Chapter 5.05 Business Licenses, found several items to be revised:

1. Separate the sections covering when a business license is required and exemptions.
2. Revise language specific to some but not all potential businesses.
3. Change language related to the license period that is out of date.
4. Add to the process for approval, denial, revocation and suspension of business licenses as well as the appeal process.
5. Add to the Penalties and Violations sections and add legal clauses as suggested by League of Oregon Cities.
6. Update department and staff references and other housekeeping items.

The League of Oregon Cities, Model Business License Ordinance was referenced for updated language and legal clauses in the process of creating a document that could serve its purpose over time.

Attachments:

- a. Draft revision of Chapter 5.05 Business Licenses
- b. League of Oregon Cities, Model Business License Ordinance

Chapter 5.05  
BUSINESS LICENSES

Sections:

- 5.05.010 Purpose and scope.
- 5.05.020 Definitions.
- 5.05.030 Employee not deemed in business – Purposes.
- 5.05.040 Agents of nonresident proprietors.
- 5.05.050 Representations – Advertisements.
- 5.05.060 Ability to conduct business – License required—Exemptions.
- 5.05.070 Exemptions**
- ~~5.05.0780 - Annual f~~**Fees.**
- ~~5.05.080—Daily fees.~~
- 5.05.090 Noncompliance unlawful.
- 5.05.100 Regular and temporary license terms.
- 5.05.110 License period.
- 5.05.120 ~~Fiscal year a~~**A**pplication.
- 5.05.130 ~~City~~**City recorder****Finance and Administration Department** to keep record.
- 5.05.140 ~~Required application statements—Renewal.~~
- 5.05.150 ~~License certificate—Appeal to city~~**City council.****Approval, Denial, Revocation**  
**and Suspension**
- 5.05.160 Council to prescribe form of certificate.
- 5.05.170 Investigation of business.
- 5.05.180 Nontransferable – Exception.
- 5.05.190 License not vested right.
- 5.05.200 Fees are additional revenue.
- 5.05.210 Combination of certain businesses.
- 5.05.220 Certificate to be displayed.
- 5.05.230 Concurrent cause of suit.
- 5.05.240 Penalty**ies and Violations.**
- 5.05.250 Severability Clause.**
- 5.05.260 Savings Clause.**



**5.05.010 Purpose and scope.**

The business license fees imposed by the terms of this chapter are for revenue purposes only. Neither the acceptance of the prescribed fee nor the issuance of the applicable license shall be construed to constitute a regulation of any business activity or a permit to engage in activity otherwise prohibited by law or ordinance, or a waiver of any regulatory licensing requirement imposed by any other ordinance of the cityCity of Brookings (City). [Ord. 96-O-518 § 1.]

**5.05.020 Definitions.**

As used in this chapter:

A. "Person" shall be deemed to mean and include any person, firm, partnership, association, joint venture, syndicate, society, or domestic or foreign corporation.

B. "Business" shall mean and include any activity, trade, profession, occupation or pursuit of every kind conducted, operated, engaged or carried on in or with the cityCity of Brookings for gain, profit, livelihood, benefit or any purpose whether or not a profit is actually made, including, but not limited to, those businesses hereinafter identified, ~~except the following:~~

~~1. Any business recognized as charitable by the Internal Revenue Service under the provisions of IRC Section 501.~~

~~2. Any business filed as a nonprofit corporation under the provisions of Chapter 65 ORS.~~

C. "Proprietor" and "employer" shall be deemed to mean and include any person, as herein defined, who is engaged in any "business" as herein defined.

D. The use of any pronoun shall be construed as meaning and including the singular or plural thereof, and the masculine, feminine, and neuter gender, as the case may be.

~~E. Transient Business. See Chapter 5.20 BMC.~~

~~F. "Garage sale" shall be deemed to mean any public sale of new or used goods within the cityCity limits by an individual or group of individuals from private property when the individual or group of individuals is not in the business of selling goods or is not licensed as a secondhand dealer, and when the property from which the sale is to be conducted is not within a zone permitting commercial business or if within a zone permitting commercial business is in residential use, or otherwise permitted under the provisions of this chapter. [Ord. 17-O-769 § 2; Ord. 96-O-518 § 2.]~~

**5.05.030 Employee not deemed in business – Purposes.**

No person who is an employee, and whose income is based solely on an hourly, daily, weekly, monthly, or annual wage or salary shall, for the purposes of this chapter, be deemed a person engaged in business in the cityCity of Brookings. It is declared that the purpose of this chapter is that all license fees levied hereby and hereunder shall be borne by the employer for the privilege of doing business in the cityCity of Brookings; and for providing revenue for municipal purposes generally; and to pay the necessary expenses for carrying out the provisions of this chapter. [Ord. 96-O-518 § 3.]

**5.05.040 Agents of nonresident proprietors.**

The agent or agents of a nonresident proprietor engaged in any business for which a license is required by this chapter shall be liable for the payment of the license fee therefor and shall be subject to the penalties for failure to pay the same or to comply with the provisions of this chapter to the same extent and with like effect as though such agent or agents were themselves the proprietors of such business. [Ord. 96-O-518 § 4.]

**5.05.050 Representations – Advertisements.**

Any person representing himself or exhibiting any sign or advertisement to the effect that he is engaged in any of the businesses upon which a license fee is levied by this chapter shall be deemed to be engaged in such business and shall be liable for the payment of the license fee levied hereby or hereunder, and shall be subject to the penalties for failure to pay the same or comply with the provisions of this chapter. [Ord. 96-O-518 § 5.]

**5.05.060 Ability to conduct business – License required—Exemptions.**

A. No person shall engage in, prosecute, or carry on any business within the corporate boundaries of the cityCity of Brookings unless and until they have first obtained a license therefor and shall have paid to the cityCity the fee required.

B. The issuance of a business license under the provisions of this chapter does not constitute authorization by the cityCity to the licensee to conduct business in any manner in violation of any ordinance or regulation of the cityCity or any rule, regulation, order or law of the state or federal government.

C. A person engaged in business in more than one location, or in more than one business licensed under this ordinance shall make a separate application and pay a separate license fee for each business or location, except as otherwise provided in this ordinance. Only one license under this ordinance is required for mobile businesses such as housekeeping services, food trucks, and other related businesses which that travel throughout the city.

D. Delivery Services. A person who sends goods to a customer in the city is not considered to be doing business in the city based solely on the sending and delivering of the goods into the city. However, a company in the business of picking up and/or delivering goods is subject to the requirements of obtaining a business license.

E. If more than one business is conducted on the same premises, each business must obtain a separate license.

F. A person representing him or herself, or exhibiting any sign or advertisement that he or she is engaged in a business within the City of which a license fee is levied by this ordinance shall be deemed to be actually engaged in such business and shall be liable for the payment of such license fee and subject to the penalties for failure to comply with the requirements of this ordinance.

G. The City may require proof of state registration. An applicant shall possess any county or state license required or shall be awaiting final approval by the county or state, if City approval is a prerequisite, before a City license will be issued.

H. No person shall do business within the City as the employee, agent or representative of another person unless either the principal or the employee, agent or representative has a current, valid City business license for the business, no matter where the principal offices of that business are situated.

GI. The issuance of a license ~~for a transient business~~ does not constitute authorization for the conduct of that business on any public street or right-of-way of the eCity of Brookings, or other public property, unless specific authority is granted to the transient business licensee by the governing body of public entity which owns the public property. The eCity mManager shall have authority to grant approval for the conduct of transient business on public property and rights-of-way of the eCity of Brookings.

#### **5.05.070 Exemptions**

DA. A business is exempt from the requirements of a business license if exempted by the provisions of any other ordinance of the cityCity, by the Constitution and laws of the state or federal government or if exempted by the cityCity mManager under the following circumstances:

4B. Special Events. An exemption to the business license requirements of this chapter may be granted by the cityCity mManager of the cityCity of Brookings to a business which is conducted in the cityCity for a single annual special event only, if the business is not otherwise conducted within the cityCity at any other time. The cityCity mManager shall provide notice in advance of the designation of any special event qualifying for this exemption.

~~E~~C. Garage sales may be conducted without obtaining a business license. However, no household may conduct more than three garage sales in a one-year period, and no sale may last longer than three days.

~~F~~. Sellers and purchasers of seasonally gleaned forest products such as mushrooms, wild berries, huckleberries, fern and fir boughs, cascara bark, etc., must hold a current city business license. A business license will only be issued to purchasers who transact business in conjunction with an existing commercial facility. Purchases shall be allowed either inside or outside the existing commercial structure; however, no temporary structures may be constructed to house this purchasing activity. A temporary business license will satisfy the business license requirement if the provisions of BMC 5.05.080(B) are met. [Ord. 96-O-518 § 6.]

D. Activities that qualify as hobbies or passive holding of property for investment purposes under the United States Internal Revenue Code.

E. Individuals who work only on the premises of, and as part of, a licensed business that includes the activity of the individual. Examples include barbers, beauticians, medical care providers, attorneys, accountants, realtors and others who perform services as part of the overall licensed business. This exemption does not apply if the overall business operation has not obtained a business license.

F. Service businesses operated by those younger than 18, such as lawn-mowing business, newspaper delivery or lemonade stands, are not required to have a business license.

G. Religious institutions and governmental agencies are exempt from the requirement to obtain a business license.

The following must obtain a business license but are exempt from payment of the license fee:

H. Any business exempt from paying local business license fees or taxed by Federal or State constitution or law.

I. Any business exempt from paying property tax.

J. Any entity registered with the Oregon Secretary of State as a not-for-profit corporation.

#### **5.05.0780 Annual Fees.**

Business license fees shall be established by Master Fee Schedule as provided under Chapter 1.10, Fees and Charges, BMC. Any change in the license fee shall not apply retroactively to a license already in effect. No business license will be issued without the proper license fee (and penalties, if any) being paid in full.

A. Annual Fees. The annual fee for a business license for established businesses shall be determined by the total number of employees reported on State Unemployment Report Form No. 132 by each business. New businesses licensees who have not yet filed a State Unemployment Report Form No. 132 will estimate the number of employees for the first license year.

The annual fee for a business license for established businesses shall be determined by the total number of employees reported on State Unemployment Report Form No. 132 by each business and shall be designated and set forth in the annual master fee resolution. New businesses licensees who have not yet filed a State Unemployment Report Form No. 132 will estimate the number of employees for the first license year.

**Business License Fee Schedule**

| <del>Total</del> — <del>Employees</del><br><del>Reported on Form No.</del><br><del>132</del> — <del>in</del><br><del>April of Each Year</del> | <del>Business License</del><br><del>Fee for Each Fiscal</del><br><del>Year</del> |
|---|--|
| <del>0 — 10</del>   | <del>\$60.00</del>   |
| <del>11 — 25</del>  | <del>\$100.00</del>  |
| <del>26 — 50</del>  | <del>\$150.00</del>  |
| <del>51 — 75</del>  | <del>\$300.00</del>  |
| <del>76 — 100</del>   | <del>\$600.00</del>  |
| <del>101 — 200</del>  | <del>\$1,000.00</del>  |
| <del>200 +</del>  | <del>\$1,500.00</del>  |

For businesses located outside the city of Brookings, doing business within the city of Brookings, the fee is \$75.00 shall be designated and set forth in the annual master fee resolution.

Business license fees are due prior to July 31st of each year. For each month that the business license fee is late, a \$10.00 penalty fee will be added. No business license will be issued without the proper license fee (and penalties, if any) being paid in full. [Ord. 96-O-518 § 7.]

**5.05.080 Daily fees.**

A. ~~Unless exempted by BMC 5.05.060, or unless a license has been issued under BMC 5.05.070, the following listed business shall pay a daily license fee to the recorder accounts receivable clerk in the amounts specified for the respective business:~~

~~1. Carnival and circus: \$35.00 per dayAs designated and set forth in the annual master fee resolution.~~

B. Temporary 90-Day Business License Fees. Persons doing business within the cityCity of Brookings who are seeking a temporary business license under the guidelines of this chapter shall first file an application with the cityrecorderFinance and Administration Department and pay a fee of one-fourth of the annual business license fee for their type and size of business, or \$25.00the minimum fee as set forth in the master fee schedule, whichever is greater. Persons holding a temporary business license and who do business within the cityCity beyond the 90-day license period shall be required to pay the full annual regular business license fee. [Ord. 96-O-518 § 8.]

C. License fees will be non-refundable. The only exception would be when a new business license application is denied.

D. Nothing contained in this ordinance shall vest any right in a license as a contract obligation on the part of the City as the amount of the fee. The fees provided for in this ordinance may be increased or decreased, additional fees may be imposed, and classifications may be changed.

#### **5.05.090 Noncompliance unlawful.**

It shall be unlawful for any person to carry on or transact any business as specified in this chapter without first paying to the cityCity of Brookings the license fees herein imposed. Persons operating without a current business license shall be liable to pay a business license fee for their unlicensed work period, plus a \$10.00 late fee for each unlicensed month of the work period, in addition to any penalties imposed under BMC 5.05.24.. If full payment is not made within 60 days of notice of payment due, the corrective action and possible penalties identified in BMC 5.05.230 and 5.05.240 may be pursued. [Ord. 96-O-518 § 9.]

#### **5.05.100 Regular and temporary license terms.**

Annual business licenses are issued for a fiscal year as described in BMC 5.05.110 .running from July 1st of that year, to June 30th of the following year. Temporary licenses, if issued, run for a continuous 90-day period starting the day of the temporary license issuance. There shall be no extension or renewal of a temporary business license during the fiscal year of issuance. Beyond the 90-day license period. The

applicant may apply for another temporary license at least one year after the date of the application for the previous temporary license. [Ord. 96-O-518 § 10.] ~~[Ord. 96-O-518 § 10.]~~

**5.05.110 License period.**

~~If an application is made before December 31st of the fiscal year, no license, except a temporary license or those on a daily basis, may be issued for less than a full fiscal year. Except for a temporary license, if an application is made on or after January 1st of the fiscal year to cover the period from January 1st to June 30th, a license fee of one-half of the regular yearly business license fee (shown in BMC 5.05.070 in the business license fee schedule) shall be designated and set forth in the annual master fee resolution and shall be collected for such period or fraction thereof. [Ord. 96-O-518 § 11.]~~

New licenses shall be valid from the date of application to the end of the 11th month following the date of application and shall be renewable annually in the same month of the following year. The license fee shall not be pro-rated.

**5.05.120 Fiscal year ~~a~~ Application.**

~~On or before July 1st of each fiscal year, p~~Persons doing business in the city **City** of Brookings shall apply in writing to the city recorder **Finance and Administration Department**, ~~upon~~using the forms furnished by the city **City**, for a license to engage in business. ~~during the fiscal year.~~ When applying for a license, the applicant shall pay the annual license fee ~~prescribed by BMC 5.05.070~~as designated and set forth in the annual master fee resolution. [Ord. 96-O-518 § 12.]

**5.05.130 City recorder **Finance and Administration Department** to keep record.**

The city recorder **Finance and Administration Department** shall file and keep record of every application for a license made under the provisions of this chapter. [Ord. 96-O-518 § 13.]

**5.05.140 Required application statements – Renewal.**

A. Before being issued a license **renewal**, the applicant shall ~~fill out~~complete a license ~~application~~ **renewal** form provided by the city **City** pursuant to ~~BMC 5.05.120~~. The form shall require a statement in writing, signed by the applicant, describing:

1. The type of business;
2. Its name and location;
3. The telephone number of the business;
4. The email address of the business, proprietor, or corporate headquarters

~~45. The fire preventative measures to be taken and/or installed about the business premises location in the city of Brookings;~~

~~56. The number and location of sanitary facilities for business invitees, customers and other persons using the business premises which facilities shall be located on the site of the business being conducted in the city of Brookings, except that transient businesses shall be exempt from this requirement;~~

~~67. Other information reasonably needed to issue a license certificate.~~

B. Applicants who fail to pay the license fee in full or who hold a license certificate that is revoked, expired, or ceased for any reason are required to make a new and initial application.

C. So long as a business has been continually operated without interruption through ~~June 30th~~ **the end** of the licensing year, upon premises for which an original license certificate was issued, persons operating said business may renew a license certificate issued to them before ~~June 30th~~ **the expiration date of their license**. If a license certificate is so renewed, the certificate holder need not make a new license application; however, new applications are necessary if there has been any break in the business or its operation upon the premises during the preceding year or if there have been any changes of circumstances necessitating a correction or amendment to the information above-required as it may vary at the time of renewal from that so stated in the prior application.

D. Businesses as outlined in subsection (C) of this section must pay their renewal by ~~July 31st~~ **the expiration date** of each year. Failure to make full and proper payment will result in a \$10.00 per month late fee. If full and proper payment, including late fees, is not made ~~by September 30th of the year~~ **within 60 days of the license expiration date**, the ~~city~~ **City** shall refer the matter of nonpayment to the ~~city~~ **City** ~~a~~ **Attorney** for enforcement of remedies under this chapter. [Ord. 96-O-518 § 14.]

#### ~~5.05.150 License certificate – Appeal to city council.~~ **Approval, Denial, Revocation and Suspension.**

##### **A. Approval of Application**

Upon receipt of a completed application and the required fee, the ~~city recorder~~ **Finance and Administration Department** ~~may request the assistance~~ **will request review by** ~~of the chief of police~~ **all City departments** for investigation of the application with regard to the requirements of this chapter or with regard to the health, safety and welfare of the customers, business invitees, and citizens of the ~~city~~ **City** of Brookings who may be on or about the business premises. Within 30 days after the receipt of the completed application and required fee, if the application is in order and the issuance of the license is called for



under the terms of this chapter, the application shall be accepted and the ~~city recorder~~ **Finance and Administration Department** shall issue a ~~city~~ **City** of Brookings business license. The license certificate is evidence of the applicant's privilege to conduct business in the ~~city~~ **City** of Brookings in accordance with the terms of this chapter, and the certificate shall bear the printed signature of the ~~m~~ **Mayor** and be counter-signed by the ~~city~~ **City** ~~r~~ **Recorder**.

If an application is incomplete or when ~~the city recorder~~ **any department review** determines that an applicant does not meet the requirements of this chapter for the issuance of a business license in the ~~city~~ **City** of Brookings, the ~~city recorder~~ **City** shall give notice of rejection of the license application to the applicant in writing mailed to the address shown on the application. An incomplete application may be supplemented by additional required information and submitted to the ~~city recorder~~ **Finance and Administration Department** within 10 days of the date of mailing of the notice of application rejection, and such additional information shall be considered as part of the original application. Upon receipt of additional information to supplement an incomplete application, the application shall then be further reviewed by the ~~city recorder and/or the denying department official and~~ accepted or rejected by the ~~city~~ **City** ~~recorder~~ as provided above within 30 days of receipt of the submittal of additional information.

**B. Denial, Suspension, Revocation of Application.** The City may deny, suspend or revoke a business license upon finding that:

1. The licensee fails to meet the requirements of, or is doing business in violation of federal, state or local laws;
2. The applicant has provided false or misleading material information, or has omitted disclosure of a material fact on the applications, related materials, or license;
3. The applicant's past or present violation of law presents a reasonable doubt about his or her ability to perform the licensed activity without endangering property or the public health or safety;
4. The information supplied for the review does not indicate that the applicant has the special knowledge or skill required to perform the licensed activity; or
5. The licensed activity would endanger property or the public health or safety.

**C. Notice.** The City shall provide written notice to the applicant or licensee of the denial, suspension or revocation. The notice shall state the reason for the action taken and shall inform the application or licensee of the right to appeal under Section 15 of this ordinance. The notice shall be given at least 15 days before the suspension or revocation becomes effective. If the violation ends within the 15 days, the City may discontinue the suspension or revocation proceedings.

**D. Reapplication.** A person whose application for a business license that has been denied, suspended or revoked, may, after 90 days from the date of the denial, suspension or revocation, apply for a license or reinstatement upon payment of the application fee and submission of an application form and related documents.

E. Disqualification. A person whose application for any business license that has been denied or whose license has been revoked for a total of two times within one year, or who has a total of four denials, suspensions or revocations, shall be disqualified from applying for a license or reinstatement for a period of two years from the date of the denial, suspension or revocation.

F. Summary Suspension. Upon determining that a licensed activity presents an immediate danger to person or property, the City may summarily suspend the license for the activity. The suspension takes effect immediately upon notice of the suspension being received by the licensee, or being delivered to the licensee's business address as stated on the licensee's application for the license being suspended. Such a notice shall state the reason for the suspension and inform the licensee of the provisions for appeal under Section 15 of this ordinance. Within 15 days of the summary suspension the City Council shall review the pertinent facts which resulted in the suspension and shall determine whether said facts deem it necessary to continue the suspension in order to protect the health, safety and welfare of the citizens of the City, or to otherwise ensure that the requirements of this ordinance are complied with. The City Council may continue a suspension as long as the reason for the suspension exists or until a determination on appeal regarding the suspension is made under Section 15 of this ordinance.

G. Appeal to City Council. If an application is rejected by City, the applicant may appeal the decision of the City to the City Council by filing a written notice of appeal with the City Recorder not later than 10 days after the date of mailing of the application rejection notice. The written request for appeal shall recite the facts or circumstances upon which the appeal is based. At its next applicable council meeting, the City Council shall hear the appeal of the applicant to the City's rejection of the business license application. Upon hearing the appeal, the council may affirm, modify or reverse the decision and shall enter an order upon the minutes of the meeting in accordance with its decision. If the decision City is reversed, the Finance and Administration Department shall issue a license certificate to the applicant within five working days after the date the order is entered on the minutes. In the event the City Council affirms the decision of the City, the minute order shall stand as the final decision of the City on the applicant's request for a business license in accordance of the terms with the application received. [Ord. 96-O-518 § 15.]

~~If an application is rejected by the city recorder, the applicant may appeal the decision of the city recorder to the city council by filing a written notice of appeal with the city recorder not later than 10 days after the date of mailing of the application rejected rejection notice by the city recorder. The written request for appeal shall recite the facts or circumstances upon which the appeal is based.~~

~~At its next applicable council meeting, the city council shall hear the appeal of the applicant to the city recorder's rejection of the business license application. Upon hearing the appeal by the city council, the council may affirm, modify or reverse the decision of the city recorder, and the city council shall enter an order upon the minutes of the meeting in accordance with its decision. If the decision of the city recorder~~

is reversed, the recorder accounts receivable clerk shall issue a license certificate to the applicant within five working days after the date the order is entered on the minutes. In the event the city council affirms the decision of the city recorder, the minute order shall stand as the final decision of the city on the applicant's request for a business license in accordance of the terms with the application received. [Ord. 96-O-518 § 15.]

**5.05.160 Council to prescribe form of certificate.**

The form and wording of the license certificate to be issued by the city recorder City shall be prescribed by the city City eCouncil; and it shall specify the name of the licensee, the type of business licensed, the location of said business, and the amount of license fee paid. [Ord. 96-O-518 § 16.]

**5.05.170 Investigation of business.**

The chief of police Public Safety Director and his subordinate police officers are hereby directed and empowered to investigate and examine all places of business in the city City of Brookings at any and all reasonable times for the purpose of determining whether or not such business is being conducted in accordance with the terms of this chapter. [Ord. 96-O-518 § 17.]

**5.05.180 Nontransferable – Exception.**

No transfer or assignment of any license issued hereunder shall be valid or permitted; except that whenever any person shall sell or transfer the whole of a business for which such license has been issued, the vendee thereof shall, unless otherwise provided by ordinance, be allowed to engage in said business under the vendor's license for the balance of the fiscal-license year for which the vendor's license was issued. . The vendee will be required to pay an additional fee if the business entity will employ more persons than the prior business entity did in the same business. The new owner of the business must complete a business license application. [Ord. 96-O-518 § 18.]

Businesses changing physical location or business name shall notify the City of the change and be allowed to engage in said business for the balance of the license year. The licensee must pay fees for any new permits, such as Home Occupation Permit, required as a result of change of physical location.

**5.05.190 License not vested right.**

Nothing in this chapter contained shall be construed as vesting in the license any contract right, or creating any contract obligation on the part of the eCity as to the amount of the license fee, or as to the character of the license issued hereunder; but on the contrary, it shall be construed as reserving to the eCity the right to increase or decrease at any time any license fee prescribed herein and to change the character of the license and term thereof. [Ord. 96-O-518 § 19.]

**5.05.200 Fees are additional revenue.**

The license fees fixed by and collected, or to be collected, under this chapter shall be in addition to the general ad valorem taxes now or hereafter levied pursuant to law, and also in addition to any and all license fees prescribed by other ordinances pertaining to or regulating specific businesses, occupations, amusements, utilities, trades, and other pursuits for gain. [Ord. 96-O-518 § 20.]

**5.05.210 Combination of certain businesses.**

The conduct of a business or businesses at two or more separate and distinct locations within the cityCity of Brookings, shall, for the purposes of this chapter, be deemed to be a separate business or businesses; and each business shall be subject to the license tax-fee herein provided for. [Ord. 96-O-518 § 21.]

**5.05.220 Certificate to be displayed.**

Every person who has obtained a license as required by this chapter for the privilege of doing business in the cityCity of Brookings shall display the license certificate issued to him in a conspicuous place in or upon the premises where said business is conducted, except in the case of contractors, subcontractors, cleaning and dyeing solicitors, wholesale delivery trucks, peddlers, and solicitors. In the case of contractors and subcontractors, said license certificate shall be conspicuously displayed at their principal places of business in the cityCity of Brookings; and in the case of cleaning and dyeing solicitors, wholesale delivery trucks, peddlers, and solicitors, said license certificate shall be carried on the person of the licensee or conspicuously displayed in or upon any vehicle used in the conducting of such business. [Ord. 96-O-518 § 22.]

**5.05.230 Concurrent cause of suit.**

In addition to the penalty provided in BMC [5.05.240](#), and as separate and concurrent causes of action or suit, the cityCity of Brookings may, in any court of competent jurisdiction, sue any person who has or is engaged in business in the cityCity of Brookings without having complied with this chapter, for the amount of license fee payable hereunder; and also the cityCity may in the same or a separate suit seek an injunction prohibiting such person from engaging in such business in the cityCity of Brookings in violation of this chapter; and in any such action or suit the cityCity shall, if it prevails, recover in addition to its costs and disbursements a reasonable attorney's fee to be set by the court. [Ord. 96-O-518 § 23.]

**5.05.240 PenaltyPenalties and Violations.**

Any person or persons, association of persons, firm, corporation, or any agent or representative thereof who shall engage in or carry on a business within the corporate limits of the cityCity of Brookings, without having first applied for a license, paid the fee therefor, and obtained a license certificate in accordance with the provisions of this chapter, shall be deemed in violation of this chapter and shall, upon conviction thereof, be punishable pursuant to Chapter [1.05](#) BMC, General Penalty, and no license shall be issued to

any person convicted hereunder until the full amount of any fine imposed hereunder shall have been first paid. Each business day during which any business activity continues to be conducted in violation of this chapter shall be deemed a separate offense. [Ord. 16-O-757 § 3; Ord. 96-O-518 § 24.]

A. Violation of any provision of this chapter is punishable pursuant to Chapter 1.05, BMC, General Penalty.

B. Inspection and Right of Entry. Whenever they shall have cause to suspect a violation of any provisions of this ordinance, or when necessary to investigate an application to, or revocation of a license under any of the procedures prescribed in this ordinance, officials for the enforcement or administration of this ordinance, or their duly authorized representatives, may enter on any site, or into any structure, for the purpose of investigation providing they do so in a reasonable manner. If an owner or occupant denies access for an inspection, the City will seek a warrant. No secured building shall be entered without the consent of the owner or occupant unless under authority of a lawful warrant.

C. Abatement. Any business which is established, operated, moved, altered, enlarged or maintained contrary to the licensing requirements shall be, and is hereby declared to be, unlawful and a public nuisance, and may be abated as such.

D. Legal Proceedings by City Attorney. In addition to the enforcement provisions of this ordinance, upon request by the City Council, the City Attorney may institute any additional proceedings, including, but not limited to, seeking injunctive relief to enforce the provisions of this ordinance.

**5.05.250 Severability Clause.** A determination of invalidity or unconstitutionality by a court of competent jurisdiction of any clause, sentence, paragraph, section or part of this ordinance shall not affect the validity of the remaining parts to this ordinance.

**5.05.260 Savings Clause.** A prosecution that is pending on the effective date of this ordinance and arose from a violation of an ordinance repealed by this ordinance, or a prosecution started within one year after the effective date of this ordinance arising from a violation of an ordinance repealed by this ordinance, shall be tried and determine exactly as if the ordinance had not been repealed.



**MODEL**

LEAGUE OF OREGON CITIES

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# **Model Business License Ordinance**

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**MARCH 2018**



## **FOREWORD**

A city's power to license derives from the home rule charter granted by Article XI, section 2 of the Oregon Constitution. A city may impose a business or occupation license fee based on its police power alone, or in combination with its taxing power. Business license ordinances are established either to raise revenue, to regulate business, or both. A city with this ordinance may intend to protect the health, safety and welfare of the general public. By raising revenue from business licenses—usually through an annual licensing fee—a city can more easily pay for services such as police and fire protection. A city can also use business licenses to maintain a list of existing businesses operating in the city. This allows the city to ensure that business activities comply with applicable city ordinances, state laws and federal laws. It can provide business contact information for city public safety officials in the event of local emergencies.

Although the power to license may include the power to prohibit activities that may be harmful to the public welfare, health or safety, there are certain limits to this power. The Oregon Supreme Court has held that the power to regulate does not authorize an absolute prohibition of any legitimate business.<sup>1</sup> As a means of enforcing a reasonable regulation, power may be exercised to require a license to follow a particular occupation, along with an accompanying prohibition that, in the failure to pay the stipulated fee and to procure the requisite evidence of authority to conduct business, pursuit of that business will be unlawful.

A frequent claim raised by businesses is that a city's license fee violates either the Equal Protection or Due Process clauses of the United States and Oregon constitutions. These claims typically arise when cities charge different fees to different types of businesses. The Oregon Court of Appeals has noted that the constitutionality of an ordinance must be sustained against the Equal Protection and Due Process claims unless it is impossible to discern any substantial difference between the separate occupation classifications.<sup>2</sup>

## **DISCLAIMER**

Any model document provided by the League is intended to be used as a starting point in an individual city's development of its own documents. Each city is unique, and any adopted document or policy should be individually tailored to meet a city's unique needs.

This model is not intended as a substitute for legal advice. Cities should consult with their city attorney before adopting a business license ordinance to ensure that the ordinance submitted complies with all aspects of federal, state and local law.

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<sup>1</sup> *City of Portland v. Western Union Tel. Co.*, 75 Or 37 (1915).

<sup>2</sup> *City of Idanha v. Consumers Power*, 8 Or App 551 (1972).

## MODEL BUSINESS LICENSE ORDINANCE

### SECTIONS

1. Purpose
2. Applicability
3. Definitions
4. License Required
5. Exemptions
6. Business License Application Requirements
7. Posting and Display of License
8. Fees Imposed
9. Transfers and Relocations, Terms of License
10. Approval, Denial, Revocation and Suspension
11. Appeal
12. Violations and Penalties
13. Severability Clause
14. Savings Clause
15. Effective Date

[Insert your City’s Ordaining Clause, e.g., “*The People of the City of \_\_\_\_\_ ordain as follows*”]

**Section 1. Purpose.** This ordinance is enacted, except as otherwise specified, to:

- A. Ensure that each business is conducted in compliance with applicable federal<sup>3</sup>, state, and local laws, regulations and ordinances and in a manner comporting with the public health, safety and general welfare;
- B. Secure revenue to assist in defraying the City’s cost of administering and enforcing its laws and ordinances and the City’s provision of certain municipal services; and
- C. Obtain valuable information for emergency responders, planning and building personnel, and economic development.

**Section 2. Applicability.** Nothing in this ordinance shall be construed to apply to any person transacting and carrying on any business within the City of [City] which is exempt from taxation or regulation by the city by virtue of the constitutions of the United States or the State of Oregon, or applicable federal or state law.

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<sup>3</sup> Compliance with federal law may not be an appropriate standard for those cities wishing to allow marijuana businesses. The League recommends seeking the advice of the city attorney to determine the appropriate language.



**Section 3. Definitions.** As used in this ordinance:

- A. “Applicant” means the person applying for a license to conduct a particular business within the City.
- B. “Business” means any activity, trade, profession, occupation, or pursuit operated, engaged, conducted, or carried on for profit, gain, livelihood, or any other purpose, regardless of the form under which the activity, trade, profession, occupation, or pursuit is operated, engaged, conducted or carried on within the City.
- C. “Day” means a calendar day unless otherwise noted.
- D. “Doing business” means to engage in any activity in pursuit of profit, gain, livelihood or any other purpose.
- E. “Income” means the net income arising from any business, as reportable to the State of Oregon for personal income, corporation excise or income tax purposes, before any allocation or apportionment for operation out of state, or deduction for net operating loss carry-forward or carry-back.
- F. “License” means the permission granted by the City under this ordinance to operate, engage, conduct or carry on a business within the City.
- G. “Licensee” means an applicant who has received a business license.
- H. “Non-profit organization” means any business or organization which is exempt from taxation under the United States Internal Revenue Code and produces a determination letter of proof thereof.
- I. “Person” means an individual, partnership, corporation, limited company, joint venture, cooperative or any other entity in law or in fact.
- J. “Special event” means any special event receiving the prior approval of the City Administrator to be exempt from the license requirements under this ordinance.

**Section 4. License Required.**

- A. Except as exempt under Section 5 below, it shall be unlawful for any person to conduct business within the City without first having obtained a license for the current year as provided under this ordinance.
- B. A person engaged in business in more than one location, or in more than one business licensed under this ordinance shall make a separate application and pay a separate license fee for each business or location, except as otherwise provided in this ordinance. Only one license under this ordinance is required for mobile businesses such as housekeeping services, food trucks, and other related businesses which that travel throughout the city.

- C. If more than one business is conducted on the same premises, each business must obtain a separate license.
- D. A person representing him or herself, or exhibiting any sign or advertisement that he or she is engaged in a business within the City of which a license fee is levied by this ordinance shall be deemed to be actually engaged in such business and shall be liable for the payment of such license fee and subject to the penalties for failure to comply with the requirements of this ordinance.
- E. The City may require proof of state registration. An applicant shall possess any county or state license required or shall be awaiting final approval by the county or state, if City approval is a prerequisite, before a City license will be issued.<sup>4</sup>
- F. No person shall do business within the City as the employee, agent or representative of another person unless either the principal or the employee, agent or representative has a current, valid City business license for the business, no matter where the principal offices of that business are situated.

**Section 5. Exemptions.**

The following are exempt from the licensing requirement:

- A. A service business operated by a person under the age of 18, such as a lawn mowing business, a newspaper delivery business, a lemonade stand, and the like.
- B. Individuals who work only on the premises of, and as part of, a licensed business that includes the activity of the individual. Examples include barbers, beauticians, medical care providers, attorneys, accountants, relators and others who perform services as part of the overall licensed business. This exemption does not apply if the overall business operation has not obtained a business license.
- C. Garage sales, yard sales and other similar activity conducted, carried on or operated by an individual; provided, however, such exemption will not apply if either of the following conditions are met:
  - 1. The individual conducts, carries on, or operates more than five such sales within any calendar year; or
  - 2. Any one such sale has a duration of more than 72 consecutive hours.
- D. An organizer or participant in a special event, but only with respect to that particular special event.

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<sup>4</sup> Cities may also choose to require proof of bonding. Bonding acts as a form of insurance to protect the business and its customers from theft, damage and other losses.

- E. Activities that qualify as hobbies or passive holding of property for investment purposes under the United States Internal Revenue Code.

The following must obtain a business license but are exempt from payment of the license fee:

- A. Any business exempt from paying local business license fees or taxed by Federal or State constitution or law.
- B. Any business exempt from paying property tax.
- C. Any entity registered with the Oregon Secretary of State as a not-for-profit corporation.

**Section 6. Business License Application Requirements.** Each person desiring to engage in doing business must apply for a license to operate, engage, conduct or carry on the business on such forms and in such manner as the City Administrator may prescribe. The application must be accompanied by the applicable license fee provided in Section 7 below. The application must be filed with the City Administrator and, in addition to any other information reasonably required by the City Administrator, must contain the following information:

- A. The date of the application;
- B. The name and physical address of the business, the address where the business will be located or have its office within the City, and the address of the principal office of such business;
- C. A brief description of the nature of the business, including its primary or predominant business activity;
- D. The date that business operations will commence;
- E. The name and address of the applicant and, if the applicant is an entity, the name and address of the authorized agent submitting an application on behalf of the applicant;
- F. The average number of persons regularly employed;
- G. The person who may be contacted in case of an emergency and the phone number at which that person may be reached;
- H. The types of hazardous materials, if any, regularly maintained on the premises as defined under ORS 466.605;
- I. Whether any local, state or federal licenses, certificates, registrations or permits are required for the business and the identification of such licenses, certificates, registrations or permits;
- J. The license fee tendered with the application;

- K. A verification by signature of the applicant, or authorized agent submitting the application on behalf of the applicant of the following:
  - 1. The information stated in the application is true, accurate and complete;
  - 2. The business is in compliance with all applicable federal, state and local laws, regulations and ordinances;
  - 3. The applicant or authorized agent has read, understands and agrees to abide by this ordinance; and
  - 4. If the applicant is an entity, the authorized agent has the requisite power and authority to sign and submit the application on behalf of the applicant;
- L. A notice that the application is a public record and that the City will exempt from disclosure only information of a sensitive and confidential nature to the extent required by the Oregon Public Records Law (ORS 192.410-192.505) and other applicable laws; and
- M. Any other information necessary to enable the City Administrator or designee to review the application to determine whether the application should be approved.

**Section 7. Posting and Display of License.** Licensee shall post the license in a conspicuous place upon the business premises, available for inspection by the public and any employees and prospective employees of the business. When the licensee has no office, business premises or other established place of business within the City, the license must be in the possession of the agent or representative of the business who is present in the City at all times during which business is being transaction by the agent or representative in the City. If a licensed business is based in a motor vehicle, a photocopy of the license must be carried in the motor vehicle.

**Section 8. Fees Imposed.**

- A. An annual license fee is imposed on the act of doing business within the City according to the following table:
 

|                      |                       |
|----------------------|-----------------------|
| 1-10 employees:      | \$50.00               |
| 11-50 employees:     | \$100.00              |
| 51 or more employees | \$200.00 <sup>5</sup> |
- B. Fees are due at the time of the initial application. Renewal fees are due annually by January 1 of the respective year.

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<sup>5</sup> The fees provided in this model ordinance are only a suggestion. Cities may choose to set their own fee schedule.

- C. A person doing business in the City, for whom payment of a business license fee is delinquent, shall pay as a penalty for delinquency the additional sum of \$100.00 for each calendar month or fraction thereof for which payment remains delinquent.
- D. Nothing contained in this ordinance shall vest any right in a license as a contract obligation on the part of the city as the amount of the fee. The fees provided for in this ordinance may be increased or decreased, additional fees may be imposed, and classifications may be changed.
- E. A person operating more than one business shall pay the license fee prescribed for each of the businesses, except as specifically provided by ordinance.

**Section 9. Transfers and Relocations, Terms of License.**

- A. Transfer of License. In the event of the transfer of ownership of a business, the applicable business license may be transferred by application to the City Administrator. The City Administrator may approve the transfer upon finding that the new applicant meets the requirements of this ordinance.
- B. Relocation of an Existing Business. In the event a business is relocated, the licensee shall reapply to the City Administrator to transfer the business license. The City Administrator may issue the license upon finding that the new location meets the requirements of this ordinance and other applicable federal, state, and local regulations.
- C. License Term. A business license issued under this ordinance shall be valid from the date of issuance until the following January 1.

**Section 10. Approval, Denial, Revocation and Suspension.**

- A. Approval of Application.
  - 1. The City Administrator shall issue a decision on an application for a new business license within 30 days of the submission of a complete application and required fee upon a finding that the applicant has met all requirements of federal, state and local laws.
  - 2. The City Administrator shall issue a license renewal upon finding that the applicant has met all requirements of federal, state, and local law.
  - 3. If an application for a new license is approved, the City Administrator shall notify the applicant in writing. The notice shall state any condition or limitation placed on the license as a condition of maintaining the license which the city Council deems necessary to protect the public health, safety, or welfare which is required by federal, state, or local law.

- B. Denial, Suspension, Revocation of Application.** The City Administrator may deny, suspend or revoke a business license upon finding that:
1. The licensee fails to meet the requirements of, or is doing business in violation of federal, state or local laws;
  2. The applicant has provided false or misleading material information, or has omitted disclosure of a material fact on the applications, related materials, or license;
  3. The applicant's past or present violation of law presents a reasonable doubt about his or her ability to perform the licensed activity without endangering property or the public health or safety;
  4. The information supplied for the review does not indicate that the applicant has the special knowledge or skill required to perform the licensed activity; or
  5. The licensed activity would endanger property or the public health or safety.
- C. Notice.** The City Administrator shall provide written notice to the applicant or licensee of the denial, suspension or revocation. The notice shall state the reason for the action taken and shall inform the application or licensee of the right to appeal under Section 11 of this ordinance. The notice shall be given at least 15 days before the suspension or revocation becomes effective. If the violation ends within the 15 days, the City Administrator may discontinue the suspension or revocation proceedings.
- D. Reapplication.** A person whose application for a business license that has been denied, suspended or revoked, may, after 90 days from the date of the denial, suspension or revocation, apply for a license or reinstatement upon payment of the application fee and submission of an application form and related documents.
- E. Disqualification.** A person whose application for any business license that has been denied or whose license has been revoked for a total of two times within one year, or who has a total of four denials, suspensions or revocations, shall be disqualified from applying for a license or reinstatement for a period of two years from the date of the denial, suspension or revocation.
- F. Summary Suspension.** Upon determining that a licensed activity presents an immediate danger to person or property, the City Administrator may summarily suspend the license for the activity. The suspension takes effect immediately upon notice of the suspension being received by the licensee, or being delivered to the licensee's business address as stated on the licensee's application for the license being suspended. Such a notice shall state the reason for the suspension and inform the licensee of the provisions for appeal under Section 11 of this ordinance. Within 15 days of the summary suspension the City Council shall review the pertinent facts which resulted in the suspension and shall determine whether said facts deem it necessary to continue the suspension in order to

protect the health, safety and welfare of the citizens of the city, or to otherwise ensure that the requirements of this ordinance are complied with. The City Council may continue a suspension as long as the reason for the suspension exists or until a determination on appeal regarding the suspension is made under Section 11 of this ordinance.

**Section 11. Appeal.** In the event an application for a license under this ordinance is denied such license, or in the event a license is suspended or revoked, the applicant or licensee shall have the right to appeal.

- A. The written notice of appeal to the City Council shall be filed with the City Administrator within 15 days after the license denial, suspension or revocation.
- B. The City Council shall hear and make a determination in regard to the appeal at its next regular meeting immediately following the filing of the notice of appeal.
- C. The decision of the City Council on the appeal shall be final and conclusive.

**Section 12. Violations and Penalties.**

- A. Any person convicted of violating any of the provisions of this ordinance shall be punished by a fine not to exceed \$600.00 for any one offense, each day constituting a separate offense.
- B. **Inspection and Right of Entry.** Whenever they shall have cause to suspect a violation of any provisions of this ordinance, or when necessary to investigate an application to, or revocation of a license under any of the procedures prescribed in this ordinance, officials for the enforcement or administration of this ordinance, or their duly authorized representatives, may enter on any site, or into any structure, for the purpose of investigation providing they do so in a reasonable manner. If an owner or occupant denies access for an inspection, the city will seek a warrant. No secured building shall be entered without the consent of the owner or occupant unless under authority of a lawful warrant.
- C. **Abatement.** Any business which is established, operated, moved, altered, enlarged or maintained contrary to the licensing requirements shall be, and is hereby declared to be, unlawful and a public nuisance, and may be abated as such.
- D. **Legal Proceedings by City Attorney.** In addition to the enforcement provisions of this ordinance, upon request by the City Council, the City Attorney may institute any additional proceedings, including, but not limited to, seeking injunctive relief to enforce the provisions of this ordinance.

**Section 13. Severability Clause.** A determination of invalidity or unconstitutionality by a court of competent jurisdiction of any clause, sentence, paragraph, section or part of this ordinance shall not affect the validity of the remaining parts to this ordinance.

**Section 14. Savings Clause.** A prosecution that is pending on the effective date of this ordinance and arose from a violation of an ordinance repealed by this ordinance, or a prosecution started within one year after the effective date of this ordinance arising from a violation of an ordinance repealed by this ordinance, shall be tried and determine exactly as if the ordinance had not been repealed.

**Section 15. Effective Date.** This ordinance is effective on \_\_\_\_\_.

**SAMPLE – CITY BUSINESS LICENSE APPLICATION**

All information must be completed before the application will be accepted.

Business Name \_\_\_\_\_ Business Phone \_\_\_\_\_

Business Street Address \_\_\_\_\_

Business Mailing Address \_\_\_\_\_

Type of Business Conducted \_\_\_\_\_ Date Operations Will Commence \_\_\_\_\_

Applicant's Full Name \_\_\_\_\_ Applicant's Email Address \_\_\_\_\_

Applicant's Residential Address \_\_\_\_\_ Home Phone \_\_\_\_\_

Number of Employees in Business (including owner) \_\_\_\_\_

Building Owner's Name \_\_\_\_\_ Phone \_\_\_\_\_

Please attach copies of all other business licenses, certificates and registrations required by other local, state or federal jurisdictions.

**EMERGENCY CONTACT INFORMATION**

Name Phone

1. \_\_\_\_\_

2. \_\_\_\_\_

Alarm System Company \_\_\_\_\_ Phone \_\_\_\_\_

Type: Audible \_\_\_\_\_ Silent \_\_\_\_\_ Hold-up \_\_\_\_\_ Fire \_\_\_\_\_ Other \_\_\_\_\_

Fire Insurance Company \_\_\_\_\_ Phone \_\_\_\_\_

Is this a home based business  Yes  No Does the building have a fire sprinkler system  Yes  No

Are there hazardous materials stored or used on premises?  Yes  No

If yes, please list materials and the location stored on a separate sheet.

**PLEASE RETURN THIS COMPLETED FORM TO City of [city] [address] WITH YOUR APPLICATION FEE**



**NOTICE:** The information provided on this application is public record. The City will exempt from disclosure only information of a sensitive and confidential nature to the extent require by state and other applicable law.

By signing this, I am representing that the information stated on this application is true, accurate and complete. I agree to comply with all applicable federal, state and local laws.

Date Submitted \_\_\_\_\_ Print Applicant's Name \_\_\_\_\_ Applicant's Signature \_\_\_\_\_

# CITY OF BROOKINGS

## COUNCIL WORKSHOP REPORT

Meeting Date: June 3, 2019

Originating Dept: City Manager

Signature (submitted by)

  
City Manager Approval

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Subject:

Master Fee Schedule Update

Financial Impact:

Increase of 1.5% in revenues of specific fee categories per occurrence

Background/Discussion:

To determine where changes are appropriate, staff has reviewed the 2018 Master Fee Schedule which Council adopted on June 1, 2018 pursuant to Resolution 18-R-1129.

The attached fee schedule for 2019 uses Consumer Price Index (CPI-U) of February 2019 to increase fees by 1.5%. Increases that resulted in less than a \$1.00 change are not proposed and those fees will remain the same as in 2018. Recommended changes to the 2018 proposed Master Fee Schedule, attached here as 'Attachment a,' are indicated in red.

Following is a summary of proposed changes to the Master Fee Schedule:

- Any fee in the column entitled "New Fee" which is presented in red ink is a 1.5% increase to the existing 2018 fee pursuant to CPI-U February 2019 and is rounded to the nearest whole dollar.

*Administrative General*

- Business license temporary 90 day to \$30 or 1/4 annual fee. This has not changed in at least 10 years.
- Records Search increased to \$44 to correlate to actual staff time cost

*Park Facility/Daily Use Fees/Other Park Facilities*

- Add fee for Soft Ball Field Lights at \$60/per hour
- Add fee for Recreational Sports (Soft Ball, Kick Ball, Soccer) at \$25/per game/per team

*Police*

- Add Incidental Reports at \$5
- Digital Media Duplication at \$30

Also considering new fee schedule of the rental of the new Salmon Run Occasion Hall. This is still in progress, and will likely be brought to Council at a later date.

Attachment(s):

- a. 2018 Master Fee Schedule with proposed 2019 revisions

|  | <u>2018 FEE</u>                                 | <u>2019 FEE</u>                                 |
|--|---|---|
| <u>ADMINISTRATIVE - GENERAL</u>  |   |   |
| Building Code Violation Appeal Fee (16)                                  | \$162.00  | \$164.00  |
| Business Licenses  |   |   |
| Annual fee based on total number of employees reported on Form 132       |   |   |
| 0-10   | \$67.00   | \$68.00   |
| 11-25  | \$109.00  | \$111.00  |
| 26-50  | \$164.00  | \$166.00  |
| 51-75  | \$326.00  | \$331.00  |
| 76-100   | \$648.00  | \$658.00  |
| 101-200  | \$1,077.00                                      | \$1,093.00                                      |
| >200   | \$1,641.00                                      | \$1,666.00                                      |
| Annual fee for businesses located outside City limits                    | \$82.00   | \$83.00   |
| Carnival and circus/per day  | \$37.00   | \$38.00   |
| Temporary 90-Day   | \$25.00 or 1/4 annual fee, whichever is greater | \$30.00 or 1/4 annual fee, whichever is greater |
| Copying of City Records < 200 pages (based on 8-1/2 x 11 side) (1)       | B&W \$0.25 /Color \$0.35                        | B&W \$0.25 /Color \$0.35                        |
| Copying City Records using off-site services (when necessary)            | Actual costs + staff time                       | Actual costs + staff time                       |
| Certified copies of City records (for notarized copies – see Notary fee) |   |   |
| First page + copy costs  | B&W \$1.00/Color \$1.10                         | B&W \$1.00/Color \$1.10                         |
| Each additional page (per side) + copy costs                             | B&W \$0.50/Color \$0.60                         | B&W \$0.50/Color \$0.60                         |
| Duplication of City audio/video recordings to CD or DVD                  |   |   |
| Personal Copy  | \$15.00   | \$15.00   |
| Certified Copy   | \$20.00   | \$20.00   |
| Electronic document preparation (10)                                     |   |   |
| Electronic documents or files copied to CD or DVD                        | \$14.00   | \$14.00   |
| Electronic documents, <10MB and 10 files, sent electronically            | No additional cost                              | No additional cost                              |
| Electronic documents, ≥10MB and/or 10 files, sent electronically         | \$12.00   | \$12.00   |
| Paper to electronic conversion (per side) to PDF format, ≤ 11” x 17”     | \$0.15 per side                                 | \$0.15 per side                                 |
| Event Permit Request   |   |   |
| Event Permit (18)  | \$39.00   | \$40.00   |
| Barricade and Cone Delivery (19)   |   |   |
| Refundable Barricade/Cone Use  | \$327.00  | \$332.00  |
| Fax - per page (single sided – 8-1/2 x 14 max)                           | \$1.00  | \$1.00  |

ADMINISTRATIVE - GENERAL (Continued)

|   | <u>FEE</u>                   | <u>FEE</u>                   |
|---|------------------------------|------------------------------|
| GIS   |                              |                              |
| 8-1/2 x 11 Curry County Print (per single sided page)       | B&W \$0.25; Color \$0.35     | B&W \$0.25; Color \$0.35     |
| 11 x 17 Curry County Print (per single sided page)          | B&W \$2.40; Color \$2.50     | B&W \$2.40; Color \$2.50     |
| Large Format Print (> 11x17)                                | BW \$3/sq ft Color \$9/sq ft | BW \$3/sq ft Color \$9/sq ft |
| Large Format Scanning (> 11 x 17, per single side sheet )   | \$20.00/sheet                | \$20.00/sheet                |
| Custom Map  | \$46.00/hour                 | \$47.00/hour                 |
| Legal review of public records for exempt determination (2) | Actual legal costs           | Actual legal costs           |
| Lien Search   | \$30.00                      | \$30.00                      |
| Liquor License Application – New/Annual Renewal             | \$25.00                      | \$25.00                      |
| Liquor License Application – Temporary/Annual               | \$25.00                      | \$25.00                      |
| Meeting Room Rental – Council Chambers                      | \$20.00/hour                 | \$20.00/hour                 |
| Meeting Room Rental – Fire Hall                             | \$10.00/hour                 | \$10.00/hour                 |
| Monitoring of public review of City files                   | \$36.00                      | \$37.00                      |
| Payment Agreement- Set-up                                   |                              |                              |
| Set-Up Fee  | \$109.00                     | \$111.00                     |
| Late Fee  | \$35.00                      | \$36.00                      |
| Loan Rate   | 9%                           | 9%                           |
| Records Search  | \$43/per hour                | \$44/per hour                |
| Returned (NSF) Check  | \$38.00                      | \$39.00                      |
| Taxicab Driver's Permit/ Bi-Annual                          | \$30.00                      | \$30.00                      |
| Taxicab License/ Per Vehicle/Annual                         | \$72.00                      | \$73.00                      |
| Taxicab Photo Update  | \$10.00                      | \$10.00                      |
| Transportation Network Company                              | \$72.00                      | \$73.00                      |
| Transportation Network Company Driver's Permit/Bi-Annual    | \$30.00                      | \$30.00                      |
| Vacation – General (12)                                     | \$1,317.00                   | \$1,337.00                   |
| COURT   | <u>FEE</u>                   | <u>FEE</u>                   |
| Community Service Sign Up Fee                               | \$52.00                      | \$53.00                      |
| Court Fee (Generally)                                       | \$52.00                      | \$53.00                      |
| Driver's License Sanctions                                  | \$25.00                      | \$25.00                      |
| Failure to Appear   | \$51.00                      | \$52.00                      |
| Collections Fee   | \$25.00                      | \$25.00                      |

| <u>COURT FEES (Continued)</u>   | <u>FEE</u>                  | <u>FEE</u>                  |
|---|-----------------------------|-----------------------------|
| Payment Plan Fee (balance less than \$250)                                | \$25.00                     | \$25.00                     |
| Payment Plan Fee (balance greater than \$250)                             | \$50.00                     | \$51.00                     |
| Appeal Filing Motion  | \$91.00                     | \$92.00                     |
| <u>FIRE</u>   | <u>FEE</u>                  | <u>FEE</u>                  |
| Burn Permits  | \$10.00                     | \$10.00                     |
| Burn to Learn   | \$1,598.00                  | \$1,622.00                  |
| Insurance Company Report  | \$25.00                     | \$25.00                     |
| Copies of County Road Directory   | \$15.00                     | \$15.00                     |
| Roadway Wash Down   | \$109.00                    | \$111.00                    |
| <u>PARK FACILITY / DAILY USE FEES (3)(4)</u>                              | <u>FEE</u>                  | <u>FEE</u>                  |
| Capella Use Fees  |                             |                             |
| Basic Use Fee   | \$109.00 /hour w/2 hour min | \$109.00 /hour w/2 hour min |
| Musical Event Fee ( minimum 3 event series)                               | \$20.00/hour w/2 hour min   | \$20.00/hour w/2 hour min   |
| Security Deposit  | \$219.00/event              | \$219.00/event              |
| Other Park Facilities   |                             |                             |
| <b>Soft Ball Field Lights</b>   |                             | \$60/per hour               |
| <b>Recreational Sports (Soft Ball, Kick Ball, Soccer)</b>                 |                             | \$25/per game/per team      |
| Bandshell/Stage Use: <i>non-resident add 50%, non-profit subtract 50%</i> | \$44.00                     | \$45.00                     |
| Concession Stand w/restrooms  | \$82.00                     | \$83.00                     |
| Concession Restrooms Only   | \$25.00                     | \$25.00                     |
| Folding Picnic Table / each, per event (8)                                | \$20.00                     | \$20.00                     |
| Key replacement   | \$25.00                     | \$25.00                     |
| Park Use/Commercial   |                             |                             |
| City Resident   |                             |                             |
| 1-100   | \$44.00                     | \$45.00                     |
| >Each additional<br>100   | \$44.00                     | \$45.00                     |
| Non-City Resident   |                             |                             |
| 1-5   | \$109.00                    | \$111.00                    |

|   |                    |                          |                          |
|---|--------------------|--------------------------|--------------------------|
|   | 6-30               | \$164.00                 | \$166.00                 |
|   | 31-60              | \$327.00                 | \$332.00                 |
|   | 61-100             | \$438.00                 | \$445.00                 |
|   | >Each additional 1 | \$55.00                  | \$56.00                  |
| <u>PARK FACILITY / DAILY USE FEES (Continued)</u>             |                    | <u>FEE</u>               | <u>FEE</u>               |
| Expedited Plan Review for Special Events (20)                 |                    | \$512.00                 | \$520.00                 |
| Park Use/Standard   |                    |                          |                          |
| City Residents; non-resident add 50%, non-profit subtract 50% |                    |                          |                          |
|   | 0-200              | \$44.00                  | \$45.00                  |
|   | 201-400            | \$81.00                  | \$82.00                  |
|   | 401-600            | \$162.00                 | \$164.00                 |
|   | 601-1000           | \$270.00                 | \$274.00                 |
|   | > Each additional  | \$44.00                  | \$45.00                  |
| Park Use Cancellation Fee                                     |                    | \$25.00                  | \$25.00                  |
| <u>PLANNING</u>   |                    | <u>FEE</u>               | <u>FEE</u>               |
| Annexation (5)  |                    | \$5,435.00               | \$5,517.00               |
| Appeal to City Council (9)                                    |                    | Equal to Application Fee | Equal to Application Fee |
| Appeal to Planning Commission                                 |                    | \$164.00                 | \$166.00                 |
| Combined Preliminary/Final Plat Approval                      |                    | \$874.00                 | \$887.00                 |
| Comprehensive Plan Amendment (5)                              |                    | \$3,926.00               | \$3,985.00               |
| Conditional Use Permit (Generally)                            |                    | \$2,784.00               | \$2,826.00               |
| Detailed Development Plan (5)                                 |                    | \$7,794.00               | \$7,911.00               |
| Extension of Time SUB/CUP                                     |                    | \$55.00                  | \$56.00                  |
| Home Occupation   |                    | \$42.00                  | \$43.00                  |
| Home Occupation Permit for Non-profit                         |                    | No Fee                   | No Fee                   |
| Lot Line Adjustment/Lot Line Vacation                         |                    | \$153.00                 | \$155.00                 |
| LU Compatibility Statements                                   |                    | \$44.00                  | \$45.00                  |
| Master Plan Development (5)                                   |                    | \$9,187.00               | \$9,325.00               |
| Minor Change  |                    | \$1,072.00               | \$1,088.00               |
| Partition   |                    | \$2,143.00               | \$2,175.00               |
| Mural Application   |                    | \$82.00                  | \$83.00                  |
| Permit Clearance Review                                       |                    | \$181.00                 | \$184.00                 |

|   |   |   |
|---|---|---|
| Minor Additions & Repairs                                 | \$60.00   | \$61.00   |
| Planned Unit Development (5)                              | \$4,788.00  | \$4,860.00  |
| Pre-Application Services (6)                              | \$563.00  | \$571.00  |
| Re-Notification   | \$148.00  | \$150.00  |
| Sign Approval   | \$142.00  | \$144.00  |
| Street Naming   | \$105.00  | \$107.00  |
| Subdivision (5)   | \$2,216.00  | \$2,249.00  |
| Subdivision Final Approval                                | \$164.00  | \$166.00  |
| Subdivision Replat (5)                                    | \$2,187.00  | \$2,220.00  |
| Variance  | \$2,608.00  | \$2,647.00  |
| Vacation – Land Use (12)                                  | \$2,636.00  | \$2,676.00  |
| Workforce Housing Accessory Dwelling Registration Fee     | \$55.00   | \$56.00   |
| Zone Change (without Comp Plan Amendment)                 | \$2,942.00  | \$2,986.00  |
| <u>POLICE</u>   | <u>FEE</u>  | <u>FEE</u>  |
| Fingerprinting – per card                                 | \$10.00   | \$10.00   |
| Intoxilizer   | \$5.00  | \$5.00  |
| Police Reports/per report                                 | \$10.00   | \$10.00   |
| <b>Incident Reports</b>                                   |   | <b>\$5.00</b>   |
| <b>Digital Media Duplication</b>                          |   | <b>\$30.00</b>  |
| Urinalysis  | \$5.00  | \$5.00  |
| <u>PUBLIC WORKS</u>                                       | <u>FEE</u>  | <u>FEE</u>  |
| Building Inspection Fees                                  | Pursuant to the State of Oregon Building Codes Division established fee | Pursuant to the State of Oregon Building Codes Division established fee |
| Public Works / Right-of-Way Plan Review (5) (13)          | \$80.00/plan sheet  | \$80.00/plan sheet  |
| Public Works / Right-of-Way Permit and Inspection (7)(17) | \$86.00 or 5% of project value, whichever is greater                    | \$86.00 or 5% of project value, whichever is greater                    |
| Right to Use/Encroachment Permit (17)                     | \$44.00   | <b>\$45.00</b>  |
| Hydrology report review (5)                               | \$213.00  | <b>\$216.00</b>   |
| TV Inspection Fee   | \$184/hour w/2 hour min   | \$184/hour w/2 hour min   |



|  | <u>FEE</u>  | <u>FEE</u>                                      |
|--|---|---|
| <u>SEWER &amp; WATER</u>                                     |   |   |
| <i>Sewer</i>   |   |   |
| 4" Sewer Tap-in (14)   | Actual time & materials with minimum of \$3,946   | Actual time & materials with minimum of \$4,005 |
| <u>SEWER &amp; WATER (continued)</u>                         | <u>FEE</u>  | <u>FEE</u>                                      |
| 6" Sewer Tap-in (w/o existing lateral to property line) (14) | Actual time & materials with minimum of \$5,298   | Actual time & materials with minimum of \$5,377 |
| BOD/SS Compiler (15)   | \$160.00  | \$162.00  |
| Flow Meter Data Logger (15)                                  | \$160.00  | \$162.00  |
| Oil & Grease Trap Inspection                                 | \$51 stand alone/\$25 if done w/Backflow Insp     | \$51 stand alone/\$25 if done w/Backflow Insp   |
| <i>Water</i>   |   |   |
| Annual Backflow Inspection                                   | \$106.00  | \$108.00  |
| Meter Drop-in Connection Fee                                 |   |   |
| 5/8 x 3/4"   | \$261.00  | \$265.00  |
| 3/4"   | \$294.00  | \$298.00  |
| 1"   | \$427.00  | \$433.00  |
| 1-1/2"   | \$1,682.00  | \$1,707.00                                      |
| 2"   | \$2,001.00  | \$2,031.00                                      |
| 4" (14)  | Actual time & materials with estimated deposit    | Actual time & materials with estimated deposit  |
| Hydrant Meter Installation (includes uninstall)              | \$105.00  | \$107.00  |
| Service Extension inside City limits                         |   |   |
| 1 inch single service  | \$3,979.00  | \$4,039.00                                      |
| 2 inch single service  | \$5,397.00  | \$5,478.00                                      |
| 2 inch dual service  | \$6,312.00  | \$6,407.00                                      |
| 4" Service and larger  | Contractor only                                   | Contractor only                                 |
| Service Extension Outside City Limits                        | Add 20% to inside City limit fees                 | Add 20% to inside City limit fees               |
| 4" Service and larger  | Contractor only                                   | Contractor only                                 |
| <u>SWIMMING POOL USE</u>                                     |   |   |
|  | Established annually by City Manager or designee. | y City Manager or designee.                     |

Notes:

- (1) All copy charges are calculated based on a single-sided 8 ½ x 11 page. An 8-1/2 x 14 page will be charged at one and one-half (1-1/2) the cost of single sided page, and 11 x 17 pages will be charged as two (2) single sided pages. Large copying projects (>200 single sided pages or >100 double sided) will be charged actual copying and labor costs, with prior notification to, and acknowledgement of the requestor.
- (2) Determination of need for legal review must be made by the City Manager.
- (3) A refundable deposit will be charged equaling the total daily use fee, per application.
- (4) Park Use Fees will be waived for-the Azalea Festival, American Music Festival, Natures Coastal Holiday and Festival of Art at Stout Park.-Event organizers seeking fee waivers and City financial assistance through the Tourism Promotion Advisory Committee shall make such waiver part of their event request. The City Manager may waive Parks Use Fees for non-profit events when the total is less
- (5) Base fee. If the City cost for processing the application exceeds the base fee, the applicant will be liable for, and billed monthly, for staff and/or consultant's time and other associated costs incurred with processing the application (including but not limited to
- (6) Pre-application meeting fee will be applied to the application fee if the application is submitted within one (1) year of the pre-application meeting. Each pre-application meeting increases the application fee by \$529.00
- (7) Fee is collected at time of permit issuance.
- (8) Tables may be rented at a reduced 50% rate with a minimum of 5 tables when both pick-up and delivery are handled by the applicant.
- (9) Appeal fee will be equal to the applicable application fee and adjusted, up or down, based on final cost recovery.
- (10) Fees noted are in addition to applicable records search fees. Any request requiring more than 1 hour of staff time for conversion, copying to disc, etc., will be charged the records search rate, in addition to standard fees, with prior notification to, and acknowledgement of the requestor. Sending and receiving of electronic files, and conversion of paper documents to PDF format, is
- (11) Fee to be determined per event; based on staff requirements for pick-up, delivery and placement of barricades and cones.
- (12) Vacations requiring an additional hearing before the Planning Commission will be charged at twice the standard fee. (Standard fee
- (13) One-time fee. Incomplete submittals will not be accepted.
- (14) Deposit based on estimate to be applied to actual cost of time and materials. Any deposit amount exceeding actual costs will be refunded upon project completion. Amounts in excess of the deposit will be billed at the earliest known stage in the project, or upon
- (15) Subject to availability.
- (16) If appellant prevails, appeal fee will be refunded.
- (17) Fee will be doubled for failure to obtain permit in advance of performing work.
- (18) Non-contiguous recurring events will be charged the base fee for the first event and \$10 for each recurrence during a calendar year.
- (19) Barricade/cone fee for non-contiguous recurring events will be applied only once.
- (20) For event application forms submitted less than 14 days from date of event