

ORDINANCE NO. 2323

AN ORDINANCE AMENDING BEND CODE CHAPTERS 7.10 REGULATORY PERMITS, 7.16 SHORT TERM RENTAL OPERATING LICENSE, 7.20 SIDEWALK VENDORS, CAFES AND FURNISHINGS, 7.25 SECONDHAND DEALERS AND PAWN BROKERS, 7.30 SOCIAL GAMING, 7.40 SPECIAL EVENTS, 7.50 MARIJUANA BUSINESS OPERATING LICENSE AND 12.05 ROOM TAX.

Findings:

- A. The Community Development Department (CDD) is in the midst of the Integrated Inspections and Permitting Applications (IIPA) phase of the Leading Effective Applications and Processes (LEAP) Project at the City of Bend. A project team constructed of representatives from the different divisions within CDD have completed current and future business process mapping in order to prepare for the implementation of the new permitting, licensing and inspections software, CityView.
- B. The current business processes for these programs are limited to hardcopy paper and mailing requirements in certain areas. It is staff's recommendation that the proposed code changes be adopted in order for the future business processes to run more effectively in CityView, with more reliance upon electronic processes and communications.
- C. Hardcopy paper and mailing options will still be available to the community for those that would prefer to utilize those methods. The CityView software is scheduled for availability to the public for use at the end of September or in early October of 2019. Making these code changes now will not hinder how the programs are currently operating and will make room for improvements when the new software is in use.
- D. The proposed changes are of a primarily ministerial nature, and do not impact or change any substantive rights or obligations under existing programs or Code requirements.
- E. Some proposed code changes are being put forth to allow these programs to utilize electronic methods of application processing and applicant communications as well as hardcopy methods, as needed.
- F. Other proposed code changes are to create consistency in the nomenclature of the programs. Whereas some programs have been called permits, they will now operate in a licensing process and should be named similarly to assuage confusion from the public on the differences between the City's licensing and permitting processes.

Based on these findings, which are adopted and incorporated by the Council, the City of Bend ordains as follows:

Section 1. Bend City Code Chapters 7.10 Regulatory Permits, 7.16 Short Term Rental Operating License, 7.20 Sidewalk Vendors, Cafes and Furnishings, 7.25 Secondhand Dealers and Pawn Brokers, 7.30 Social Gaming, 7.40 Special Events, 7.50 Marijuana Business Operating License and 12.05 Room Tax are amended to read as shown on the attached Exhibit A.

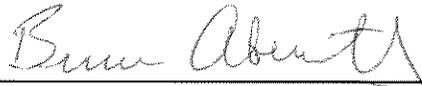
Section 2. All other provisions of the Bend Code remain unchanged and in full effect.

First Reading Date: February 6, 2019

Second Reading Date and adoption by roll call vote: February 20, 2019

YES: Bruce Abernethy
Barb Campbell
Bill Moseley
Justin Livingston
Gena Goodman-Campbell
Chris Piper

NO: none



Bruce Abernethy, Mayor Pro Tem

ATTEST:


Robyn Christie, City Recorder

Approved as to form:

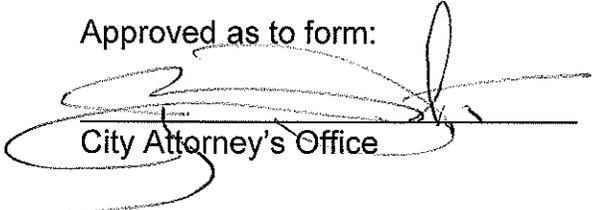

City Attorney's Office

Exhibit A

CHAPTER 7.10 REGULATORY PERMITS & Licenses

7.10.010 Regulatory Permit Procedure, Applicability

This Chapter provides general and procedural regulations for City regulatory permits and licenses. No person shall engage in an activity regulated under Chapters 7.15 through 7.35 without first obtaining a permit or license from the City in compliance with this Chapter and with the applicable provisions specific to the type of permit. The provisions of this Chapter are intended to apply in addition to the provisions of Chapters 7.15 through 7.35, but in the event of a conflict between provisions, provisions in Chapters 7.15 through 7.35 prevail over the provisions in this Chapter.

7.10.015 Permit & License Duration

Permits and licenses shall be issued for one year unless otherwise provided in the permit or license.

7.10.020 Permit & License Renewal

- (1) Permit and license renewal applications shall be submitted prior to the expiration of the permit or license.
- (2) If the City has received complaints about the permitted or licensed activity, the application for renewal of the permit or license may be reviewed under this Chapter.

7.10.025 Application Requirements

Permit and license applications shall be made on City forms. Application shall be made at least 30 days prior to the proposed effective date. The signed application shall constitute the applicant's consent to conduct an investigation of the applicant's qualifications. Applicable permit or license fees in the amount established by Council resolution shall be paid at the time of application. ~~If an application is denied, the City will refund the difference between the fee paid and the City's costs of processing the application~~

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7.10.030 Information from Applicant

The City may require an applicant to provide additional information. Failure to provide the additional information or providing false or misleading information is grounds for denial or revocation of the permit or license application.

7.10.035 Criteria for Grant or Denial

The permit or license shall be denied if:

- (1) The activity does not comply with this Code or other applicable law or regulation;
 - (2) The applicant does not meet City standards;
 - (3) The permitted activity would endanger property or public health or safety;
 - (4) The applicant's past or present violation(s) of law or ordinance presents a
- Ordinance NS-

reasonable doubt about the applicant's ability to perform the permitted or licensed activity without danger to property, or public health or safety; or

- (5) The application contained a knowingly false statement.

7.10.040 Issuance or Denial by the City

The permit or license shall be issued if the applicant demonstrates compliance with all standards of this Title. The permit or license shall be denied if the applicant fails to demonstrate compliance with this Title. The City shall provide written notice of denial listing the reasons for denial and describing the appeal process. Permits and licenses may contain terms and conditions to protect public health and safety.

7.10.045 Suspension of Permit or License

The City may suspend a permit or license for non-compliance with this Code or applicable federal or state laws and regulations. The suspension shall take effect immediately on oral or written notice delivered to the permittee or licensee, agent, or the permittee's or licensee's business address. Additional notice may be mailed to the permittee or licensee stating the reason for the suspension and describing the appeal process. The City may continue the suspension so long as the reason for the suspension exists or until a determination on appeal regarding the suspension is made.

For purpose of this section and Section 7.10.045, a permittee is in violation of the Code if the permittee or licensee no longer meets the requirements for obtaining a permit or license.

7.10.050 Revocation of Permit or License

If the City determines that a permittee or licensee is in violation of this Code, state or federal law, it may revoke the permit or license after 30 days' written notice. The written notice shall state the reason for the revocation and describe the appeal process. A revocation and suspension process may be combined.

7.10.060 Posting of Permit & License

The permit or license shall be posted in a conspicuous place at the site of the permitted activity or otherwise immediately available for inspection.

7.10.065 Transfer or Assignment of Permit & License

Permits and licenses issued under this title are not transferable.

7.10.070 Prorating of Permit and License Fee

Fees for permits and licenses authorized by this Title are not subject to proration.

CHAPTER 7.15 PRIVATE SECURITY

7.15.010 License Requirements

- (1) No private security company may provide private security services within the City without a City private security company license permit.

7.15.015 Applications

- (1) In addition to the requirements of Chapter 7.10, applications for a private security company ~~license~~ permit shall provide:
 - (A) Evidence that the private security company employs one or more certified private security professionals;
 - (B) Photographs of the private security company vehicles, uniforms, and badges. If the private security company has not yet acquired vehicles, uniforms or badges, drawings may substitute for photographs;
 - (C) Name, contact information and photograph, in uniform, if applicable, of all persons employed as licensed security professionals.

7.15.020 Application Review

In addition to other application requirements, applicants for private security company ~~permits~~ licenses may be required to meet with the Chief of Police to review the vehicles, uniforms and badges utilized by the private security company.

7.15.035 Temporary Suspension

In addition to the bases for suspension authorized by Section 7.10.045, the City may suspend a ~~license~~ permit issued to a private security company professional when there are reasonable grounds to believe that the ~~licensee's employee~~ permittee:

- (1) No longer meets the requirements for certification;
- (2) Is a suspect of, or has been arrested for, any felony, persons crime or weapons offense.

CHAPTER 7.16 SHORT TERM RENTAL OPERATING LICENSE

7.16.040 Application and fee.

- (A) Application Required. Applications for an operating license shall be on forms provided by the City, demonstrating the application meets the standards required by this chapter. The Owner or authorized agent shall certify the following information to be true and correct:
 - (1) Owner Information. Owner's name, permanent residence address, permanent residence telephone number, and the short term rental address and telephone number. The application must also include the names, mailing addresses, and telephone numbers of all persons holding an ownership interest in the property, or holding an ownership interest in the entity that owns the property.
 - (2) Representative Information. If the Owner does not permanently reside

within the Bend City limits or is not always available when the property is being rented, the Owner shall provide the name, telephone number and email of a representative (which can be a person or company) who can be contacted concerning use of the property and/or complaints related to the short term rental, as set forth in Section 7.16.070 below.

- (3) Land Use Approval. The PZ number of the land use approval for the short term rental use or exemption under current or former Bend Development Code or determination by CDD of a legal nonconforming use, must be submitted with the application.
 - (4) Parking. Statement that required parking spaces are available, with a dated photo(s) submitted of interior and exterior parking spaces. A parking diagram of these approved parking spaces shall also be submitted.
 - (5) Occupancy. Occupancy limits and number of bedrooms.
 - (6) Use in Prior Twelve Months. Documentation as set forth in Section 7.16.070(B) that the dwelling was rented at least once in the last twelve months for existing short term rentals (if permitted in the last twelve months), and upon each annual license renewal for existing and new short term rentals, unless the hardship exemption is met as set forth in that section.
 - (7) Good Neighbor Guidelines. Acknowledgment of receipt and review of a copy of the good neighbor guidelines. In addition, evidence that the good neighbor guidelines has been effectively relayed to short term rental tenants, by incorporating it into the rental contract, including it in the rental booklet, posting it online, providing it in a conspicuous place in the dwelling unit, or a similar method.
 - (8) Listing Number. If they advertise, the listing numbers or website addresses of where the short term rental advertises (such as the VRBO/Air B&B/rental website #, account #, url, etc.)
 - (9) Such other information as the City Manager or designee deems reasonably necessary to administer this chapter.
- (B) Incomplete Application. If a license application does not include all required materials, the application will be considered incomplete and the City will notify the applicant, by using the applicant's email address that is on file or by first class mail if no email address is provided in writing, explaining the information required. If the applicant provides the missing required information within 30 days of the date of the notice, the application will be reviewed. If the applicant does not provide the required information, the application will be deemed withdrawn and the City will refund the application fee.
- (C) License Fee. The fee for application for a short term rental operating license or license renewal shall be in an amount to recover the City's actual average costs

of reviewing and issuing the license application or license renewal application, including a fee for a late application, investigation and any required inspections, as established by resolution of the City Council.

7.16.060 Operating license and license renewal.

- (A) License Must be Obtained. An operating license shall be obtained and/or renewed as required in this section. The ability to operate a short term rental in the City of Bend shall be discontinued for failure to obtain or renew a license to operate as provided in this chapter.
- (B) Application and Renewal Application Process. A person engaging in a short term rental who has not yet obtained an operating license, or who is required to renew an existing operating license, shall do so as follows:
 - (1) Time for Application.
 - (a) Existing Short term Rentals. A completed operating license renewal application and renewal fee is due for all existing short term rentals on September 1, 2015 and annually every year thereafter.
 - (b) New Permits. For new land use permits issued after the effective date of this chapter, it is the responsibility of the Owner or authorized agent to apply for an operating license within sixty days of receiving the final land use approval to permit the use of the property of a short term rental.
 - (c) Sale of the Property. Upon change in ownership authorized by this Chapter and Bend Development Code Chapter 3.6 of a property subject to a short term rental operating license, it is the obligation and responsibility of the new Owner or authorized agent to obtain a new operating license in order to operate the short term short term rental. The new owner or authorized agent shall have sixty days from the date of ownership (closing of the sale) to apply for and receive a new operating license.
 - (2) Notice. At least sixty days prior to the due date, the City shall send notice of the need for a license or expiration of a license to the Owner of any property for which an application is due as follows:

For the first license required after the effective date of this code, for permitted nonconforming properties, notice will be sent by first class mail to the property owner as determined by the records of Deschutes County from the most recent property tax roll assessment.

For properties that are legal nonconforming uses and were never permitted, it is the Owner's obligation and responsibility to apply for a PZ number and to provide the City with a new address for notification purposes.

For license renewal, notice will be sent to the address of the Owner/Licensee by using the applicant's email address that is on file or by first class mail if no email address is provided by first class mail and email.

For both the first license and license renewal, if an authorized agent name and address has been submitted to the City after the adoption of this code, the City will also send notice to such agent, although failure to do so does not violate this section.

- (C) Notice—Late Applications. If the license application or renewal application is not received by the due date, the City shall send notice of expiration to the Owner and authorized agent, if known, of any property for which a timely application has not been received, advising the owner that they have 30 days to respond. An application will be considered timely submitted if the City receives a completed application, accompanied by the required fees, within the 30-day late period. Notice will be sent using the applicant's email address that is on file or by first class mail if no email is provided.

- (D) License Expiration. For failure to submit an application, upon expiration of the 30 day late period, the ability to operate shall be conclusively presumed to be discontinued with no further action by the City. For renewals, upon expiration of the late period, the ability to operate shall be conclusively presumed to be discontinued and the City will commence revocation of the license pursuant to the procedures in Section 7.16.090.

For new owners, once the 60-day grace period to apply for a license under the existing land use permit expires as referenced in (3) above, the ability to operate shall be conclusively presumed to be discontinued with no further action by the City.

- (E) Renewal Standards.
 - (1) The City will review an application for operating license renewal and issue a renewal provided all the standards in this chapter continue to be met. If not met, the City will not renew the operating license and the property shall not be used as a short term rental.
 - (2) A decision on an operating license application or renewal may be appealed as provided in Section 7.16.110.

CHAPTER 7.20 SIDEWALK VENDORS, CAFES AND FURNISHINGS

7.20.005 Sidewalk LicensePermits

- (1) In addition to the requirements of Chapter 7.10, an application for a sidewalk vendor or café licensepermit must:
 - (A) Contain a provision that the applicant holds the City harmless;

- (B) Be accompanied by evidence of liability insurance at least equal to the City's tort liability limits;
- (C) Be accompanied by a damage deposit in an amount established by Council resolution.

(2) City approval is required prior to any changes in operations inconsistent with the licensepermit.

7.20.010 Exceptions to LicensePermit Requirements

The actions authorized by this section do not require a sidewalk vendor or café licensepermit.

- (1) In the Downtown District, businesses may place planters and merchandise displays on sidewalks adjacent to their businesses, provided that an accessible sidewalk passageway of six feet is provided.
- (2) Businesses in the Downtown District that do not sell food or beverages may place chairs and tables adjacent to their businesses, provided that an accessible passageway of six feet is provided

7.20.015 Sidewalk Cafés

- (1) Sidewalks cannot be used for the sale of food or beverages to be consumed at tables on the public property or right of way unless the seller has obtained a sidewalk café licensepermit.
- (2) Sidewalk café licensespermits may be issued if:
 - (A) The applicant lawfully operates a restaurant adjacent to the right of way for which the applicant seeks a licensepermit;
 - (B) The owner of the restaurant property consents to issuance of the licensepermit; and
 - (C) Seating will be limited to no more than 20 persons;

7.20.020 Sidewalk Vendors

- (1) A sidewalk vendor licensepermit is required to sell food, beverages, wares or goods from a public sidewalk or other public property.
- (2) In addition to the generally applicable application requirements, an application for a sidewalk vendor licensepermit shall:
 - (A) Include a drawing or photo of the proposed unit.

- (B) Provide a complete list of all items the vendor proposes to offer for sale.
- (3) A sidewalk vendor license permit may be issued if the following criteria are met in addition to the criteria in Chapter 7.10:
 - (A) The use of the right of way or public property will not interfere with existing utilities, pedestrian use, or pose a hazard to vehicular traffic. There will be an accessible pedestrian passageway of at least five feet. The use will be in compliance with applicable vision clearance requirements.
 - (B) The proposed use of City owned property is not inconsistent with the use for which the property was dedicated.
 - (C) Sales shall be from a self-contained unit no larger than 25 square feet unless specified on the license permit. Only the self-contained unit and a single chair for the use of the vendor only may be placed in the public property or right of way unless specifically authorized by the license permit. Licensee Permittee may only operate at the location specified on the license permit.
- (4) The City will create a list or map of locations where sidewalk vendors may operate. The City may change the locations. Licens Permittees may operate at only one of the locations designated by the City Manager. The City shall annually conduct a lottery to assign locations among applicants. Any licens permittee who has not applied for a Sidewalk Vendors License Permit by the time of the lottery shall be allowed to operate at any remaining location on a first-come, first-served basis. Locations assigned to a sidewalk vendor are non-transferable.
- (5) A sidewalk vendor may not sell merchandise within one-half block of a permanent retailer that sells the same type of item. A license permit will not be revoked during a calendar year if a permanent retailer moves in to the permanent building after a permit has been issued for that calendar year.
- (6) A sidewalk vendor may not provide customer seating without written City approval.
- (7) No cooking systems may be used unless approved by the Bend Fire Department.
- (8) No sidewalk vendor may operate within the area of any permitted special event without permission of the event organizer.

7.20.025 Standards for Sidewalk Vendors and Cafes

- (1) Licens Permittee shall maintain the area within ten feet of the activity free from litter and debris at all times. All litter and debris shall be disposed of in the

licenspermittee's trash receptacles.

- (2) LicensPermittee is required to clean all surfaces soiled by permittee's use of the public property.
- (3) Any portion of a damage deposit not needed for cleanup or repair will be returned by the City after expiration of the licensepermit. If it is necessary for the City to use all or part of the damage deposit before the licensepermit expires, the City Manager may either revoke the licensepermit or require the deposit of additional money as a condition of continued operation. If the deposit is insufficient to cover cost of damage or cleanup, the licenspermittee will be responsible for all additional costs.
- (4) LicensPermittees may not use the City's storm drainage system to dispose of anything.
- (5) LicensPermittees may not drive motorized vehicles onto City's sidewalks.
- (6) No electrical cords or electrical generators are allowed.
- (7) No licenspermittee may block any public facilities, such as kiosks, disabled access, bike racks, entrances to buildings, or sidewalks.
- (8) LicensPermittees may not place anything, including barricade or signs, on public property or rights of way without written City approval.

CHAPTER 7.25 SECONDHAND DEALERS AND PAWN BROKERS

7.25.010 LicensePermit Required

Dealers must obtain a City secondhand goods dealer licensepermit. Agents and employees of a dealer who engage in the purchase of second hand goods must also obtain a licensepermit. No person may act as a Dealer without a secondhand goods dealer licensepermit.

7.25.015 Exemptions This Chapter does not apply to:

- (1) Used, wrecked or salvaged vehicle dealers;
- (2) Recycling centers;
- (3) The resale of goods acquired as a trade in;
- (4) Sales at flea markets, trade shows or similar organized sales events that operate three or fewer times annually and not to exceed five days per event;
- (5) Used book stores;
- (6) Used clothing stores;

- (7) Scrap metal businesses;
- (8) Not for profit businesses that deal in donated items.

A person claiming an exemption has the burden of proof to establish the exemption.

7.25.020 LicensePermit Application, Review and Issuance

- (1) Applicants shall be fingerprinted by the City and the City may conduct a background check as part of its review of the application.
- (2) The City will issue a photo identification card to approved applicants.
- (3) Grounds for denial or revocation of a dealer's licensepermit include, in addition to the grounds in Chapter 7.10:
 - (A) Conviction of a felony;
 - (B) Failure of the dealer to obtain all necessary zoning, planning, building and sanitation permits for the dealer's place of business;
 - (C) Allowing people who are required to obtain a licensepermit under this section to work as the dealer's employee without a license.

7.25.025 Records Required

- (1) Every dealer conducting business in the City of Bend shall file an electronic report of all purchases of any pawned or secondhand goods as follows: precious metals, jewelry, coins, firearms, hand and power tools, or any article with a manufacturer's serial number. The electronic report must be completely filled out, including an accurate and sufficiently detailed description of the secondhand goods purchased; the name, date of birth, sex, and address of the person from whom the item was purchased or acquired; the day and hour of the purchase and price paid; serial numbers of secondhand goods purchased, if applicable. If the item purchased is jewelry, a digital image of the item shall be uploaded with the electronic report.
- (2) If the goods are acquired from an entity rather than an individual, the report must provide relevant information on both the entity and its individual agent from whom the goods were acquired.
- (3) Dealers shall keep a copy of all electronic reports for at least two years after entry of the report.
- (4) ~~An ink entry in a permanent City approved daily ledger containing the information required by subsection (1) may substitute for an electronic entry through July 1, 2011. All daily ledgers shall be maintained for at least two years from the date of the last entry in the ledger.~~

- (5) For all purchases of secondhand and pawned goods, the dealer will inspect and record one of the following:
- (A) A valid driver's license;
 - (B) A valid state identification card;
 - (C) A valid military identification card;
 - (D) A valid passport, visa or alien registration card with photo.
 - (E) A valid federal firearms license, if the dealer is purchasing secondhand firearms.
- (6) This Chapter does not apply to the following purchases:
- (A) Purchases made at an auction;
 - (B) Purchases from a dealer licensed or permitted by another local governmental entity;
 - (C) Purchases which are shipped to the dealer from a dealer whose primary business location is outside of Deschutes County.
- (7) No electronic report may be changed, erased, obliterated or defaced once entered other than to correct a mistake.

CHAPTER 7.30 SOCIAL GAMING

7.30.005 Social Gaming

- (1) Social gaming, as authorized by state law, is permitted on premises that have obtained a social gaming license permit subject to the following restrictions:
- (A) No person may participate in social gaming other than a player as defined by ORS 167.117(16).
 - (B) No person may act as "house player" or "house bank."
 - (C) All games shall be conducted without house odds.
 - (D) No house income may be generated from the operation of the social game.
 - (E) The person responsible for the premises where social gaming occurs shall not permit any individual who is visibly intoxicated to participate in social gaming.
- (2) The fee for a social gaming license permit shall be established by Council Ordinance NS-

resolution and may be based on the number of tables or on any other basis the Council deems appropriate.

- (3) The City may inspect each location where social gaming has been ~~licensed~~permitted to ensure compliance with the provisions of this Chapter. The inspections may include an annual inspection, and inspections of the public portions of the premises during hours that the premises are open for business. The annual inspection may include a meeting to discuss the requirements of this Chapter.

CHAPTER 7.40 SPECIAL EVENTS

7.40.085 Appeal and Complaint

- (1) Applicant. If the permit is denied, the applicant may appeal the denial to the City Council within five business days.
- (2) Complaint. Any person may file a written or electronic complaint regarding a permitted special event within three months after the event takes place. The City will take such written or electronic comments into account prior to issuing any subsequent permits for the event. The City will attempt to notify the applicant of all complaints.

CHAPTER 7.50 MARIJUANA BUSINESS OPERATING LICENSE

7.50.020 Administration.

The City Manager shall (1) administer and enforce the provisions of this Chapter, (2) have the authority to issue written, electronic and oral interpretations consistent with its intent, and (3) be authorized to adopt administrative rules and procedures necessary to its proper administration and enforcement.

7.50.025 License Required.

A marijuana operating license is a permission to operate any marijuana business operation in accordance with this Chapter. A marijuana operating license may be suspended, terminated, or revoked if the standards are not met, or if the business is sold or otherwise transferred as defined in this Chapter. No person may engage in marijuana business without first obtaining an operating license, and renewal license(s) as required by this Chapter.

All marijuana businesses must obtain a marijuana operating license. Existing medical marijuana businesses must obtain the license by December 31, 2016, and annually thereafter. For new businesses, an operating license must be ~~obtained~~applied for within thirty days of obtaining the land use permit to operate, and annually maintained thereafter. A marijuana operating license shall be required for each dispensary (including a dispensary converting to a recreational facility), facility or other business operation.

Nothing in this Chapter shall be construed to limit a law enforcement agency's ability to investigate unlawful activity in relation to a license issued pursuant to this Chapter.

7.50.045 Standards of Operation.

- (A) Hours of Operation. Marijuana recreational retail facilities and medical marijuana dispensaries must not open before 7 a.m. or remain open after 10:00 p.m.
- (B) Building Requirement. Except for producing (grow) operations, all aspects of a recreational or medical marijuana business must be located inside a permanent building. Outdoor storage of marijuana and marijuana products for commercial sale is not allowed, except for production (grow) facilities as allowed by state regulation in the City's industrial zones.
- (C) On-site Consumption. The on-site consumption of marijuana at marijuana business is prohibited unless:
 - (1) The consumption is conducted for testing in compliance with OAR 333-008-1190; or
 - (2) The consumption is allowed under the medical exception granted in OAR 333-008-1200.
- (D) Display. All marijuana plants, products, and paraphernalia must be completely screened from view from any point outside the marijuana business. There must be no visible marijuana, marijuana product, or marijuana paraphernalia from the exterior of the building or structure.
- (E) Security. All marijuana businesses must include the following safety measures:
 - (1) Security lighting in parking lots, primary entrances, and exterior walkways to provide adequate visibility to employees and patrons.
 - (2) Installation of a fully operational security system, including a video surveillance system and alarm system.
 - (3) Any other security required by state law. Marijuana business may not have a walk-up and/or drive-through window.
- (F) Disposal. Marijuana businesses must provide for secure disposal of marijuana remnants or by-products as required by state law and regulation. Marijuana remnants or by-products may not be placed for collection with regular solid waste or recyclables by the City's solid waste collection franchisees.
- (G) Admittance of Law Enforcement and Other Authorized Personnel. Marijuana businesses may not refuse or limit entry of law enforcement or other authorized

personnel to the business or premises for legitimate law enforcement, inspection, or other regulatory purposes.

- (H) Other City Regulations. The marijuana business must meet applicable laws and regulations, including but not limited to building and fire codes and the Bend Development Code. The marijuana business must comply with the regulations of all other city departments, including but not limited to, the Fire Department, Public Works and utilities, the Building Division and Community Development, and must pay all required inspection and permitting fees. A marijuana business operating license will not be issued by the City of Bend until all required City approvals have been obtained.

7.50.055 Operating License Surrender.

A licensee may surrender a marijuana operating license by delivering written or electronic notice to the City that the licensee voluntarily surrenders the license. A licensee's surrender of a license under this section does not affect the licensee's civil or criminal liability for acts the licensee may have committed before surrendering the license.

CHAPTER 12.05 ROOM TAX

12.05.035 Remittance and Returns

- (1) Operators shall submit a completed tax return form to the Tax Administrator for each calendar month by the 15th of the following month, accompanied by remittance of all tax collected, less a 5% administration fee. If the estimated monthly amount of average tax due is \$100.00 or less, the operator has the option of filing the return and remitting the tax on a quarterly basis on the 15th day of the month following the end of each calendar quarter (April 15th, July 15th, October 15th, and January 15th). Operators shall also submit any tax that was due but not collected if the rent on which the tax is based was paid, unless the rent and tax was paid to a third party and not passed on in full to the operator, in which case the operator shall pay at least the tax based on the amount of rent received by the operator.
- (2) Remittances are delinquent if not made by the 25th day of the month in which they are due.
- (3) Returns shall show the gross rents collected, exempt rents, taxable rents, the total amount of room tax collected and the amount of the administrative fee retained by the operator. Returns shall also show the exempt rents and the basis for exemptions.
- (4) Tax returns and remittances may be submitted in person, electronically or by mail. If the return and remittance is mailed, the postmark shall be considered the date of delivery.
- (5) For good cause, the Tax Administrator may extend the time for making any

return or remittance of room tax by up to 30 days. No further extension shall be granted, except by the City Council. Any operator to whom an extension is granted shall pay interest at the rate of 1% per month on the amount of the remittance due without proration for a fraction of a month. If a return is not filed, and the remittance and interest due is not paid by the end of the extension granted, then the interest shall become a part of the room tax for computation of penalties.

- (6) The Tax Administrator, in order to insure remittance of tax collected or facilitate collection may in individual cases require returns and remittances more frequently than monthly periods.

12.05.045 Deficiency Determinations; Fraud, Evasion, Operator Delay.

- (1) Deficiency Determination. The tax administrator may review tax returns and adjust the amount due based on the information in the return, on information obtained during a review or audit of records, or on the basis of other evidence. In the event of a deficiency, the tax administrator shall provide notice of the deficiency to the operator, who shall remit deficiencies within 10 business days of the deficiency notice. Notice may be by electronic mail if an operator's email address is on file or personal delivery or certified or registered mail.

- (A) In reviewing and adjusting tax returns, the tax administrator shall offset any amount received in excess of the remittances due against any shortages in remittances.
- (B) Except in the case of fraud or intent to evade the room tax, notice of deficiency determinations shall be issued within three years of the period for which the deficiency determination is made.
- (C) The time to remit deficient amounts payment under this Section shall be extended if the operator timely requests a redetermination under Section 12.05.050.

- (2) Fraud, Refusal to Collect, Evasion. If any operator fails to collect, report or remit the room tax as required, submits a fraudulent return, or otherwise violates or attempts to violate this chapter, the tax administrator shall estimate the tax due, and calculate the amount owing from the operator for tax remittance, interest and penalties and provide notice to the operator of the assessment. The determination and notice shall be made and mailed within three years of the discovery by the tax administrator of the violation. The determination is due and payable upon receipt of notice and shall become final 10 business days after the date notice was delivered if no petition for redetermination is filed. Notice will be mailed electronically if a valid email address is on file and by first class mail. If the notice is only mailed first class, then the postmark shall be considered the date of delivery.

12.05.050 Redeterminations.

- (1) Any person affected by a determination under section 12.05.045 may file a petition for redetermination with the Tax Administrator within 10 business days of service of notice of the tax deficiency. A determination under Section 12.05.045 becomes final if a petition for redetermination is not timely filed.
- (2) If a petition for redetermination is filed within the allowable period, the Tax Administrator shall reconsider the determination and grant an oral hearing if requested. The petitioner shall be allowed at least 20 business days to prepare for the hearing.
- (3) After considering the petition and all available information, the Tax Administrator shall issue a redetermination decision and mail the decision on the petitioner. During the redetermination process, the Tax Administrator may agree to a compromise of the amount due if there is a good faith dispute over the amount owing. The redetermination decision will be mailed electronically if a valid email address is on file and by first class mail. If the notice is only mailed first class, then the postmark shall be considered the date of delivery.
- (4) The decision of the Tax Administrator on redetermination becomes final and payment is due 10 business days after the decision is mailed unless the petitioner files an appeal to the Council within that time. The appeal shall be filed with the Tax Administrator. The Council's decision shall be final when reduced to writing and mailed to the petitioner and all amounts due must be paid within 10 business days of mailing of the Council decision.

12.05.070 Refunds

- (1) Refunds by the City to the Operator. If the operator remits more tax, penalty or interest than is due, the operator may file a claim in writing or electronically stating the facts relating to the claim, within three years from the date of remittance. If the claim is approved by the tax administrator, the excess amount shall be either refunded or credited on any amount due from the operator.
- (2) Refunds by City to Occupant. An occupant may file a claim for refund by filing a claim in writing or electronically within three years of payment providing the facts relating to the claim for refund. If the Tax Administrator determines that the tax was collected and remitted to the city and the occupant was not required to pay the tax or overpaid, the city shall issue a refund.
- (3) Refunds by Operator to Occupant. If an occupant has paid tax to an operator, but then stays a total of 30 or more consecutive days, the operator shall refund to the occupant any tax collected for any portion of the continuous stay. The operator shall account for the collection and refund to the Tax Administrator. If the operator has remitted the tax prior to the refund or credit to the tenant, the operator shall be entitled to a corresponding refund or offset if the claim for refund is filed within three years from the date of collection.
- (4) Burden of Proof. The person claiming the refund shall have the burden of proving the facts that establish the basis for the refund.

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12.05.075 Authority of Tax Administrator

The Tax Administrator shall have the power to enforce this Chapter, to adopt rules, regulations and forms consistent with this Chapter. Rules and regulations of general application shall be mailed and emailed to all registered operators. The Tax Administrator may also issue written interpretations on request of an operator. As to the operator to whom the interpretation is issued, the City will act consistently with the interpretation until it is withdrawn, and the City shall provide 30 days' written notice of withdrawal of an interpretation.