

**CITY OF FLORENCE
ORDINANCE NO. 1, SERIES 2014**

AN ORDINANCE AMENDING FLORENCE CITY CODE TITLE 3, CHAPTER 1: BUSINESS LICENSES; DELETING TITLE 3, CHAPTER 2: AMUSEMENTS AND ENTERTAINMENTS; AND DELETING TITLE 3, CHAPTER 8: BINGO LICENSE

- WHEREAS,** The City Council established a goal in 2013 to comprehensively review and clarify the business license processes and code; and
- WHEREAS,** The City Council deliberated at duly publicized meetings on May 20, 2013, August 5, 2013, December 9, 2013, to review the overall direction of the program including a examination of current processes, program options, and benefits of different types of business license programs; and
- WHEREAS,** The City Council decided that the public health and welfare of the City of Florence was best protected by maintaining a business license program to include review of businesses for compliance with Federal, State, and Local regulations, and to perform Oregon Criminal History Checks; and
- WHEREAS,** The City Council determined that Title 3, Chapter 2: Amusements, Entertainments, and Title 3, Chapter 8: Bingo Licenses, were antiquated, redundant with state law, and inconsistent with current practices, and
- WHEREAS,** The City Council deliberated to a decision on code amendments to Title 3, Chapter 1: Business Licenses; Title 3, Chapter 2: Amusements/Entertainments; and Title 3, Chapter 8: Bingo Licenses, at their meeting on January 4, 2014;

NOW, THEREFORE THE CITY OF FLORENCE ORDAINS AS FOLLOWS:

- Section 1:** Florence City Code Title 3, Chapters 1: Business Licenses is hereby amended as shown in Exhibit A.
- Section 2:** Florence City Code Title 3, Chapter 2: Amusements and Entertainments is hereby deleted as shown in Exhibit B
- Section 3:** Florence City Code Title 3, Chapter 8: Bingo License is hereby deleted as shown in Exhibit C.
- Section 4:** This ordinance shall be effective 30 days after its passage by the Council and signature by the Mayor.

Passed by the Florence City Council this 6th Day of January 2014.

Ayes	5 - Councilor Henry, Jagoe, Roberts, Greene and Mayor Xavier
Nays	0
Abstain	0
Absent	0

APPROVED BY THE MAYOR this 7th day of January, 2014.

Kelli Weese
Kelli Weese, City Recorder

Nola Xavier
Nola Xavier, Mayor

Exhibit A
Ordinance No. 1, Series 2014

Additions are shown in double underline and deletions shown as strike-out.
[Change Directions are shown in Bold within Brackets]

[Replace the text of 10-3-1: Business Licenses as shown]

~~TITLE 3~~
~~CHAPTER 4~~

~~**BUSINESS LICENSES**~~

SECTION:

- ~~3-1-1: Purpose~~
- ~~3-1-2: Exemptions~~
- ~~3-1-3: Definitions~~
- ~~3-1-4: License Required~~
- ~~3-1-5: Business Classifications~~
- ~~3-1-6: Application~~
- ~~3-1-7: License Fees, Transfer and Relocation's, Term of License~~
- ~~3-1-8: Approval, Denial, Revocation or Suspension of License~~
- ~~3-1-8-1: Approval of Application~~
- ~~3-1-8-2: Denial, Revocation, or Suspension of License~~
- ~~3-1-8-3: Summary Suspension~~
- ~~3-1-9: Appeal~~
- ~~3-1-10: Disclaimers, Exemptions, General Requirements~~
- ~~3-1-10-1: Disclaimers and Exemptions~~
- ~~3-1-10-2: General License Requirements~~
- ~~3-1-11: Specific Requirements~~
- ~~3-1-12: Violation and Penalties~~

~~**3-1-1: PURPOSE:** This Chapter is enacted, except as otherwise specified, to provide revenue for Municipal purposes and to provide for the health, safety and welfare of the citizens of Florence through regulation of businesses, occupations and trade.~~

~~**3-1-2: EXEMPTIONS:**~~

- ~~A. Nothing in this Chapter shall be construed to apply to any person transacting and carrying on business within the City which is exempt from taxation or regulation by the City by virtue of the Constitution of the United States or the State of Oregon.~~
- ~~B. No person whose income is based solely on a wage or salary shall, for the purpose of this Chapter, be deemed a person transacting or carrying on any business in the City, and it is the intention that all license taxes and fees will be borne by the employer.~~
- ~~C. Any business paying a franchise tax or fee, under City Code now existing, is exempt from the requirements of this Chapter.~~
- ~~D. Wholesalers making deliveries or taking orders from duly licensed retail outlets within the City are exempt from this Chapter.~~

~~E. Pursuant to 3-1-11D-3 of this section, Applicants who wish to do business only during the Rhododendron Festival are exempt from the application process prescribed in 3-1-6 of this section. These businesses must follow the application process defined in 3-1-11-D-3. All other regulations of this chapter apply to all businesses, including Rhododendron Festival merchants. (added by Ord. No. 8, 2008)~~

3-1-3: DEFINITIONS: For the purpose of this Chapter, certain words, terms and phrases are defined as follows:

~~APPLICANT~~ ————— ~~Agent or owner of the named business.~~

~~AUCTION~~ ————— ~~The sale, or offer to sell, by public outcry or to the highest bidder.~~

~~BUSINESS~~ ————— ~~Any profession, trade, occupation, shop and every type of calling wherein a charge is made for goods, materials or services.~~

~~LICENSE~~ ————— ~~The permission granted for the carrying on of a business, profession or occupation within City limits.~~

~~LICENSEE~~ ————— ~~The business as specified and named by applicant.~~

~~MASTER VENDOR LICENSE~~ — ~~A temporary license that is issued to a single responsible party which covers multiple vendors in a single location~~

~~NONPROFIT~~ ————— ~~A bona fide organization with tax exempt status~~

~~PEDDLER~~ ————— ~~A person, traveling from place to place, selling and delivering at the same time. Such person uses public pedestrian ways, but does not conduct business in a temporary or permanent structure at a fixed location. This definition does not include the delivery of goods, services, or contracts previously purchased or ordered, nor sales by wholesalers to retailers.~~

~~PERSON~~ ————— ~~All public or private corporations, including domestic and foreign corporations, firms, partnerships of every kind, associations, organizations, syndicates, joint ventures, societies, any other group acting as a unit, and individuals transacting and carrying on any business within the City.~~

~~PROPER IDENTIFICATION~~ ————— ~~A document issued by a city, county, state or federal government which bears a photograph and the signature of the person to whom it was issued. (Ord 16, 1991)~~

~~PUBLIC EVENT~~ ————— ~~Any event that occurs upon private or public property that will affect the ordinary use of public property, public streets, rights-of-way or sidewalks, or may require increased presence of City personnel. A public event includes, but is not limited to, fairs, festivals, concerts, parades and block parties. Demonstrations and other lawful assemblies, including but not limited to private social gatherings that will make no use of City streets other than for lawful parking, are not included, unless the effect on public property or rights-of-way is extraordinary. School events on school property are not included. (Ord. 1, 2009)~~

~~PURCHASE~~ ————— ~~The buying, exchanging transferring, collecting, consigning or otherwise acquiring of articles from another person not a used merchandise dealer, for resale, exchange or transfer by the purchaser. (Ord 16, 1991)~~

~~USED MERCHANDISE DEALER~~ — Any person, or employee of any person who, as all or part of a business:
a. Purchases or sells used articles;
b. Wrecks, dismantles or disassembles a used vehicle and offers for sale the components thereof; or
c. Lends money on security of used articles, except a person dealing exclusively in whole automobiles, books, sports trading cards, clothing, furniture, electrical appliances, or farm implements and machinery; a person who purchases or sells used articles for four days or less in a six month period; or a nonprofit corporation or association that sells or otherwise exchanges only donated articles. (Ord 16, 1991).

~~REVOCATION (of business license)~~ — Withdrawal of approval to operate a business.

~~SOLICITOR~~ — One who travels from place to place, not carrying his goods with him, but taking orders for future deliveries.

~~SUSPENSION (of business license)~~ — An official order to suspend business operations pending correction or ceasing of certain conditions or practices.

~~TRANSIENT MERCHANT~~ — A person who at any one time occupies temporarily (seasonally or intermittently) a fixed location on private property, who uses a temporary or permanent structure or a vehicle, who sells and delivers from stock on hand, and much in the same manner as a permanent business would, and who is not a vendor. When they do not qualify as a Vendor, temporary or ongoing businesses such as flea markets, bazaars, art and craft fairs, or organized groups of temporary tables or booths, whether in a building, tent or out of doors, are included in this definition.

~~VENDOR~~ — A person who occupies in a fixed location on public or private property and who sells food, drink, goods, amusements or games of skill during a particular event, festival, or is a participating party under a master vendor license issued to another individual or group.

3-1-4: LICENSE REQUIRED:

~~A. — A license fee is hereby imposed on any business not licensed by other chapters of the City Code, and it shall be unlawful for any person to engage in any such business within the City without first having obtained a license for the current year as provided under this Chapter. License fees shall be set by Council resolution.~~

~~B. — 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 any failure to comply with the provisions of this Chapter, or for any penalty assessed under this Chapter, to the extent, and with like effect, as if such agent, or agents, were themselves the proprietors or owners of the business.~~

~~C. — A person engaged in business in more than one location, or in more than one business licensed under this Chapter shall make a separate application and pay a separate license fee for each business or location except as otherwise provided in this Code.~~

~~D. — A person representing himself/herself, or exhibiting any sign or advertisement that he/she, is engaged in a business within the City on which a license fee is levied by this Chapter, 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 Chapter.~~

~~E. The City may require proof of bonding or 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 prerequisite, before a City license will be issued.~~

~~F. The City Council reserves the right to waive or reduce the fee for charitable, religious or service organizations having tax exempt status.~~

~~G. Any person or group who wishes to hold a Public Event on private property adjacent to a roadway designated in this chapter as being in an "area of high motor vehicle traffic" or "high pedestrian traffic" must first obtain a license from the City of Florence. If the event is or includes a parade, a parade permit must also be obtained from the appropriate governing agency. The following roadways are hereby designated as both high motor vehicle traffic and high pedestrian traffic areas:~~

- ~~1. All locations on Bay Street~~
- ~~2. 1st Street from Laurel Street to Harbor Street~~
- ~~3. Laurel Street from 1st Street to Bay Street~~
- ~~4. Maple Street from 1st Street to Bay Street~~
- ~~5. Nopal Street from 1st Street to Bay Street~~
- ~~6. All locations on Highway 101~~
- ~~7. All locations on Highway 126 (Ord. 1, 2009)~~

~~**3-1-5: BUSINESS CLASSIFICATIONS:** Business license fees shall be based on the need of each business classification for regulatory services by the City staff, including, but not limited to, the degree of need for police protection and services. If the nature of a special business does not fit the descriptions herein, it will be treated as belonging to the described type most applicable to its nature, as determined by the City Manager.~~

~~A. Classification 1: Home occupations as defined in Title 10, Chapter 1 of the City Code.~~

~~B. Classification 2: Retail businesses, trades, occupations and professions dealing in retail sale or trade of merchandise and/or services at a permanent business location, including auction sales facilities at an approved location.~~

~~C. Classification 3: Occupations, tradesmen or contractors dealing in contractual services or installation of merchandise or materials at, in or on properties not the principal location, or base of operation, of the contractor or installer. State registration is a prerequisite to issuance of a business license under this classification.~~

~~D. Classification 4: Those businesses doing the greater portion of their trade after normal business hours (9:00 A.M. to 5:00 P.M.) and those businesses dispensing alcoholic beverages. Included in this category are: restaurants and dining establishments serving alcoholic beverages and capable of seating over fifty (50) persons, lounges, bars and taverns, amusement centers and theaters.~~

~~E. Classification 5: Merchant police, security services and similar businesses. (See Section 3-1-11B for special requirements.)~~

~~F. Classification 6: Peddlers licensed for a specific length of time not to exceed one year and Vendors and temporary business activity licensed for a specific place and length of time, usually at an out-of-doors location. Special regulations apply to these businesses due to the nature of the businesses, the business location or because of traffic control problems. (See Section 3-1-11C through F for special requirements.) This classification includes, but is not limited to, the following descriptions: booths, temporary retail stands, food booths, sales from vehicles or push carts, close-out or going-out-of-business sales, and sidewalk sales.~~

~~G. Classification 7: Auctions. (See Section 3-1-11G for special requirements.)~~

~~H. Classification 8: Solicitors. (See Section 3-1-11H for special requirements.)~~

~~I. Classification 9: Nonprofit Organizations. (See Section 3-1-11I for special requirements.)~~

~~J. Classification 10:~~

~~1. Coin In Slot Amusement Devices. A license fee is herein imposed on any and all coin in slot amusement devices displayed in Classification 2 or 4 businesses for use by patrons, wherein the amusement devices are secondary to the main business being conducted. The fee for licensing such amusement devices shall be set by resolution.~~

~~2. This fee shall be paid by the person or company having legal ownership of such device. Usually, the payee would be the supplier unless the device is owned outright by the retail outlet displaying the device.~~

~~3. Exempt are coin-operated dispensing machines such as cigarette, food and beverage, stamp, copying and newspaper machines and commercial car washes and laundromats.~~

~~K. Classification 11: Transient Merchants. (See Section 3-1-11-C for special requirements.~~

~~L. Classification 12: Used Merchandise Dealer. (See Section 3-1-11-J for special requirements). (Ord 16, 1991)~~

~~M. Classification 13: Master Vendor License~~

~~**3-1-6: APPLICATION:**~~

~~A. Application for a business license, or for renewal of a business license shall be made to the office of the City Recorder upon forms furnished by the City. Each application shall state:~~

~~1. The name of the proposed business.~~

~~2. A description of the trade, shop, business, profession, occupation or calling to be carried on.~~

~~3. The name and address of the applicant.~~

~~4. The address at which the business will be conducted, or the address of its Florence office.~~

~~5. The amount of the license fee rendered with the application.~~

~~6. The signature of the applicant or agent making application.~~

~~7. The date of application.~~

~~8. Evidence of satisfaction of State registration, bonding or insurance if required, including registration number and expiration date.~~

~~9. The calendar year for which the application is made.~~

~~B. The City Recorder may require the applicant to supply any additional information necessary to determine under Section 3-1-8 the applicants qualifications for the license. Review of an application shall not begin until all requested information has been provided.~~

~~**3-1-7: LICENSE FEES, TRANSFERS AND RELOCATIONS, TERM OF LICENSE:**~~

- A. ~~License Fee. Each application for a business license or for renewal of business license shall be accompanied by a non-refundable annual license fee; this fee to be set by Council resolution. The annual license fee for any business license issued after July 1 of any calendar year shall be one half (1/2) the annual fee. Less than annual license fees for businesses in Classification 6 shall be set by Council Resolution.~~
- B. ~~Transfer of License. In the event of the transfer of ownership of any business, the applicable business license may be transferred by application to the City Recorder. An application shall be accompanied by a transfer fee; this fee to be set by Council resolution. The City may approve the transfer upon finding that the new applicant meets the requirements of this Chapter.~~
- C. ~~Relocation of an Existing Business. In the event a business relocates, the licensee shall reapply to the City Recorder to transfer the business license. The City may issue the license upon finding that the new location meets the requirements of this Code.~~
- D. ~~License Term. Except for businesses in Classifications 6 or 11 which shall be issued licenses for a specified time not to exceed a year or for specified dates, a business license issued under this Chapter shall be valid from the date of issuance until the following January 1.~~
- E. ~~Renewal Notice. Except for businesses in Classifications 6 or 11 which shall receive no renewal notice, notice of renewal shall be sent by December 1st of each preceding year and shall be due in 30 days (by January 1st of the current year). Accounts not paid by January 20th shall be declared delinquent. The business owner or his agent shall be subject to a penalty under Section 3-1-12.~~

~~3-1-8: APPROVAL, DENIAL, REVOCATION OR SUSPENSION OF LICENSE:~~

~~3-1-8-1: APPROVAL OF APPLICATION:~~

- A. ~~The City Recorder shall issue a decision on an application within thirty (3) days of the submission of a complete application form, all requested additional information, and annual license fee.~~
- B. ~~The City Recorder may issue a license upon finding that the applicant has met all requirements of Federal, State and County law, and this Code.~~
- C. ~~If an application for a new or renewed license is approved, the City Recorder shall notify the applicant in writing. The notice shall state any conditions or limitations placed on the license as a condition of maintaining the license which the City deems necessary to protect the public health, safety or welfare, or which are required by Federal, State or County law, or this Code.~~

~~3-1-8-2: DENIAL, REVOCATION, OR SUSPENSION OF LICENSE:~~

- A. ~~The City Recorder may deny, suspend or revoke any license issued under this chapter upon finding that: (Ord. 1, 2009)~~
 - ~~1. The licensee fails to meet the requirements of, or is doing business in violation of Federal, State, or County law or requirements of this Code.~~
 - ~~2. The applicant has provided false or misleading material information, or has omitted disclosure of a material fact on the application, related materials, or license.~~
 - ~~3. The information supplied for the review does not indicate that the applicant has the special knowledge or skill required to perform the licensed activity.~~
 - ~~4. The licensed activity or device would endanger property or the public health or safety.~~

- ~~B. The City Recorder upon the recommendation of the City Manager and Police Chief, may deny, suspend or revoke a business license upon finding that the applicant, owner, or other responsible party has ever been convicted of a felony at any time, or has been convicted of a misdemeanor within the last five (5) years relating to fraud, theft, where the elements of such violation of law or statute reasonably relate or have a nexus to the business activity to be conducted, unless the applicant demonstrates that the offense has no bearing on the applicant's fitness to undertake the licensed activity without endangering property or public health, safety or welfare. (amended by Ord. No. 11, 2007)~~
- ~~C. The City Recorder shall provide written notice to the applicant or licensee of a denial, suspension, or revocation, the notice shall state the reason for the action taken and shall inform the applicant of the right to appeal under Section 3-1-9 of this Chapter.~~
- ~~D. The notice shall be given at least 15 days before a revocation becomes effective. If the violation ends within the 15 days, the City Recorder may discontinue the revocation proceedings.~~
- ~~E. A person whose application for a business license has been denied or whose license has been revoked may, after 90 days from the date of denial or revocation, apply for a license upon payment of the application fee and submission of an application form and related documents.~~
- ~~F. A person whose application for any business license 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 or revocations, shall be disqualified from applying for a license for a period of two years from the date of the last revocation or denial.~~

~~**3-1-8-3: SUMMARY SUSPENSION:**~~

- ~~A. Upon determining that a licensed activity or device presents an immediate danger to person or property, the City may summarily suspend the license for the activity or device.~~
- ~~B. 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 3-1-9.~~
- ~~C. The City 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 3-1-9.~~

~~**3-1-9: APPEAL:** In the event that an applicant, owner, or other responsible party for a license under this Chapter is denied such license, or in the event a license is suspended or revoked, the applicant or license holder shall have the right of appeal. The written notice of appeal to the City Council shall be filed with the City Recorder within fifteen (15) days after the denial of license or license suspension or revocation. The City Council shall hear and make a determination in regard to the appeal at its next regular meeting held not less than twenty-one (21) days after the filing of notice of appeal. The decision of the Council on such appeal shall be final and conclusive.~~

~~**3-1-10: DISCLAIMERS, EXCEPTIONS, GENERAL REQUIREMENTS;**~~

~~**3-1-10-1: DISCLAIMERS AND EXCEPTIONS:**~~

- ~~A. The levy or collection of a license fee upon any business shall not be construed to be a license or permit by the City to the person engaged therein in the event such business shall be unlawful, illegal or prohibited by the laws of the State of Oregon or the United States, or ordinances of the City.~~

- ~~B. Nothing herein contained shall be taken or construed as vesting any right in any license as a contract obligation on the part of the City. Business license fees, as set by Council resolution, may be increased or decreased, at any time by the City Council. No person having paid the fee required, and having made application for a business license, shall be entitled to any refund.~~
- ~~C. None of the fees, bonds or insurance requirements provided for in this Chapter or the rules adopted under this Chapter shall be required if the applicant is a municipality.~~
- ~~D. Abide by provisions set forth in Florence City Code 8-2-4 with regards to commercial activity upon City streets or other public right of way. (Ord. 1, 2009)~~

~~**3-1-10-2: GENERAL LICENSE REQUIREMENTS:** In addition to any other requirements of this Chapter, each licensee shall:~~

- ~~A. Conform to all Federal, State, and local laws and regulations, the provisions of this Code, and any rules adopted there under.~~
- ~~B. Notify the City within ten (10) days of any change in material information contained in the application, related materials, or license.~~
- ~~C. Display a business license upon request to any person with whom he/she is dealing as part of the licensed activity or to an officer or employee of the City.~~

~~**3-1-11: SPECIFIC REQUIREMENTS:**~~

- ~~A. Businesses dealing the purchase or trade of secondhand goods, such as, but not limited to, precious metals and jewelry, guns or electronic equipment, shall keep a record of the sales for inspection by the Chief of Police. Such a record shall include the name of the seller, the name of the buyer, the date of sale, a description of the merchandise sold, any serial numbers or distinguishing marks on the goods being traded, as well as other information that would enable return of stolen goods.~~
- ~~B. Merchant Police, Security Services and Similar Businesses. Each individual shall agree to a complete background check by the Chief of Police to determine the qualifications and reliability of the individual for the proposed business. The City may require a bond and such insurance as may be deemed proper. The license shall be issued only upon the Police Chief's approval of each person involved; such approval to be based on the complete background check.~~
- ~~C. Vendor and business activity.

 - ~~1. It shall be unlawful for anyone to offer for sale, sell, vend, solicit the sale of or peddle goods, wares, merchandise, produce, services or contracts from _____ vehicles, temporary or movable stands or containers within the corporate limits of the City unless, and until, there shall have been obtained for such business a license as provided for in this Chapter.~~
 - ~~2. _____ A vendor or transient merchant may be issued a license, provided the following requirements are addressed, in addition to the statement required in subsection C-3 below:

 - ~~a. The event is held on private property with the property owner's consent, or on public right of way with consent of the appropriate public agency.~~
 - ~~b. The license specifies the dates for a vendor and the period of time up to one year for transient merchant.~~
 - ~~c. The applicant assumes in writing the responsibility, by taking all necessary precautions~~~~~~

~~for adherence to all City, County and State regulations by each person participating in such an event.~~

~~d. Any other conditions the City may deem necessary to impose for the purpose of assuring the health, safety and welfare of the City.~~

~~3. All applicants for such a license under this Chapter shall file with the City Recorder a statement containing:~~

~~a. The names and addresses of the owners and operators of the business.~~

~~b. The specific dates or time, the exact location, or locations, proposed to be used for the conduct of such business.~~

~~c. The consent of the owners and persons in possession of the property where such business will be located.~~

~~d. A description of the utility services which will be used at such location, together with the proposed manner and method of disposing any waste materials resulting from operation of such business.~~

~~e. A description of the proposed methods of handling vehicular and pedestrian traffic created by such business, together with the proposed on-street and off-street parking provisions for the customers of such business.~~

~~4. Master Vendor Licenses: An event organizer or other responsible party may apply for a Master Vendor License from the city to cover multiple vendors that will be at a single location. Conditions for issuance of a Master Vendor License are as follows:~~

~~a. The event organizer or responsible party must make application to the City of Florence showing the event location, duration, specific dates of operation, and the number of vendors who will conduct business under the master license.~~

~~b. The event organizer or responsible party must submit a fully completed application for each and all of the participating vendors at least two weeks before they conduct any business under the master license.~~

~~c. The event organizer or responsible party notify the City of any changes to the list of vendors and/or the list of persons doing business under the master license.~~

~~d. A Master Vendor License may not be used for any vendor or business which shall be open for business in the City for more than 7 consecutive calendar days, nor more than 90 individual days in any calendar year.~~

~~D. Fairs, Festivals, Public Attractions and Public Entertainment by Nonprofit Organizations.~~

~~1. For the purpose of this chapter, Fairs, Festivals, and other public attractions shall be considered public events. If the fair, festival or event involves the sale of goods or services, a business license will be required in addition to a Public Events license. The City Manager or designee may delegate to an applicant the authority to sell goods or services in, and upon, public streets and other public places; provided, however, that such permit shall not be granted for more than one week without the permission of the City Council. (Ord. 1, 2009)~~

~~2. In considering any application made pursuant hereto, the City may require a full and complete disclosure of the identity of all persons who will be involved with the event, financial conditions, purposes and history, and may require a bond and such insurance as may be deemed proper, and in every case, may decline to grant a permit without stating any findings or cause for denial.~~

~~3. Special Regulations for Rhododendron Festival Only:~~

~~For the purpose of the Rhododendron Festival, the following regulations shall be in effect from 12:00 a.m. on Thursday to 12:00 a.m. on Monday, only during the Rhododendron Festival. The purpose of this section is to exempt Festival merchants from the lengthy application processes and provide a lawful means of doing business during the Festival. All other provisions in this Chapter are applicable to Festival merchants. Businesses not already licensed under other provisions of this Chapter may conduct business during the above specified times under the following restrictions. (Ord. 8, 2008)~~

- ~~a. The applicant must provide written permission from the property owner where they desire to do business.~~
- ~~b. The applicant must complete a license application and pay the applicable fee.~~
- ~~c. The applicant must not do business in violation of any Federal, State or Local Law.~~
- ~~d. The applicant must have any required permits or licenses issued by the County, State or Federal government.~~
- ~~e. Businesses not licensed by this special section or any other provision of this Code must immediately complete application and pay required fee if contacted by the City Code Enforcement Officer during the Festival, or they will be required to cease sales immediately.~~
- ~~f. Businesses who fail to abide by any provision of this special section shall be subject to the penalties found in FCC 3-1-12 up to and including criminal prosecution.~~
- ~~g. If an applicant's criminal history is such that it poses an immediate danger to persons or property, the Chief of Police or his/her designee may revoke said person's Special License and serve notice of such revocation upon applicant.~~
- ~~h. If an applicant fails to obtain a Festival permit at city hall before the event, during regular business hours, the permit fee shall be doubled.~~

~~E. Outdoor Sales.~~

~~1. It shall be unlawful for any person, firm or corporation which has not first obtained a license under the provisions of this Chapter to engage in any outdoor sale of merchandise offered for sale within the corporate limits of the City, provided that this subsection shall not apply to dealers in new or used automobiles, boats, trailers, mobile homes, recreational vehicles or similar merchandise.~~

~~2. Application must be made fifteen (15) days prior to date of sale. Upon the receipt of an application and a license fee, a copy of the application shall be referred to the Chief of Police of the City who shall recommend approval or denial of said license to the City Recorder, based on traffic congestion and parking needs.~~

~~3. Any such sale may not continue in excess of six (6) consecutive calendar days in any one month. The conduct of any such sale shall not interfere with normal parking requirements, encroach on public right of way, create undue litter or compound traffic congestion in any manner.~~

~~4. The display of seasonal merchandise such as garden equipment and tools, mulch, fertilizer, produce, etc., may be placed adjacent to a store on private property without a permit, or as long as it does not intrude on, or limit, pedestrian or vehicular access.~~

~~5. These provisions apply only to permanent, operating businesses in the corporate limits of the City and do not address bazaars, farmers' markets, flea markets or public markets, all of which are specifically addressed in Section 3-1-11C of this Chapter.~~

~~F. Close-Out or Going-Out-Of-Business Sales.~~

~~1. Applicant must have a current Class 2, 3 or 4 license.~~

~~2. Application must be made five (5) days previous to conducting such sale.~~

~~3. The application shall include the type of merchandise to be sold, the owner of the merchandise, the name and address of the person, or persons, conducting the sale.~~

~~4. The merchandise or property to be sold shall be a bona fide part of the applicant's stock in trade for which his regular business license was issued. (Ord.657,11-10-81, eff. 1-1-82)~~

~~G. Auctions. It shall be unlawful to conduct an auction within the corporate limits of the City except that:~~

~~1. An auction held for civic, community, charitable or political fund-raising purposes may be approved providing the following criteria are met:~~

~~a. A minimum of seventy five percent (75%) of the net proceeds of the auction shall go to the licensed nonprofit group acting as sponsor.~~

~~b. Traffic congestion will be minimized.~~

~~c. The premises and location are suitable for this purpose. (Ord. 696, 8-2-83)~~

~~2. This subsection shall not apply to:~~

~~a. Estate property sales by executors or administrators of that estate.~~

~~b. Property sales by public officials as a part of their official function.~~

~~c. Property sold by court order.~~

~~d. Property sales by common carriers pursuant to Federal or State laws or public authority.~~

~~e. Auction sales under the auspices of the Future Farmers of America, 4-H Club, or a county or district fair.~~

~~3. This Section does not apply to any auction sales facility which may become licensed as an ongoing business, as provided in Classification 2.~~

~~H. Solicitors. The applicant must supply the names, addresses, dates of birth and any other pertinent information regarding each individual intending to take part in the solicitation. Each individual shall agree to a complete background check by the Chief of Police to determine the qualifications and reliability of the individual. The City may require a bond and such insurance as may be deemed proper. The license shall be issued only upon the Police Chief's approval of each person involved. Such approval to be based on the complete background check. (Ord. 657, 11-10-81, eff. 1-1-82)~~

~~I. Nonprofit Organizations.~~

~~1. Except as provided in paragraph 3 of this subsection, a nonprofit organization which will conduct any type of business within the City shall make application to the City Recorder upon suitable blanks, furnished by the City, for the license to carry on the business for the current year. Upon submission of the application and payment of the fee set by Council resolution, the City Recorder shall submit the application to the City Council at their next regular meeting. After once obtaining approval by the Council, subsequent annual renewals of the nonprofit organization business license may be approved by the City Recorder unless the nonprofit organization does not renew its business license for a period of two (2) calendar years.~~

~~2. Approval of a nonprofit organization business license is subject to the following conditions:~~

~~a. Business license is only for activities conducted by members.~~

~~b. Nonprofit organization is required to obtain any and all County, State and Federal permits for business to be conducted. (Ord. 657, 11-10-81, eff. 1-1-82)~~

~~c. Except when a license fee is required in paragraph 3 of this subsection, in the event a nonprofit organization contracts to sponsor an outside activity, i.e., rodeo, circus, carnival, etc., a regular City business license must be obtained for that specific activity and the usual business license fee must be paid.~~

~~d. Except as provided in paragraph 3 of this subsection, the nonprofit organization shall obtain a no-cost permit from the City Recorder prior to, and to pertain to, each specific activity conducted under its license. (Ord. 696, 8-2-83)~~

~~e. The nonprofit organization shall provide evidence of permission to use private or publicly owned property. (Ord. 657, 11-10-81, eff. 1-1-82)~~

~~3. A nonprofit organization that desires to establish a concession booth in Miller Park for the sale of snacks, soft drinks or beer, shall submit an application therefore to the City Recorder upon forms provided by the City. Upon receipt thereof, the City Recorder shall submit the application to the City Manager for his or her approval or denial. Approval of an application submitted hereunder is subject to the following conditions:~~

~~a. The City Manager shall designate the particular location(s) within Miller Park where the booth(s) may be located.~~

~~b. No sales shall be permitted outside the booth.~~

~~c. If the sale of beer is permitted, consumption of the beer may occur only in those areas of Miller Park designated and posted therefore by the City Manager.~~

~~d. The applicant shall be required to maintain the area in the vicinity of the licensed booth and to pick up and dispose of all litter occasioned by the licensed activity. In addition to the application fee, the application shall deposit with the City Recorder a "cleaning deposit" to insure performance hereunder. The amount of the cleaning deposit shall be set by resolution of the City Council and shall be refundable in whole or in part, depending upon the condition of the premises at the conclusion of the licensed activity. The City Manager shall notify the licensee within twenty four (24) hours of the expiration of the license whether the premises have been left in a satisfactory condition, and the amount of refund, if any. A determination as to the refund of a cleaning deposit shall be at the City Manager's sole discretion, and if a refund is made, it shall be forwarded to the licensee within ten (10) days of the expiration of the license.~~

~~In the administration of the provisions herein, the City Manager may, at hi or her discretion, issue multiple permits to the same nonprofit organization, issue a permit for several different dates on the same permit, and may issue permits to more than one nonprofit organization for the same date or event. In~~

~~the event any of the provisions of this subsection conflict, or appear to conflict with other provisions in this Chapter, these specific provisions shall control. (Ord. 696, 8_2-83)~~

~~J. Used Merchandise Dealer:~~

- ~~1. In addition to any other requirements of this Chapter, each licensee shall:
 - ~~a. Record at the time of purchase an accurate description of each article purchased by the dealer and the proper identification of the person from whom the purchase was made.~~
 - ~~b. Record all purchases made by the dealer in type or ink and in duplicate on forms obtained from the City, and have a copy of each record available for regular pick-up by the City.~~
 - ~~c. Maintain records in an orderly manner at his/her place of business.~~
 - ~~d. Make all records and all articles purchased available for inspection by the City upon request.~~
 - ~~e. Segregate articles purchased by the dealer to permit their identification from the records kept.~~~~
- ~~2. A used merchandise dealer shall not:
 - ~~a. Alter, sell or dispose of any property purchased by the dealer for seven calendar days after the date of purchase.~~
 - ~~b. Sell, exchange, dismantle, alter in any manner, or otherwise dispose of articles purchased by the dealer when prohibited from doing so by the City in writing, and until notified otherwise by the City in writing.~~
 - ~~c. Purchase from a person under the age of 18 years unaccompanied by a parent or guardian.~~
 - ~~d. Purchase from a person who is incapacitated as defined by ORS 126.003(4) or who is under the influence of drugs or intoxicating liquor.~~
 - ~~e. Purchase property which has had its serial number obliterated, defaced, removed or otherwise altered. (Ord 16, 1991.)~~~~

3-1-12: VIOLATIONS AND PENALTIES:

~~A. Violation of 3-1-11-D-3-E of this Chapter shall be considered a misdemeanor, punishable by a fine not to exceed one thousand dollars (\$1,000), or imprisonment not to exceed three hundred sixty five (365) days, or both fine and imprisonment. (Ord 8, 2008) Proceedings for violation of any provision of this Chapter shall be civil in nature, and a violation thereof shall be punishable by a fine not to exceed five hundred dollars (\$500.00).~~

~~B. Inspection and Right of Entry: Whenever they shall have cause to suspect a violation of any provisions of this Code, or when necessary to investigate an application for, or revocation of a license, under any of the procedures prescribed in this Chapter, officials responsible for enforcement or administration of this Chapter, or their duly authorized representatives, may enter on any site, or into any structure, for the purpose of investigation, provided they do so in a reasonable manner. 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 Chapter, 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 Chapter. (Ord. 657,11-10-81, eff. 1-1-82)~~

TITLE 3
CHAPTER 1

BUSINESS LICENSES

SECTION:

- 3-1-1: Purpose
- 3-1-2: Definitions
- 3-1-3: Applicability, General Requirements and Exemptions
- 3-1-3-1: Applicability
- 3-1-3-2: General License Requirements
- 3-1-3-3: Exemptions from Permit Requirements
- 3-1-4: Disclaimers
- 3-1-5: Application
- 3-1-6: License Fees, Relocations, Terms of License, Fee Exemptions, Delinquency
- 3-1-7: Approval, Transfer of License, Denial, Revocation or Suspension of License
- 3-1-7-1: Approval of Application and Transfer of License
- 3-1-7-2: Denial, Revocation, or Suspension of License
- 3-1-7-3: Summary Suspension
- 3-1-7-4: Appeal
- 3-1-8: Business Classifications and Specific Requirements
- 3-1-8-1: Classification 1: Permanent Businesses
- 3-1-8-2: Classification 2: Contractual Service Providers
- 3-1-8-3: Classification 3: Home Occupations
- 3-1-8-4: Classification 4: Merchant Police, Security Services, and Solicitors.
- 3-1-8-5: Classification 5: Peddlers and Transient Merchants
- 3-1-8-6: Classification 6: Rhododendron Festival Peddlers and Transient Merchants
- 3-1-8-7: Classification 7: Master Vendors & Vendors
- 3-1-8-8: Classification 8: Used Merchandise Dealers
- 3-1-9: Violations and Penalties

3-1-1: PURPOSE: This Chapter is enacted, except as otherwise specified, to provide revenue for municipal purposes and to provide for the health, safety and welfare of the citizens of Florence through regulation of businesses, occupations and trade. A business need not be located within the city in order to be subject to the provisions of this Chapter. This Chapter serves the public interest by mandating that business will be carried on in compliance with applicable laws. The business license required by this Chapter shall not be construed to constitute a permit to engage in any activity prohibited by law nor as a waiver of any other regulatory or license requirement imposed by the city or by federal, state, or local law. The business license shall not indicate an endorsement of any business or business activity.

3-1-2: DEFINITIONS: For the purpose of this Chapter, certain words, terms and phrases are defined as follows:

APPLICANT Agent or owner of the named business.

AUCTION The sale, or offer to sell, by public outcry or to the highest bidder.

<u>BUSINESS</u>	<u>Any enterprise, establishment, store, shop, activity, profession, or undertaking doing business of any nature within the city, whether conducted directly, indirectly, or cooperatively.</u>
<u>CITY RECORDER</u>	<u>The person so designated by the City Manager to perform the functions described in this Chapter.</u>
<u>LICENSE</u>	<u>The permission granted for the carrying on of a business, profession or occupation within City limits.</u>
<u>LICENSEE</u>	<u>The business as specified and named by applicant.</u>
<u>MASTER VENDOR LICENSE</u>	<u>A temporary license that is issued to a single responsible party which covers more than one vendor in a single location</u>
<u>NONPROFIT</u>	<u>An entity organized and operated exclusively for a religious, charitable, humanitarian, or educational purpose and for whom the United States or the State of Oregon has granted exemption from the payment of income tax on that basis.</u>
<u>PEDDLER</u>	<u>A person traveling from place to place, selling and delivering, or providing a service at the same time. Such person uses public pedestrian ways, but does not conduct business in a temporary or permanent structure at a fixed location. This definition does not include the delivery of goods, services, or contracts previously purchased or ordered, nor sales by wholesalers to retailers.</u>
<u>PERSON</u>	<u>All public or private corporations, including domestic and foreign corporations, firms, partnerships of every kind, associations, organizations, syndicates, joint ventures, societies, any other group acting as a unit, and individuals transacting and carrying on any business within the City.</u>
<u>PROPER IDENTIFICATION</u>	<u>A document issued by a city, county, state or federal government which bears a photograph and the signature of the person to whom it was issued.</u>
<u>PURCHASE</u>	<u>The buying, exchanging, transferring, collecting, consigning or otherwise acquiring of articles from another person not a used merchandise dealer, for resale, exchange or transfer by the purchaser.</u>
<u>USED MERCHANDISE DEALER</u>	<u>Any person, or employee of any person who, as all or part of a business:</u> <u>A. Purchases or sells used articles including but not limited to the sale of used metals and jewelry, guns, and electronic equipment.</u> <u>B. Wrecks, dismantles or disassembles a used vehicle and offers for sale the components thereof; or</u> <u>C. Lends money on security of used articles. This does not include a person dealing exclusively in whole automobiles, books, sports trading cards, clothing, furniture, electrical appliances, or farm implements and machinery; a person who purchases or sells used articles for four days or less in a six month period, or a nonprofit corporation or association that sells or otherwise exchanges only donated articles.</u>
<u>REVOCAION (of business license)</u>	<u>Withdrawal of approval to operate a business.</u>
<u>SOLICITOR</u>	<u>One who travels from place to place, not carrying goods, but taking orders for future deliveries.</u>

SUSPENSION (of business license) An official order to suspend business operations pending correction or ceasing of certain conditions or practices.

TRANSIENT MERCHANT A person who at any one time occupies temporarily (including seasonally or intermittently) a fixed location on private property, who uses a temporary or permanent structure or a vehicle, who sells and delivers from stock on hand, and much in the same manner as a permanent business would, and who is not a vendor.

VENDOR A person who occupies a fixed location on public or private property and who sells food, drink, goods, amusements, or games of skill. For the purposes of this chapter, vendor includes only those businesses operating within the confines of a master vendor license.

3-1-3: APPLICABILITY, GENERAL REQUIREMENTS AND EXEMPTIONS:

3-1-3-1: APPLICABILITY:

- A. No person shall maintain, operate, engage in, conduct, or carry on any business within the city without first having obtained a license for the current year as provided by this chapter.
- B. 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 any failure to comply with the provisions of this Chapter, or for any penalty assessed under this Chapter, to the extent, and with like effect, as if such agent, or agents, were themselves the proprietors or owners of the business.
- C. A person engaged in business in more than one location, or in more than one business licensed under this Chapter shall make a separate application and pay a separate license fee for each business or location, except for businesses whose nature is to perform business in multiple locations including those businesses under Classification 2, 4, and 5, as shown in section 3-1-8 or as otherwise provided in this Code. A business whose sole operation is to rent more than one dwelling or commercial unit of real property need only obtain one business license.
- D. A person representing himself/herself, or exhibiting any sign or advertisement that he/she, is engaged in a business within the City on which a license fee is levied by this Chapter, 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 Chapter.

3-1-3-2: GENERAL LICENSE REQUIREMENTS: In addition to any other requirements of this Chapter, each licensee shall:

- A. Conform to all Federal, State, and local laws and regulations, the provisions of this Code, and any rules adopted there under. It shall be unlawful for any person to engage in any such business within the City without first having obtained a license for the current year as provided under this chapter. License fees shall be set by Council resolution.
- B. Be subject to an Oregon Criminal History Check to be performed by the Chief of Police for listed owners and/or managers included on the application form. Such check will not be performed on business agents or employees except for those specified under the provisions of classification 4 shown in Section 3-1-8-4. Information obtained from the Oregon Criminal History Check will be used as the procedure for review of the code provisions of Section 3-1-7-2(A)6.
- C. Notify the City within ten (10) days of any change in material information contained in the application, including but not limited to changes in management, ownership, location, mailing

address, business name, and if applicable any specific requirements as indicated by the businesses classification as shown in Section 3-1-8.

- D. Licensees shall abide by the provisions set forth in Florence City Code 8-2-4 with regards to commercial activity upon City Streets or other public right-of-way.
- E. A person who is registered by this ordinance to have a business license shall cause the license to be prominently posted in a place available to the public at the location for which the license is issued. If the principle location or office of the business is not located within the City, the business' employee, agent, or representative must possess a copy of the license when doing business within the city.

3-1-3-3: EXEMPTIONS FROM PERMIT REQUIREMENTS:

- A. Nothing in this Chapter shall be construed to apply to any person transacting and carrying on business within the City which is exempt from a license fee of the City by virtue of the Constitution of the United States, the Constitution of the State of Oregon, or applicable federal or state law.
- B. No person whose income is based solely on a wage or salary shall, for the purpose of this Chapter, be deemed a person transacting or carrying on any business in the City, and it is the intention that all license taxes and fees will be borne by the employer.
- C. Any business paying a franchise tax or fee, under City Code now existing, is exempt from the requirements of this Chapter.
- D. Wholesalers making deliveries or taking orders from duly licensed retail outlets within the City are exempt from this Chapter.
- E. Pursuant to 3-1-8-6 of this section, applicants who wish to do business only during the Rhododendron Festival are exempt from the application process for businesses in Classification 5 and 7 as prescribed in 3-1-8-5 and 3-1-8-7 of this section. These businesses must follow the application process for businesses in Classification 6 as defined in 3-1-8-6. All other regulations of this chapter apply to all businesses, including Rhododendron Festival merchants.
- F. Businesses whose sole operation shall occur at the Florence Events Center shall be exempt from this Chapter.
- G. All auctions operated by businesses shall obtain a business license as otherwise required by this chapter, with the exception of the following, which shall not be subject to licensing requirements.
1. Estate property sales by executors or administrators of that estate.
 2. Property sales by public officials as a part of their official function.
 3. Property sold by court order.
 4. Property sales by common carriers pursuant to Federal or State laws or public authority.
 5. Auction sales under the auspices of the Future Farmers of America, 4 H Club, or a county or district fair.
- H. No person conducting an on-premise sale of used household goods by a person who resides on premises (a yard or garage sale), shall be required to obtain a business license, provided that the sale is conducted no more than four days in any calendar year.

I. A person conducting a business for twenty (20) or less hours in one calendar year shall be exempt from licensing requirements.

J. This chapter shall not apply to business activities of the City of Florence.

3-1-4: DISCLAIMERS:

A. The levy or collection of a license fee, or issuance of a business license, shall not be construed to be a license or permit by the City to the person engaged therein in the event such business shall be unlawful, illegal or prohibited by Federal, State, or local law.

B. Nothing herein contained shall be taken or construed as vesting any right in any license as a contract obligation on the part of the City.

3-1-5: APPLICATION:

A. Application for a business license, or for renewal of a business license, shall be made to the office of the City Recorder upon forms furnished by the City. Each application shall state:

1. The name of the proposed business.
2. A description of the trade, shop, business, profession, occupation or calling to be carried on, including indication of classification type.
3. The complete address(es), email address(es), and telephone number(s) of the principle office of the business.
4. The complete address, email address, and telephone number of the address at which the business will be conducted, or the address of its Florence office.
5. The signature of the applicant or agent making application. The applicant shall warrant by his/her signature that all representations made on the application form are the truth to the best of his/her knowledge. Any misrepresentations on the application shall constitute a violation of this ordinance.
6. Evidence of satisfaction of State registration, bonding or insurance if required, including registration number and expiration date.
7. The name, contact information, driver's license number or other proper identification, and date of birth, of person of ownership of the business, to be either a person or entity.
8. The name, contact information, driver's license number or other proper identification, and date of birth, of local owner / manager, should such be different than that of the owner.
9. Number of Employees, including part-time and full-time classifications.
10. The City may require proof of bonding or State registration. An applicant shall possess any County or State license required before a City license will be issued.
11. The City Recorder may require the applicant to supply any additional information necessary to determine under Section 3-1-8 the applicant's qualifications for the license. Review of an application shall not begin until all requested information has been provided.

3-1-6: LICENSE FEES, RELOCATIONS, TERMS OF LICENSE, FEE EXEMPTIONS, AND DELINQUENCY

- A. License Fees. Each application for a business license shall be accompanied by a non-refundable business license application fee and an annual license fee, unless otherwise exempt as provided in Section 3-1-6-E below. Fees shall be set by Council resolution. The business license fee shall be in addition to, and not in lieu of, any other license or permit fee, charge, or tax required under any other Municipal Code section or City Ordinance. Business license fees, as set by Council resolution, may be increased or decreased, at any time by the City Council.
1. Business Application Fee. The business application fee amount shall be charged when a new or expired business license application is processed and shall be limited to recovering the administrative cost of processing the application. Business license application fees may vary by business classification type per the discretion of the Council. The business application fee shall be set from time to time by resolution of the City Council. Persons holding expired business licenses will be charged a new business application fee to re-apply.
 2. Business License Annual Fee. Persons renewing an existing, non-expired business license shall pay only the business license annual fee, unless otherwise exempt as provided in Section 3-1-6-E below. The business license annual fee shall be determined by resolution of the City Council, such rate being either a flat rate for all businesses, a progressive rate based on number of employees, or varied by business classification type. The annual license fee for any business license issued after July 1 of any calendar year shall be one half (1/2) the annual fee.
 3. Temporary Business License Fee. Businesses in Classification 5, 6, and 7, or those which elect to receive a temporary license, shall be issued a temporary business license for specified dates, not to exceed six months, and shall pay the temporary business license application fee. The temporary business license application fees shall be set by resolution of the City Council and may be based upon length of operation, dates of operation, classification type, or a progressive rate based on number of employees.
- B. Relocation of an Existing Business. In the event a business relocates in such a way as to necessitate review of applicable zoning ordinances, the licensee shall reapply to the City Recorder and pay the applicable business application fee. The business license annual fee shall be transferable to the new location. The City may issue the license upon finding that the new location meets the requirements of this Code.
- C. License Term. Except for businesses issued temporary business licenses, a business license issued under this Chapter shall be valid from the date of issuance until the following December 31, after which is shall expire.
- D. Renewal Notice. Except for businesses issued temporary business licenses, which shall receive no renewal notice, notice of renewal shall be sent by December 1st of each preceding year and shall be due in 30 days (by January 1st of the current year). Accounts not paid by January 20th shall be declared delinquent. The business owner or his agent shall be subject to a penalty under Section 3-1-6-F.
- E. Fee Exemptions. The following businesses shall be exempted from paying the business application and business license annual fee. Businesses listed in this subsection and doing business within the city must still apply for a business license on the forms provided by the City, and respond to annual renewals to ensure accurate information, but shall be exempt from payment of fees.

1. A non-profit agency, organization and/or business, as defined in this ordinance.
2. Persons expressly exempted from paying a City business license fee under any other lawful provision of federal, state, or city law, provided that person claiming the exemption shall show proof of such exemption satisfactory to the City Recorder and/or City Attorney.
3. Any city, county, state agency, special district, school district, or other government entity.

F. Delinquency: Should a business be declared delinquent the City may avail itself of any and all remedies available to collect the fee, including but not limited to referring the delinquency to a collection agency and citing the person for a violation of the Florence Municipal Code. In addition, a delinquency charge of fifty (50) percent of the business license fee due may be added to the fee that is otherwise due, or any other fee deemed appropriate by the City Council as set by Council Resolution.

3-1-7: APPROVAL, TRANSFER OF LICENSE, DENIAL, REVOCATION OR SUSPENSION OF LICENSE:

3-1-7-1: APPROVAL OF APPLICATION AND TRANSFER OF LICENSE:

- A. Upon receipt of a signed and completed application for a business license, the City Recorder shall issue a decision on an application within thirty (30) days of the submission of a complete application form, all requested additional information, and annual license fee, or notify the applicant of the delay.
- B. Upon finding that the applicant has met all the licensing requirements of this Code, the City Recorder will issue a license.
- C. If an application for a new or renewed license is approved, the City Recorder shall notify the applicant in writing. The notice shall state any conditions or limitations placed on the license as a condition of maintaining the license which are necessary to protect the public health, safety or welfare, or which are required by this Chapter.
- D. The business license may be transferred to another party in the following circumstances, provided the City has been notified of any material changes to the business as indicated by Section 3-1-3-2 within ten (10) days:
 1. The business is sold and/or transferred to a new owner and/or manager OR the business location has changed in such a way as to not necessitate review of applicable zoning ordinances.
 2. No other significant change in the nature of the business has occurred
 3. If the existing business license contains no person specific endorsements
 4. If the new owner contacts the City to amend the business license application to accurately reflect the new ownership / management and any other new information.
 5. No other transfer or assignment of any license issued under this chapter shall be valid or permitted. Upon a significant change of the nature of the business, a new business license is required.

3-1-7-2: DENIAL, REVOCATION, OR SUSPENSION OF LICENSE:

- A. The City Recorder in concurrence of the City Manager and Police Chief, may deny, suspend or revoke any license issued under this chapter upon finding that:

1. The licensee fails to meet the requirements of, or is doing business in violation of this Chapter.
 2. The licensee is in violation, as determined by the applicable governing jurisdiction, of applicable Federal, State, or local requirements and such violation reasonably relates or has a nexus to the licensee's business activities.
 3. The applicant has provided false or misleading material information, or has omitted disclosure of a material fact on the application, related materials, or license.
 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.
 5. The licensed activity or device would endanger property or the public health or safety.
 6. The applicant, owner, or other responsible party has ever been convicted of a felony at any time, or has been convicted of a misdemeanor within the last five (5) years relating to fraud, theft, where the elements of such violation of law or statute reasonably relate or have a nexus to the business activity conducted, unless the applicant demonstrates that the offense has no bearing on the applicant's fitness to undertake the licensed activity without endangering property or public health, safety, or welfare.
- B. The City Recorder shall provide written notice to the applicant or licensee of a denial, suspension, or revocation, the notice shall state the reason for the action taken and shall inform the applicant of the right to appeal under Section 3-1-7-4 of this Chapter.
- C. The notice shall be given at least 15 days before a revocation becomes effective. If the violation ends within the 15 days, the City Recorder may discontinue the revocation proceedings.
- D. A person whose application for a business license has been denied or whose license has been revoked may, after 90 days from the date of denial or revocation, apply for a license upon payment of the application fee and submission of an application form and related documents.
- E. A person whose application for any business license 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 or revocations, shall be disqualified from applying for a license for a period of two years from the date of the last revocation or denial.

3-1-7-3: SUMMARY SUSPENSION:

- A. Upon determining that a licensed activity or device presents an immediate danger to person or property, the City may suspend the license for the activity or device.
- B. 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 3-1-7-4.
- C. The City 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 3-1-7-4.

3-1-7-4: APPEAL: In the event that an applicant, owner, or other responsible party for a license under this Chapter is denied such license, or in the event a license is suspended or revoked, the applicant or license holder shall have the right of appeal. The written notice of appeal to the City Council shall be filed with the City Recorder within fifteen (15) days after the denial of license or license suspension or revocation. The City Council shall hear and make a determination in regard to the appeal at its next regular meeting held not less than fifteen (15) days after the filing of notice of appeal. The decision of the Council on such appeal shall be final and conclusive.

3-1-8: BUSINESS CLASSIFICATIONS AND SPECIFIC REQUIREMENTS:

3-1-8-1: CLASSIFICATION 1: Businesses, non-profit organizations, trades, occupations, and professions dealing in retail sale or trade of merchandise and/or services at a permanent business location.

3-1-8-2: CLASSIFICATION 2: Occupations, tradesman or contractors dealing in contractual services or installation of merchandise or materials at, in or on properties not the principal location, or base of operation, of the contractor or installer. State registration is a prerequisite to issuance of a business license under this classification.

3-1-8-3: CLASSIFICATION 3: Home Occupations as defined in Title 10, Chapter 1 of the City Code.

A. Specific Requirements: To ensure applicants for home occupation business licenses meet the definition of a home occupation as defined in Title 10, Chapter 1, applicants shall submit information to the City evidencing conformity with the home occupation definition. The City may require submission of evidence on a City form created for such purposes.

3-1-8-4: CLASSIFICATION 4: Merchant police, security services, and solicitors.

A. Specific Requirements: In order to ensure public safety, businesses under Classification 4 shall submit the names, addresses, and dates of birth for each individual intending to take part in the solicitation and/or to be employed in a security capacity. This information will be used to perform a Oregon Criminal History Check to determine the qualifications of the individuals participating in the above activities. The City may require a bond and such insurance as may be deemed proper.

3-1-8-5: CLASSIFICATION 5: Peddlers and Transient Merchants

A. Specific Requirements: Special regulations apply to these businesses due to the nature of the businesses, the business location, or because of traffic control problems. As such, businesses under classification 5 shall adhere to the requirements and submit the additional materials as shown below. Businesses under Classification 5 shall address the following requirements.

1. The business activity shall be held on private property with the property owner's consent, or on public property or right-of-way with consent of the appropriate public agency. Should the business be occupied within the public right-of-way, or upon City owned public property, it shall follow all requirements of other code sections including but not limited to private use of right-of-way (Section 7-5), and noise variances (Section 6-1-2-3-E)
2. The business activity shall not occupy or block the minimum parking spaces required under the City parking requirements in Title 10, Chapter 3 for existing businesses or residences on the subject property.
3. The license specifies the dates and the period of time of business operation. Such business application shall be limited to six months, after which time the business shall reapply.
4. The applicant assumes in writing, the responsibility for taking all necessary precautions in order to adhere to all City, County, and State regulations governing the business activity.

5. Any other conditions the City may deem necessary to impose based upon the particular business activity for the purpose of assuring the health, safety, and welfare of the public.

B. The applicants for businesses under Classification 5 shall submit the following information.

1. The names and addresses of the owners and operators of the business.

2. The specific dates or time, the exact location including a site plan and/or other drawing, proposed to be used for the conduct of such business.

3. The written consent of the owners and persons in possession of the property where such business will be located.

4. Description of the utility services which will be used at such location, together with the proposed manner and method of disposing any waste materials resulting from operation of such business.

5. A description of the proposed methods of handling vehicular and pedestrian traffic created by such business, together with the proposed on-street and off-street parking provisions for the customers of such businesses.

3-1-8-6: CLASSIFICATION 6: Rhododendron Festival Peddlers and Transient Merchants

A. Specific Requirements: For the purpose of the Rhododendron Festival, the following regulations shall be in effect from 12:00 a.m. on Thursday to 12:00 a.m. on Monday, only during the Rhododendron Festival. The purpose of this section is to exempt Festival merchants from the lengthy application process and provide a lawful means of doing business during the Festival. Businesses not already licensed under the provisions of this Chapter may conduct business during the above specified times under the following restrictions.

1. The applicant must provide written permission from the property owner where they desire to do business.

2. The applicant must complete a license application and pay the applicable fee.

3. The applicant must not do business in violation of any Federal, State or Local Law.

4. The applicant must have any required permits or licenses issued by the County, State or Federal government.

5. Businesses not licensed by this subsection 3-1-8-6 or any other provision of this Chapter must immediately complete a business license application and pay all required fees if contacted by the City Code Enforcement Officer during the Festival, or they will be required to cease sales immediately.

6. Businesses that fail to abide by any provision of this subsection 3-1-8-6 shall be subject to the penalties found in FCC 3-1-9 up to and including criminal prosecution.

7. If an applicant's criminal history is such that it poses an immediate danger to persons or property, the Chief of Police or his/her designee may revoke said persons Rhododendron Festival License and serve notice of such revocation upon applicant.

8. If an applicant fails to obtain a Rhododendron Festival License at city hall before the event, during regular business hours, the license fee shall be doubled.

3-1-8-7: CLASSIFICATION 7: Master Vendors & Vendors

A. Specific Requirements: A business activity organizer, property owner, or other responsible party wishing to establish more than one vendor at a single location shall first apply for a master vendor license with the City under the following restrictions

1. The business activity organizer or responsible party must make application to the City of Florence showing the business activity location including a site plan and/or other drawing, duration, specific dates of operation, and the maximum number of vendors who will conduct business under the master license, both at one time, or throughout its entirety.
2. The business activity organizer or responsible party must submit a fully completed application for each and all of the participating vendors at least two weeks before they conduct any business under the master license.
3. The business activity organizer or responsible party shall notify the City of any changes to the list of vendors and/or the list of persons doing business under the master license.
4. A Master Vendor License may not be used for any vendor or business which shall be open for business in the City for more than 7 consecutive calendar days, nor more than 90 individual days in any calendar year.

3-1-8-8: CLASSIFICATION 8: Used Merchandise Dealer

A. Specific Requirements: In order to ensure public safety, businesses under Classification 8 shall keep a record of the sales for inspection by the Chief of Police. Such a record shall include the name of the seller, the name of the buyer, the date of sale, a description of the merchandise sold, any serial numbers or distinguishing marks of the goods being traded, as well as other information that would enable return of stolen goods. Such records, and all articles purchased, shall be available for inspection by the City upon request. A used merchandise dealer shall not:

1. Alter, sell or dispose of any property purchased by the dealer for seven calendar days after the date of purchase.
2. Sell, exchange, dismantle, alter in any manner, or otherwise dispose of articles purchased by the dealer when prohibited from doing so by the City in writing, and until notified otherwise by the City in writing.
3. Purchase from a person under the age of 18 years unaccompanied by a parent or guardian.
4. Purchase from a person who is incapacitated as defined by ORS 126.003(4) or who is under the influence of drugs or intoxicating liquor.
5. Purchase property which has had its serial number obliterated, defaced, removed or otherwise altered.

3-1-9: VIOLATIONS AND PENALTIES:

A. Violation of 3-1-8-6-A-5 of this Chapter shall be considered a misdemeanor, punishable by a fine not to exceed one thousand dollars (\$1,000), or imprisonment not to exceed three hundred sixty five (365) days, or both fine and imprisonment. (Ord 8, 2008) Proceedings for violation of any other provision of this Chapter shall be civil in nature, and a violation thereof shall be punishable by a fine not to exceed five hundred dollars (\$500.00).

- B. Inspection and Right of Entry: Whenever they shall have cause to suspect a violation of any provisions of this Code, or when necessary to investigate an application for, or revocation of a license, under any of the procedures prescribed in this Chapter, officials responsible for enforcement or administration of this Chapter, or their duly authorized representatives, may enter on any site, or into any structure, for the purpose of investigation, provided they do so in a reasonable manner. No secured building or property shall be entered without the consent of the owner or occupant unless under authority of a warrant or other applicable legal authority.
- 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 Chapter, 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 Chapter.

Exhibit B
Ordinance No. 1, Series 2014

Additions are shown in double underline and deletions shown as strike-out.
[Change Directions are shown in Bold within Brackets]

[Delete Code Section 10-3-2: Amusements and Entertainments as shown]

TITLE 3
CHAPTER 2

AMUSEMENTS, ENTERTAINMENTS

SECTION:

~~3-2-1: Public Dances and Halls~~

~~**3-2-1: PUBLIC DANCES AND HALLS:**~~

A. ~~Definition: The term "public dance" as used in this Chapter shall be construed to mean any dance to which an admission fee is charged, or at which anything of value is charged, collected or exacted for the privilege of dancing. School sponsored dances are exempt.~~

B. ~~Licensing:~~

~~1. License Required: It shall be unlawful for any person to hold, give or conduct a public dance within the corporate limits of the City without first having a license therefore as herein prescribed.~~

~~2. Application for License: No person shall be granted a license to conduct a public dance in the City unless such person is of good moral character. Any person desiring to hold, give or conduct a public dance shall make application to the City Recorder for license therefor, at the same time paying the license fee as herein provided for. If, upon the making of such application and the payment of such fee, the City Recorder shall be of the opinion that the applicant is a fit and proper person to be granted such license, said Recorder shall issue to him a license to conduct such public dance, therein specifically stating the time and place at which the applicant is authorized to conduct the dance. (Ord. 472, 4_8_68)~~

~~3. License Fee: The license fee to be charged for the holding, giving or conducting of each public dance shall be set by resolution. (Ord. 472, 4_8_68; amd. 1981 Code)~~

~~C. Hours: No public dance shall be operated and no dancing shall be permitted at a public dance after the hour of one o'clock (1:00) A.M. and no permit shall be issued for a dance on Sunday after the hour of one o'clock A.M., except upon a special permit issued by the City Council at a regular or special meeting of the City Council.~~

~~D. Sanitary Requirements: All dance halls shall be equipped with separate restrooms for men and women and the said restrooms shall be kept and maintained in a clean and sanitary manner. Restrooms shall comply, in all respects, with provisions of the City Building Code.[†]~~

~~E. Police Regulation: There shall be in constant attendance at all public dances at all times while dancing is in progress, at least one policeman and the person operating the said dance or a competent attendant whose duty it shall be to see that the patrons at said dance observe the regulations and provisions of this Section.~~

~~F. Prohibited Acts:~~

~~1. It shall be a violation of this Section for any person to bring to or have in his possession intoxicating liquor, or for the operator of a public dance to permit any person to have intoxicating liquors in his possession at a public dance, or for any person to use or permit to be used intoxicating liquor of any kind upon the premises where a public dance is held.~~

~~2. It shall be a violation of this Section for any person to be drunk or under the influence of intoxicating liquor at a public dance, or for any person to be permitted to remain at a public dance by the operator thereof while drunk or under the influence of intoxicating liquor.~~

~~3. It shall be unlawful and a violation of this Section for any person to fight, scuffle, engage in riotous conduct, or use loud, profane, indecent or abusive language upon or near the premises where a public dance is being held.~~

~~4. It shall be a violation of this Section for any person to loiter in the halls and doorways or stairways adjoining or leading thereto, and free passageway shall be kept open and unobstructed at all times for the ready passage for persons to and from said dance. (Ord. 472, 4-8-68)~~

Exhibit C
Ordinance No. 1, Series 2014

Additions are shown in double underline and deletions shown as strike-out.
[Change Directions are shown in Bold within Brackets]

[Delete Code Section 10-3-8: Bingo License as shown]

~~TITLE 3
CHAPTER 8~~

~~**BINGO LICENSE**~~

SECTION:

- ~~3-8-1: Definitions~~
- ~~3-8-2: Prohibition:~~
- ~~3-8-2-1: License Required~~
- ~~3-8-2-2: Exemption~~
- ~~3-8-3: Application for License, Denial, Suspension & Revocation of License~~
- ~~3-8-4: Bingo – Owner of Bingo Site~~
- ~~3-8-5: Bingo – Responsibilities of Owner and Person in Charge~~
- ~~3-8-6: Bingo – Administrative Power of the City Manager~~
- ~~3-8-7: Violations and Penalties~~

~~**3-8-1: DEFINITIONS:** For purposes of this Chapter, certain words, terms and phrases are defined as follows:~~

~~**BINGO** ————— A game played with cards bearing lines of numbers in which a player covers or uncovers a number selected from a container and which is won by a player who is present during the game and who first covers or uncovers the selected numbers in a designated combination, sequence or pattern.~~

~~**BINGO SITE** ————— A recreation facility with a residential planned unit development owned by a non-profit corporation for property owners or a non-profit association of property owners.~~

~~**LICENSEE** ————— The holder of a license issued under the provisions of this Chapter.~~

~~**3-8-2: PROHIBITION:** Except as provided in this section no person shall play bingo within the City.~~

~~**3-8-2-1: LICENSE REQUIRED:** A non-profit corporation for property owners or a non-profit association of property owners may make application for a license authorizing the playing of bingo at a bingo site. Upon receiving a license members of the licensee and their guests or tenants may play in the bingo games supervised by a licensee.~~

~~**3-8-2-2: EXEMPTION:** Bingo games which are not "gambling" as defined in ORS 167.117(5) shall be exempt from the provisions of this chapter.~~

~~**3-8-3: APPLICATION FOR LICENSE, DENIAL, SUSPENSION AND REVOCATION OF LICENSE:** An application for a license to play bingo shall be submitted by the owner of the proposed bingo site and shall contain the information required by Section 3-1-6 of this Code plus the name(s) of any person to be placed~~

~~in charge as required by Section 3-8-4-C. The application shall be accompanied by a non-refundable application fee set by Council resolution. Any license issued shall be:~~

- ~~A. Limited to a specific bingo site;~~
- ~~B. Non-transferable;~~
- ~~C. Being renewed annually upon payment of an annual fee set by Council resolution or motion;~~
- ~~D. Subject to denial, suspension and revocation as provided in Sections 3-1-8 and 3-1-9 of this Code; and~~
- ~~E. Subject to the other provisions of this Chapter.~~

~~**3-8-4: BINGO - OWNER OF BINGO SITE:** A licensee shall:~~

- ~~A. Conspicuously post and maintain at the bingo site, in plain view of all areas where bingo is played, a sign setting forth a summary of the requirements for bingo prescribed by this chapter and the rules adopted pursuant to this chapter.~~
- ~~B. Clearly designate the areas set aside for bingo.~~
- ~~C. Designate an agent or employee to act as the person in charge of the bingo site and bingo game whenever bingo is being played. Only people who have been approved by the City's Chief of Police may serve as a person in charge. A licensee shall be strictly liable for any violation of this chapter that occurs when no person in charge is present at the bingo site.~~
- ~~D. Be strictly liable for any violation of this chapter by a person in charge, agent or employee.~~

~~**3-8-5: BINGO - RESPONSIBILITIES OF OWNER AND PERSON IN CHARGE:** A licensee and person in charge of a bingo site, individually, shall:~~

- ~~A. Not commit any violation of federal, state or local gambling law or regulation, or felony involving theft, fraud, racketeering, coercion, bribery, perjury or obstruction of justice.~~
- ~~B. Report to the City in writing within seven days after any violation of an offense described in Section 3-8-5-A.~~
- ~~C. Not permit cheating or improper play.~~
- ~~D. Inform the City in writing within 24 hours after reasonably suspecting cheating or improper play.~~
- ~~E. Comply with all applicable federal, state and local laws and regulations.~~
- ~~F. Make all bingo sites and records available to the City for inspection upon request.~~
- ~~G. Not permit disorderly persons t a bingo site.~~
- ~~H. Not cause or permit there to be a house bank, house odds, house player or house income from the operation of bingo.~~
- ~~I. Not permit bingo to be played at any site where the sign required by Section 3-8-4 is not conspicuously posted.~~
- ~~J. Not charge any participant a price for any consumer good that is higher or lower than the price charged to non-participants.~~

K. ~~Not accept any payment, fee, service or gratuity as consideration for the privilege of playing bingo.~~

L. ~~Not permit bingo to be played in any area which cannot be observed from the main portion of the bingo site.~~

M. ~~Not permit bingo to be played in violation of the rules adopted under this chapter.~~

N. ~~Not permit bingo to be played unless the owner or person in charge is actively supervising the play.~~

~~**3-8-6: BINGO – ADMINISTRATIVE POWER OF THE CITY MANAGER:** To promote the uniform regulation of bingo throughout the City, the City Manager may adopt rules regarding the time, place, supervision and play of bingo. The City Manager shall base the rules on commonly recognized authoritative sources of rules for playing of bingo. The rules shall tend to:~~

A. ~~Prevent excessive losses by individual participants;~~

B. ~~Prevent cheating and improper play; and~~

C. ~~Protect the public health, safety and welfare.~~

~~**3-8-7: VIOLATIONS AND PENALTIES:** In addition to being grounds for denial of a license or for suspension or revocation of a license issued under this Chapter, any violation of the provisions of this Chapter shall be civil in nature and punishable by a fine not to exceed five hundred dollars (\$500.00).~~