

# CHAPTER 4

## Business Regulation

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## **JUNK AND SECOND HAND DEALERS AND GARAGE SALES**

### **4.005 Findings and Purpose**

(1) The Board finds that:

(a) Junk and secondhand dealers may knowingly or unknowingly be a conduit for the sale or purchase of stolen property;

(b) Such business should be regulated by requiring a license issued by the Board;

(c) Licenses for junk and secondhand dealers should be denied, suspended, or revoked when the conduct of such business presents a threat to the peace, health, or safety of the people of the county; and

(d) ORS 203.035 authorizes the regulation of junk and secondhand dealers by the county.

(2) The purpose of LCC 4.005 to 4.065 is to provide for the peace, health, and safety of citizens of the county by regulating junk and secondhand dealers and garage sales. [1994 o. 349 §1]

### **4.010 Definitions**

As used in LCC 4.005 to 4.065, unless the context requires otherwise:

(1) "Garage sale" means a sale of secondhand articles or junk at a private residence where such sale does not occur more than twice each calendar year. "Garage sale" includes the sale of secondhand articles or junk by religious, charitable, fraternal, or other eleemosynary organizations, provided that such sales occur not more than six times each calendar year.

(2) "Junk" includes, but is not limited to, old rope, old iron, brass, copper, tin, lead, rags, empty bottles, paper bagging, scrap metals of all kinds, and other worn out or discarded material.

(3) "Junk dealer" means any person who owns and operates a junk shop, except for a person conducting a garage sale.

(4) "Junk shop" means any storeroom building, yard, enclosure, or other place where junk is sold or bought for profit or pleasure; provided however, that such definition shall not apply to automobile wreckers where automobiles are purchased and certificates of title furnished.

(5) "Secondhand articles" means any used personal property except books, including, but not limited to, used wearing apparel, tools, goods, wares, merchandise, or other articles and things usually found in a secondhand store.

(6) "Secondhand dealer" means any person who buys, sells, or otherwise deals in secondhand wearing apparel, tools, goods, wares, merchandise, or other articles and things usually found in a secondhand store, except books, or any person who goes from house to house or place to place within the county purchasing or soliciting the purchase of gold, silver, or other precious metals or jewelry. For purposes of this ordinance, a secondhand dealer shall not include a person conducting a garage sale or a person whose business is the sale of art objects, furniture, or other articles which have a value based on rarity or the time elapsed since the articles were produced.

(7) "Secondhand store" means any store, room building, yard, enclosure, or other place where secondhand articles are bought, sold, or traded for profit or pleasure.

### **4.015 Licenses**

(1) It shall be unlawful to operate or keep any secondhand store or junk shop without first having obtained a license as provided in LCC 4.005 to 4.065.

(2) No license granted under the provisions of LCC 4.005 to 4.065 shall be assignable.

#### **4.020 Application for License; Temporary License upon Application**

(1) Application for a license shall be made upon forms provided by the Board.

(2) The application shall constitute a temporary license valid for thirty days. The application, or a copy thereof, shall be referred to the sheriff for investigation prior to issuance of a final license. If it appears to the sheriff that a final license should not be issued to the applicant, the sheriff shall notify the Board and shall set forth why, in his opinion, the applicant should be denied.

#### **4.025 Issuance of License; Revocation of License**

(1) After receiving the report of the sheriff, the Board may grant a final license to applicant.

(2) Nothing in this chapter shall be construed to create a vested right in a person to the assignment, renewal, or continuance of a license. The final authority on licenses shall be the Board which may revoke, cancel, or refuse issuance or renewal of a license as follows:

(a) Fraud or misrepresentation in its procurement;

(b) Violation of any state or federal statute involving moral turpitude, where the circumstances of the violation adversely reflect on applicant's or licensee's ability to engage in the occupation, profession, trade, or calling in a lawful manner; or

(c) Violation of federal or state law or county rule relating to the business or activity subject to the license and resulting from the conduct of such business or activity. Conviction of a crime or violation of this chapter is not required for revocation, non renewal, or refusal to issue a license.

(3) At any time the sheriff or district attorney may recommend the revocation of any license granted under LCC 4.005 to 4.065. The recommendation shall be in writing and include the reasons therefor.

(4) Whenever the Board refuses to issue, fails to renew, or revokes the license of any person, the Board shall afford the applicant or license holder an opportunity for a hearing at which witnesses and interested parties may be heard.

(5) Reapplication after revocation or suspension may be made at any time after revocation or suspension as provided in LCC 4.020.

#### **4.030 Renewal of License**

Every license issued pursuant to LCC 4.005 to 4.065 shall expire January 15 of each year and may be renewed upon payment of the fees as set forth in LCC 4.035.

#### **4.035 Fees**

The fee an annual license issued pursuant to LCC 4.015 shall be in an amount set by order of the Board of Commissioners. [1993 o.313 § 7]

#### **4.040 Records to be Kept; Transmittal to Sheriff**

(1) Except as provided in subsection (2) of this section, every licensee shall keep a record of articles offered for sale or stored upon the licensee's premises having a licensee purchase value of \$20 or more. The records shall be open to inspection of the sheriff or deputies during normal business hours and contain the following:

(a) The day and hour an article was received, pledged, or purchased;

(b) The amount loaned or price paid;

(c) A description of each article received, pledged, or purchased, including a number, word, or initial engraved on or attached to the article, and the style and number of settings;

(d) The printed name and signature of the person from whom the purchase was made;

(e) The address of the person from whom the purchase was made; and

(f) The identification number required by LCC 4.050.

(2) Licensees shall not be required to keep a record as provided in this section for the following:

(a) Property purchased from manufacturers or wholesalers having an established place of business, or secured from any person doing business and having an established place of business; and

(b) Articles of the same or similar nature purchased in bulk, lots, or groups. As used in this subsection, "bulk, lots, or groups" means at least 12 articles.

(3) Transactions excluded from record keeping by subsection (2) of this section shall be accompanied by a bill of sale or other evidence of purchase which must be shown to the sheriff or his deputy upon request during normal business hours.

#### **4.045 Sale Postponed by Sheriff**

If the sheriff has good cause to believe an article is stolen property, he may notify a licensee not to sell or otherwise dispose of any article received or purchased. In the event of such notification, the article shall not be sold or otherwise disposed of for 90 days after the date of the notice.

#### **4.050 Articles to be Tagged**

Licensees shall affix to all articles subject to record keeping, pursuant to LCC 4.040, a tag upon which shall be written an identification number in legible characters.

#### **4.055 Licensees Prohibited from Dealing with Intoxicated Persons**

Licensees shall not receive or purchase property from persons under the influence of intoxicants.

#### **4.060 Garage Sales Permitted**

Nothing in LCC 4.005 to 4.065 prohibits garage sales as defined in LCC 4.010

#### **4.065 Penalties**

(1) Any person who operates any business in violation of LCC 4.005 to 4.065 shall, upon conviction, be punished pursuant to LCC chapter 10.

(2) A failure from day-to-day to comply with this chapter shall be a separate offense for each day. [1982 o.171 §1; 1994 o.349 §2]

## **ENTERTAINMENT ASSEMBLIES**

### **4.105 Definitions**

As used in LCC 4.105 to 4.160, unless the context requires otherwise:

(1) "Entertainment assembly" includes all assemblies of the public gathered either indoors or outdoors for musical festivals, concerts, automobile racing, motorcycle racing, horse racing, dog racing, boat racing, or other entertainment purposes. "Entertainment assembly" does not include school activities nor any activity of a governmental body or an assembly of a duration of six hours or less.

(2) "Health department" means the Lincoln County Health Department and its employees.

### **4.110 Permit Required for Entertainment Assembly**

It shall be unlawful for any person to allow, promote, conduct, permit, or advertise an entertainment assembly whether or not a charge or contribution is required for admission, unless a permit is obtained as provided in LCC 4.105 to 4.160.

### **4.115 Permit Application and Fee**

Application for an entertainment assembly permit shall be written and submitted to the clerk 30 or more days prior to the first day upon which each entertainment assembly is to be held. The application shall be signed and verified before a notary public by the person over 21 years of age who is organizing and sponsoring said assembly. Each application shall include:

- (1) The name of all persons organizing, promoting, or sponsoring said assembly;
- (2) The dates, number of days, and the hours of the days of assembly;
- (3) The location to be used for the assembly;
- (4) A statement that the applicant will abide by all provisions of this chapter and the terms of the permit, if issued;
- (5) A written plan and plat showing the applicant's compliance with the standards set forth in LCC 4.120 with the type and number of sanitary, medical, fire, and public safety facilities and personnel;
- (6) Proof of liability insurance providing for a minimum of \$100,000 bodily injury coverage per person; \$300,000 bodily injury coverage per occurrence; and \$100,000 property damage coverage, naming the county as an additional insured. A bond or other security acceptable to the Board to ensure compliance with LCC 4.105 to 4.160 and the terms of the permit shall be in the following amounts:
  - (a) \$5,000 for entertainment assemblies with anticipated attendance of 2,000 or less;
  - (b) \$10,000 for entertainment assemblies with anticipated attendance of 2,000 to 5,000;
  - (c) \$20,000 for entertainment assemblies with anticipated attendance of over 5,000;
- (7) Consent allowing law enforcement, public health, and fire control officers to come upon the premises for the purpose of inspection and enforcement of the terms and conditions of the permit and LCC 4.105 to 4.160; and
- (8) An application fee in an amount set by order of the Board of Commissioners. [1993 o.313

§8]

#### **4.120 Standards for Entertainment Assemblies**

All entertainment assembly permits shall contain terms and conditions to ensure compliance with the following minimum standards:

(1) Sanitary facilities, including toilets, washing facilities, water supply facilities, food preparation and service facilities, and refuse containers.

(2) Medical services, including the availability of at least one ambulance and a first aid station staffed by two adult individuals trained in first aid techniques. All motorized racing events must have an ambulance with attendants present on standby at the start, and during, all races.

(3) Fire protection equipment and approval of the fire district having jurisdiction. Such approval must extend to any building, tent, stadium, or enclosure where more than 10 persons may be expected to congregate at any time during the course of the entertainment assembly. If the site for which the permit is applied is located outside a fire protection district, the applicant must show approval from the office of the Oregon State Fire Marshal. Minimum fire protection equipment for any type of motorized racing event shall include three 5 pound carbon dioxide fire extinguishers.

(4) Public Safety, including adequate traffic control and crowd protection personnel. There shall be provided one traffic-control person for each 250 persons expected, or reasonably expected, to be in attendance at any time during the event. Further, there shall be provided one crowd-control person for each 100 persons expected to be in attendance at any time during the event. Public safety personnel shall be licensed Oregon Law Enforcement personnel or individuals approved by the sheriff.

(5) Parking facilities that provide a parking space for every four persons expected to attend the assembly. Adequate ingress and egress shall be provided each parking area to facilitate the movement of any vehicle at any time.

#### **4.125 Prohibitions**

The following activities and attendance are prohibited at entertainment assemblies:

(1) Activity within 1,000 feet of any residence between the hours of midnight and 9 a.m.

(2) Sound levels on affected adjacent properties, as measured upon the A scale of a standard sound-level meter, in excess of 80 decibels prior to 10 p.m. and in excess of 50 decibels after 10 p.m.

(3) Sale of intoxicating liquor or beverages. This subsection shall not apply to sales from a facility on the site of an assembly having a permanent license.

(4) Exceeding the attendance level set in the permit by 20 percent. The sheriff may require admission to the assembly to cease if the numbers of the above limitation are reached.

#### **4.130 Permit Issuance**

The Board shall include in the permit terms and conditions it finds necessary in order to preserve the public health and safety and comply with LCC 4.105 to 4.160. Upon an applicant's satisfactory compliance with the requirements of this chapter and reasonable conditions and terms imposed pursuant thereto, the Board, with the advice and assistance of the sheriff, health department, and fire officials, shall issue an entertainment assembly permit. The Board shall provide an applicant whose application is rejected or who contests the terms and conditions of a permit an opportunity for a hearing. [1982 o.177 §1]

**4.135 Facilities to be Installed at Least Five Days Before Assembly; Duty to Preserve Order; Revocation of Permit**

(1) All facilities required by LCC 4.105 to 4.160 or a permit for an entertainment assembly shall be constructed or installed five days prior to the assembly. If inspection shows noncompliance, the permit shall be revoked.

(2) The burden of preserving order shall be upon the operator of the entertainment assembly. A permit may be revoked at any time without notice or formal hearing by the Board or the sheriff upon a finding that the terms of a permit or LCC 4.105 to 4.160 are being violated.

(3) The revocation of any permit granted under this section does not preclude the imposition of further penalties as provided for in this Chapter or state law.

**4.140 Use of Bond**

The bond or other security required by LCC 4.115 shall be used to indemnify the county for all damage to public property or injury to public employees and to restore all grounds and repair all damage caused by the assembly if the permit holder fails to act.

**4.145 Posting and Transfer of Permit**

Any permit issued pursuant to LCC 4.105 to 4.160 shall be kept posted in a conspicuous place upon the premises of the entertainment assembly. No permit will be transferable or assignable without the consent of the Board.

**4.150 Permit Holder to Comply with Other Applicable Laws and Rules**

A permit issued pursuant to LCC 4.105 to 4.160 shall not relieve the applicant from compliance with other applicable laws and rules.

**4.155 Violation**

Noncompliance with the terms of a permit and LCC 4.105 to 4.160 constitutes a violation of this Code and shall be punishable pursuant to LCC chapter 10. [1982 o.171 §1]

**4.160 Penalties**

Any person who violates or fails to comply with any provision of LCC 4.105 to 4.160, or who, having obtained a permit, willfully violates or fails to comply with its terms or who counsels, aids, or abets such a violation shall be subject to punishment pursuant to LCC chapter 10. [1982 o.171 §1]

## **LIQUOR LICENSES**

### **4.205 Definitions**

"Liquor License" means a license issued by the Oregon State Liquor Control Commission for the manufacture, distribution, sale, fermentation, distillation, or rectifying of alcoholic liquor.

### **4.210 Fees**

Every applicant for a liquor license whose license is referred to Lincoln County for recommendation by the Oregon Liquor Control Commission shall pay a fee to the county clerk in an amount set by order of the Board of Commissioners. [1993 o.313 § 9]

## **CABLE TELEVISION**

### **4.330 Exercise of Cable Television Rate Regulation Authority**

(1) In accordance with the requirements of 47 USC § 543(a)(3)(A) and 47 CFR § 76.910(e)(1)(i), in exercising its regulatory authority over the rates of cable television operators, Lincoln County will follow the regulations adopted by the Federal Communications Commission pursuant to 47 USC § 543(b).

(2) In accordance with FCC Order number 94-40, MM Docket number 92-266, ¶ 62, the Lincoln County Board of Commissioners designates the Office of Lincoln County Legal Counsel as the Lincoln County Cable Administrator, and delegates authority to the Administrator to conduct cable rate regulation proceedings, and issue appropriate orders and determinations, in accordance with federal and state law and regulations.

(3) In accordance with the requirements of 47 USC § 543(a)(3)(C) and 47 CFR § 76.910(e)(1)(ii), before exercising its regulatory authority over the rates of a cable television operator, the Administrator will first hold an open public meeting in accordance with the Oregon public meetings law, ORS 192.610 to 192.690, that will provide a reasonable opportunity for consideration of the views of interested parties, including, but not limited to, the cable operator and subscribers of the cable operator.

(4) A party aggrieved by a determination or order of the Administrator may appeal to the Board of Commissioners within 15 days of the issuance of the determination or order. An appeal filed with the Board under this subsection will be heard *de novo* by the Board, but the review will be confined to the evidence and information on the record that was before the Administrator. No further evidence or information, other than legal argument by written memorandum, will be received by the Board. A party aggrieved by the Board's determination or order in an appeal under this subsection may appeal that determination or order to the FCC in accordance with 47 CFR § 76.944. [1994 o.330 §2; 1994 o.338 §1]