BUSINESS CODE

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General

4.000 Code Provisions as Law

The provisions of this code are the laws of the city of Gold Beach and nor merely prima facie evidence of the law.

4.010 General Savings Provision

This code shall not affect rights and duties that matured, penalties that were incurred and proceedings that were begun before the effective date of this code.

4.020 Continuity of Existing Provisions

The provisions of this code that are the same in substance as code or ordinance provisions that are in effect immediately before this code becomes effective are construed as restatements and continuations of the prior provisions.

4.030 Interpretation of Term "City Administrator"

Unless the context specifically indicates otherwise, any time this code indicates that an action is to be performed by the City Administrator, that action may be performed either by the

City Administrator or by the City Administrator's designee. Designation of a designee of the City Administrator may be done informally.

4.040 Severability

The sections, subsections, paragraphs, provisions, clauses, phrases, and words of this code are severable. If a section, subsection, paragraph, provision, clause, phrase, or word of this code is declared by a court of competent jurisdiction to be unconstitutional or invalid, the judgment shall not affect the validity of the remaining portions of this code. Every other section, subsection, paragraph, provision, clause, phrase or word of this code enacted, irrespective of the enactment or validity of the portion declared unconstitutional or invalid, is valid.

Business License Code

4.100 Title

This portion of the Gold Beach Code shall be known as Business License Code.

4.105 Purpose of Business License Code

This code is enacted for the purpose of providing revenue for municipal purposes and revenue to pay the necessary expenses required to issue the licenses described herein.

4.110 Definitions

(1) "Business" means any person, who sells, leases, or provides property, goods, food, things, entertainment or services for profit. The term "business" shall not include any activities conducted solely for charitable, religious, community or public purposes. The term "business" shall include providing property, goods, food, things, entertainment or services in return for donations which are accepted for the benefit of the provider.

(2) "Business in the City of Gold Beach" and "do business in the City of Gold Beach" means to carry on a business as defined in subsection (1) within the City limits of the city of Gold Beach.

(3) "Amusement machine" means devices containing games for skill or fun played by the public for consideration.

(4) "Person" means all domestic and foreign corporations, association, syndicates, partnerships of every kind, joint ventures, societies and individuals.

4.115 Requirement for License.

Every business in the City of Gold Beach or conducting business within the city limits of the City of Gold Beach, shall obtain a business license. No person shall do business in the City of Gold Beach unless he has a license from the City of Gold Beach and has paid the license fee prescribed herein. Any person representing himself or itself or exhibiting any sign or advertisement that he or it is engaged in any business in the City of Gold Beach for which a license fee is required by this code, shall be deemed to actually be engaged in such business and shall be liable for payment of such license fee and subject to this code.

4.120 Exclusions from Business License Requirement.

(1) No person who is employed by another person and whose income is based solely on an hourly, daily, weekly, monthly or annual wage or salary shall, for the purpose of this code, be deemed a person doing business in the City of Gold Beach, Oregon. It is the intention of the City that all licenses taxes and fees levied herein shall be borne by the employer and/or owner for the privilege of doing business in the City of Gold Beach.

(2) No person who owns property which is listed or advertised for sale and who is leasing this property until the sale can be completed shall be required to obtain a business license solely because of this lease; provided the person furnishes proof to the City Administrator that the person is actively attempting to sell the property.

(3) No person who delivers or distributes goods, food, and things exclusively to a business in the City of Gold Beach that has a valid city business license shall be required to obtain a business license.

(4) Nothing in this code shall be construed to apply to any person transacting or carrying on any business within the City of Gold Beach, Oregon, which is exempt from such license fee or regulation by the City, by virtue of the Constitution and/or laws of the United States or the Constitution and/or the laws of the State of Oregon.

4.125 Illegal Business or Profession.

The levy or collection of a license fee upon any business shall not be construed to be a license or permit from the City of Gold Beach, Oregon, to the person engaged therein, to engage in any business which is unlawful, illegal or prohibited by the laws of the State of Oregon and/or the United States and/or of the code or ordinances of the City of Gold Beach, Oregon.

4.130 License Required for Each Business and Location.

A separate license is required for each business subject to this code and for each separate location of each business. The intent of this code is to issue a license to a business at a specific location and to require a separate license for all additional locations. An established business may move to another location without paying an additional fee, by applying for a TRANSFER OF LOCATION BUSINESS LICENSE. This transfer must meet all the criteria of a new business license application.

4.135 License Term, Transfer of License.

All licenses shall be issued for a period of one year commencing July 1st and continuing to June 30th of each fiscal year. All fees chargeable for said business licenses shall be due on or before July 1st of each year and payable by July 31st without penalty by the applicant for said license. Payments received after July 31st shall be subject to a late charge of ten percent of the balance due per month.

An applicant who makes application for a new license after July 1st and before December 31st shall pay the business license fee for an entire one-year period. An applicant, who makes application for a new license after December 31st and prior to May 31st, shall be charged one-half the annual license fee. A license granted under such application shall continue to June 30th of that fiscal year. An applicant who makes application for a new license after May 31st may obtain a license for the month of June and the following fiscal year by paying the annual license fee plus the fee for one month on a prorated basis, or, in the alternative, may pay one-half the annual license fee for a license which shall be effective only until June 30th. Such an applicant shall not be allowed to purchase a license for one month at a one-month prorated amount only.

In the event a licensee sells or transfers his business, his license may be transferred to the purchaser of said business without additional charge; provided, however, that the business shall be carried on in the same manner, to the same extent and at the same location as previously. Licenses may not be transferred from one location to another, even if the nature, extent of the business and/or occupation remains the same in the new location. A new license shall be obtained for each additional, new or changed location and a new fee shall be paid therefore.

4.140 Application for License.

All applications for business licenses shall be made in writing and shall be made on the application form which may be obtained from the City of Gold Beach business office. Applications for any license hereunder must be signed by the applicant and in all cases must set forth the true name of the person to be engaged in such business, the true owner thereof, and the person(s) to be in charge of each unit thereof.

4.145 License Fee Schedule.

License fees under the authority of this code shall be paid annually, unless otherwise specified, as follows:

(1) $75.00 per year unless specifically stated otherwise in one of the following subsections.

(2) A business, which leases real property, shall pay the sum of $75 per business per year plus $3 per unit per year for every unit over three units leased. Hotels and motels shall pay the charge specified in paragraph 1, not the charge specified in this paragraph (2).

(3) A business, which is a carnival, circus, amusement ride, exhibition or other similar show, shall pay the sum of $75 per day.

(4) A business, which operates amusement machines, shall pay the sum of $50 per machine per year in addition to the business license fee specified in paragraph (1).

(5) A business, which operates food, beverage or cigarette vending machines shall pay the sum of $10 per machine per year in addition to the business license fee specified in paragraph (1).

(6) Any person who does not pay the business license fee by July 31st of each fiscal year shall pay a late charge of 10% per month in addition to the regular fees unless the person is making application for a new business license.

(7) The fee schedule for the license(s) and late fees granted under this code may be amended from time to time by ordinance of the City Council.

4.150 Display of License.

Every person licensed under this code shall display the license in some conspicuous place on the premises of the business so licensed unless the business does not operate from an enclosed permanent location in the City of Gold Beach, in which case all persons doing business in Gold Beach shall have a copy of the license in their possession at all times. Each business operating amusement or vending machines shall conspicuously display a copy of the business license on each machine it operates.

4.155 Examination of Business Premises.

The City police chief and police officers are authorized to examine all places of business licensed or subject to license for violation of provisions of this code. Said investigation shall be done only at a reasonable business time and at reasonable intervals under the circumstances.

4.160 Regulation of Residential Sales.

No person shall do business at a residence in the City of Gold Beach without obtaining the express permission of the occupant of the premises to do business at that location.

4.165 Penalties and Civil Remedies.

Any person violating any of the provisions of the code shall, upon conviction thereof, be punished by a fine not to exceed $500, or such other maximum amount as the Gold Beach City Council may set from time to time by ordinance.

As separate and distinct remedies from the above, the City may bring suit in a court of competent jurisdiction to obtain judgment and enforce collection of the license fees due under this code and may avail itself of the right of mandamus or injunction in such courts to properly enforce provisions of this code.

4.170 Revocation of Licenses.

All licenses are subject to all regulations imposed by the City. The final authority concerning said licenses shall at all times be vested in the City Council, which may, as herein provided, revoke, cancel or suspend any license for any fraud or misrepresentation in its procurement, for violations of any provisions of the code, ordinances or Charter of the City of Gold Beach, or for a violation of any state or federal statute or for any acts permitted by the licensee on the premises which would be a violation of any City code or ordinance, state statute, or federal statute, or which is a menace to the health, peace and general welfare of the City.

Nothing herein contained shall be taken or construed as vesting any right of any licensee, including a contractual right or obligation on the part of the City as to the amount or character of the license hereunder.

When the City Council receives information which causes the Council to consider a revocation of any privilege granted under this code, the Council shall give notice to the licensee to appear and show cause why the license should not be revoked. The City Recorder shall mail to the licensee via certified mail a notice citing the date, time and place for appearance and the general statement of the allegations upon which the Council bases the possible revocation. No formal pleading shall be necessary, except that the Council may require a complaining party, if any, to appear at the same time and place to give testimony concerning the Council investigation. Such hearing and investigation shall be informal. If any licensee shall fail to appear after proper notice has been given and received, the Council may revoke said license without further determination. After such hearing and/or investigation, the Council shall vote to determine whether cause exists for revocation of a license and take the appropriate action.

Whenever a license to conduct any business has been revoked by the City Council, no license shall be granted or re-issued to the same person or at the same location for any business without the approval of the Council. As a condition of such approval, the Council may, in its discretion, require the applicant to file with the City a bond in the penal sum of $1,000, which shall conform in all respects to the provisions of this code and which shall be forfeited to the City if the person is thereafter convicted of a violation of federal state or city laws or ordinances for which such license may be revoked. The bond shall be required to be in force for the term of the license and shall not be surrendered or cancelled pending a final determination of any charge or accusation by federal, state or city officials against the

licensee, of any violation of any state law or any law or code which might justify a forfeiture of such bond.

All indemnity company bonds must be written by a surety company, licensed to do business within the State of Oregon upon its regular indemnity bond form with the particular provisions provided therein as required within this code. The City Attorney must approve all such indemnity bond forms.

Transient Room Tax and Community Promotion Code

4.200 Title.

This portion of the Gold Beach Code shall be known as the Transient Room Tax and Community Promotion Fund Code of the City of Gold Beach.

4.205 Definitions.

Except where the context otherwise requires, the definitions given in this section govern the construction and interpretations of this code.

(1) "Lodging establishment" means any structure, or any portion of any structure which is occupied or intended or designed for transient occupancy for thirty-days or less for dwelling, lodging, or sleeping purposes, and includes any hotel, motel, inn, condominium, tourist home or house, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, public or private dormitory, fraternity sorority, public or private club, provided such occupancy is for less than a thirty-day period.

(2) "City Council" means the City Council of the City of Gold Beach, Oregon.

(3) "Occupancy" means the use or possession, or right to the use or possession for lodging or sleeping purposes of any rooms or rooms in a lodging establishment.

(4) "Operator" means the person who is the proprietor of the lodging establishment in any capacity. Where the operator provides services through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this code and shall have the same duties and liabilities as the principal. Compliance with the provisions of this code by either the principal or the managing agent shall be considered to be compliance to both.

(5) "Person" means any individual, partnership, joint venture, association, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit.

(6) "Cash accounting" means the operator does not enter the rent due from a transient on the business records until the rent is paid.

(7) "Accrual accounting" means the operator enters the rent due from a transient on the business records when the rent is earned, whether or not it is paid.

(8) "Rent" means the consideration charged, whether or not received by the operator, for the occupancy of space in a lodging establishment, valued in money, goods, credits, property or other consideration valued in money without any deduction, but shall not include charges to a condominium unit owner which are solely for cleaning or maintenance of such unit or personal use or occupancy by such owner, so long as the charges are made in connection therewith for space occupancy.

(9) "Rent package plan" means the consideration charged for both food and rent where a single rate is made for the total of both. The amount applicable to rent for determination of transient room tax under this code shall be the same charge made for rent when consideration is not a part of the package plan. The amount applicable to rent for determination of transient room tax under this code shall be that amount allocated to space rent, taking into consideration a reasonable value of other items in the rent package and taking into consideration charge for rent when the space is rented separately and not included in a package plan.

(10) "Tax" means the tax payable by the transient or the aggregate amount of taxes due from an operator during the period for which is required to report his collections.

(11) "Tax Administrator" means the City Administrator of the City of Gold Beach, Oregon.

(12) "Transient" means any individual who exercised occupancy or is entitled to occupancy in a lodging establishment for a period of thirty consecutive calendar days or less, counting portions of calendar days as full days. The day a transient checks out of the lodging establishment shall not be included in determining the thirty-day period if the transient is not charged rent for that day. Any individual so occupying space in a lodging establishment shall be deemed to be a transient until the period of thirty-days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy, or the tenancy actually extends more than thirty consecutive days. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of this code may be considered. A person who pays for lodging on a monthly basis, irrespective of the number of days in such month, shall not be deemed a transient.

(13) "Transient Lodging Tax Review and Promotional Expenditure Committee" means a committee composed of five (5) members; two members appointed by the Council of the City of Gold Beach from applications received from the Gold Beach Chamber of Commerce membership and two members appointed by the Council of the City of Gold

Beach from applications received from lodging establishment operators contributing to this fund and one member appointed by the Council of the City of Gold Beach from applicants received from the community at large that are directly involved with the tourist industry. Chamber Board Members are ineligible to serve on the Committee. The powers and duties of the committee are set forth in Section 4.280 of this code.

(14) "Community Promotion and Advertisement" means any activity that promotes tourism in a manner consistent with state law (ORS 320.300).

4.210 Tax Imposed.

For the privilege of occupancy in any lodging establishment, on or after the 1st day of June 1982, each transient shall pay six percent (6%) of the rent charged by the operator. The tax constitutes a debt owed by the transient to the City, which is extinguished only by payment by the operator to the City. The transient shall pay the tax to the operator of the lodging establishment at the time the rent is paid. The operator shall record the tax when rent is collected if the operator keeps records on a cash accounting basis and when earned if the operator keeps records on an accrual accounting basis. If rent is paid in installments, the transient shall pay a proportionate share of the tax to the operator with each installment. In all cases the rent paid or charged for occupancy shall exclude the sale of any goods, services and commodities, other than the furnishings of rooms, space or accommodations by the operator.

4.215 Rules for Collection of Tax by Operator.

(1) Every operator renting rooms or space for lodging or sleeping purposes in this City, the occupancy of which is not exempted under the terms of this code, shall collect a tax from the occupant. The tax collected or accrued by the operator constitutes a debt owing by the operator to the City.

(2) In all cases of credit or deferred payment of rent, the payment of tax to the operator may be deferred until the rent is paid, and the operator shall not be liable for the tax until credits are paid or deferred payments are made. Adjustments may be made for uncollectables.

(3) The Tax Administrator shall enforce provisions of this code. The City Council shall have the power to adopt by resolution, rules and regulations not inconsistent with this code as may be necessary to aid the Tax Administrator in enforcing this code.

(4) For rent collected on portions of a dollar, fractions of a penny of tax shall not be remitted.

(5) In instances where credit is extended to the transient for charges for the rental of the unit through the use of a credit card or other similar transaction whereby the amount paid to the operator is discounted by contract between the operator and the issuer of the credit

card, the amount of such discount shall be excluded from the definition of "Rent" and no tax shall be imposed on the amount so discounted.

4.220 Operator's Duties.

Each operator shall collect the tax imposed by this code at the same time as the rent is collected from every transient. The amount of tax shall be separately stated upon the operator's records and any receipt rendered by the operator. No operator of a lodging establishment shall advertise that the tax or any part of the tax will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, when added, any part will be refunded, except in the manner provided by this code.

4.225 Exemptions.

No tax imposed under this code shall be imposed upon any of the following:

(1) Any occupant for more than thirty successive calendar days with respect to any rent imposed for the period commencing after the first thirty-days of such successive occupancy.

(2) Any occupant whose rent is of value less than two dollars per day.

(3) Any person who rents a private home, vacation cabin, condominium, or like facility from any owner, where the owner who rents such facilities does this as an incidence to his own personal use thereof and is not engaged in a commercial operation of renting such condominiums or vacation cabin or private home

(4) Any occupant whose rent is paid for a hospital room or to a medical clinic, convalescent home, or home for the aged people, or to a public institution owned and operated by a unit of the government.

(5) Any person who rents a recreational vehicle space, mobile home space, or a motor home space, in any recreational park, mobile home park or motor home court or campground.

4.230 Registration of Operator; Certificate of Authority.

Any person engaging or about to engage in business as an operator of a lodging establishment in this City shall register with the Tax Administrator. Operators starting a new business must register within fifteen days after commencing business. The privilege of registration after commencing business shall not relieve any person from the obligation of payment or collection of tax regardless of registration. Registration sets forth the name under which the operator transacts or intends to transact business, the location of the place or places of business and such other information to facilitate collection of the tax as the Tax Administrators may require. The operator shall sign the registration. Within ten calendar days after registration, the Tax Administrator shall issue, without charge to each lodging

establishment registrant a certificate of authority to collect the tax. Certificates shall be non-assignable and non-transferable and shall be surrendered immediately to the Tax Administrator upon the cessation of business at the location named or upon its sale or transfer. Each certificate and duplicate shall state the place of business to which it is applicable and shall be prominently displayed therein so as to be seen and come to the notice readily of all occupants and persons seeking occupancy.

Said certificate shall, among other things, state the following:

(1) The name of the lodging establishment.

(2) Address of the lodging establishment.

(3) The date upon which the certificate was issued.

(4) "This Transient Occupancy Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the Transient Lodging Tax Code of the City of Gold Beach, by registration with the Tax Administrator for the purpose of collecting from transients the lodging tax imposed by said City and remitting said tax to the Tax Administrator. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, or to operate a lodging establishment without strictly complying with all local applicable laws including, but not limited to, those requiring a permit from any board, commission, department or office of the City of Gold Beach. This certificate does not constitute a permit".

4.235 Due Date; Return and Payment

(1) The tax imposed by this code shall be paid by the transient to the operator at the time that rent is paid. All such taxes collected by any operator are due and payable to the Tax Administrator monthly on the first day of the following month for the preceding month; such taxes shall be considered delinquent after 8:00 A.M. on the tenth day of the month in which they are due.

(2) Returns shall show the amount of tax collected or otherwise due for the related period. The Tax Administrator may require returns to show the total rentals upon which tax was collected or otherwise due, gross receipts of operator for such period, and an explanation in detail of any discrepancy between such amount and the amount of rents exempt, if any.

(3) The person required to file the return shall deliver the return, together with the remittance of the amount of the tax due, to the Tax Administrator by personal delivery or mail. If the return is mailed, the date and time it is received in the business office shall be considered the date of delivery for determining delinquencies.

(4) For good cause the Tax Administrator may extend the time for making any return or payment of tax. This extension shall not exceed one month and no further

extension shall be granted, except by majority decision of the City Council. Any operator to whom an extension is granted shall pay interest at the rate of one and one-half percent per month on the amount of tax due without pro-ration for a fraction of a month. If a return is not filed and the tax and interest due is not paid by the end of the extension granted, then the interest shall become a part of the tax for computation of penalties described elsewhere in this code.

4.240 Penalties and Interest.

(1) Original delinquency. Any operator who has not been granted an extension of time for remittance of the tax due and who fails to remit any tax imposed by this code prior to delinquency, shall pay ten percent of the amount of the tax due in addition to the amount of the tax.

(2) Continued delinquency. Any operator who has not been granted an extension of time for remittance of tax due and who failed to pay any delinquent remittance on or before a period of thirty-days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of fifteen percent of the amount of the tax due plus the amount of the tax and the ten percent penalty first imposed.

(3) Fraud. If the Tax Administrator determines that the non-payment of any remittance due under this code is due to fraud or intent to evade the provisions thereof, a penalty of twenty-five percent of the amount of the tax shall be added thereto in addition to the penalties stated in paragraphs (a) and (b) of this section.

(4) Penalties merged with tax. Every penalty imposed and such interest as it accrues under the provisions of this section shall be merged with and become a part of the tax herein required to be paid.

(5) Petition for waiver. Any operator who fails to remit the tax herein levied within the time herein stated shall pay the penalties herein stated provided, however, the operator may petition the Tax Administrator for a waiver and refund of the penalty or any portion thereof. The Tax Administrator may, if a good and sufficient reason is shown, waive and direct a refund of the penalty or any portion thereof.

4.245 Deficiency Determinations; Fraud or Evasion.

(1) Deficiency determinations. Deficiency determinations. If the Tax Administrator determines that the returns are correct he or she may compute and determine the amount required to be paid upon the facts contained in the return or returns or upon the basis of any information within or that may come into the Tax Administrator's possession. One or more deficiency determinations may be made of the amount due for one or more than one period, and the amount so determined shall be due and payable immediately upon service of notice as herein provided, after which the amount determined is delinquent. Penalties on deficiencies shall be applied as set forth in Section 4.240.

(a) In making a determination the Tax Administrator may offset overpayments that have been previously made for a period or periods, or against penalties and interest on the underpayments. The interest on underpayments shall be computed in a manner set forth in Section 4.240.

(b) The Tax Administrator shall give to the operator or occupant a written notice of his or her determination. The notice may be served personally or by mail. If by mail the notice shall be addressed to the operator at the address as it appears on the records of the Tax Administrator. In case of service by mail of any notice required by this code, it shall be served by mailing such notice by certified mail, postage prepaid, return receipt requested.

(c) Except in case of fraud or intent to evade this code or authorized rules and regulations, every deficiency determination shall be made and notice thereof mailed within three years after the last day of the month following the close of the monthly period for which the amount is proposed to be determined or within three years after the return is filed, whichever period expires later.

(2) Any determination shall become due and payable immediately upon receipt of notice and shall become final twenty days after the Tax Administrator has given notice thereof provided, however, the operator may petition the Tax Administrator for re-determination and refund pursuant to Section 4.250 if the petition is filed before the determination becomes final as provided in this subsection.

(3) Fraud, refusal to collect, evasion. If any operator shall fail or refused to collect said tax or to make, within the time provided in this code, any report or remittance of said tax or any portion thereof required by this code, or makes a fraudulent return or otherwise willfully attempts to evade this code, the Tax Administrator shall proceed in such a manner as may be deemed best to obtain the facts and information on which to base an estimate of the tax due. As soon as the Tax Administrator has determined the tax due that is imposed by this code from any operator who has filed or refused to collect the same, and to report and remit said tax, he or she shall proceed to determine and assess against such operator the tax, interest and penalties provided by this code. In case such determination is made, the Tax Administrator shall give a notice in the manner aforesaid of the amount so assessed. Such determination and notice shall be made and mailed within three years of the discovery by the Tax Administrator of any fraud, intent to evade or failure or refusal to collect said tax, or failure to file return. Any determination shall become due and payable upon receipt of notice. The determination shall become final twenty days after the mailing of the notice provided however that the operator has a right to appeal to the City Council any decision of the Tax Administrator made pursuant to this section. The operator's right to appeal is pursuant to Section 4.285 herein. In the event of an appeal, the decision of the City Council will be final at the time it is rendered.

(4) Operator delay. If the Tax Administrator believes that the collection of any tax or any amount of tax required to be collected and paid to the City will be jeopardized by delays, or if any determination will be jeopardized by delay, the Tax Administrator shall thereupon make a determination of the tax owed. The amount so determined as herein

provided shall be immediately due and payable. The operator shall immediately pay such determination to the Tax Administrator after notice has been served. The operator may petition after payment has been made, for redemption and refund of such determination if the petition is filed within twenty days from the date of notice served by the Tax Administrator.

4.250 Re-determinations.

(1) Any person against whom a determination is made under Section 4.245 or any person directly interested in the determination may petition for a re-determination and redemption and refund within the time required in Section 4.245 (2). If a petition for re-determination and refund is not filed within the time required in Section 4.245 (2), the determination becomes final at the expiration of the allowable time.

(2) If a petition for re-determination and refund is filed within the allowable period, the Tax Administrator shall reconsider the determination. If the person has so requested in his or her petition, the Tax Administrator shall grant the person an oral hearing and shall give the person twenty days notice of the time and place of the hearing. The Tax Administrator may continue the hearing from time to time as may be necessary.

(3) The Tax Administrator may decrease or increase the amount of the determination as a result of the hearing. If an increase is determined such increase shall be payable immediately after the hearing.

(4) No petition for re-determination or redemption and refund or appeal therefrom shall be effective for any purpose unless the operator has first complied with the payment provisions hereof.

4.255 Security for Collection of Tax.

(1) The Tax Administrator, whenever it is deemed necessary to insure compliance with this code, may require the operator subject thereto to provide the City with a security in the form of cash, bond or other security as determined by the Tax Administrator. The amount of the security shall be fixed by the Tax Administrator but shall not be greater than twice the operator's estimated average monthly liability for the period of the return, determined in such a manner as the Tax Administrator deems proper, or five thousand dollars, whichever amount is less. The amount of security may be increased or decreased by the Tax Administrator subject to limitations herein provided. The operator has a right to appeal to the City Council any decision of the Tax Administrator made pursuant to this section. The operator's right to appeal is pursuant to Section 4.285 herein.

(2) At any time within three years after any tax or any amount of tax required to be collected becomes due and payable or at any time within three years after any determination becomes final, the Tax Administrator may bring any action in the courts of this state, or any other state, or of the United States in the name of the City to collect the amount delinquent together with penalties and interest.

4.260 Lien.

The tax imposed by this code together with the interest and penalties herein provided and the filing fees paid to the County Clerk of Curry County, Oregon and advertising costs which may be incurred when same becomes delinquent as set forth in this code shall be and until paid remain a lien from the date of its recording with the Curry County Clerk of Curry County, Oregon. Said lien shall be superior to all subsequent recorded liens on all tangible personal property used in the lodging establishment of an operator within Gold Beach and may be foreclosed on and sold as may be necessary to discharge said lien if the lien has been recorded with the County Clerk of Curry County, Oregon. The Tax Administrator or designee may issue notice of the lien whenever the operator is in default in the payment of said tax. Interest and penalty shall be recorded with the County Clerk of Curry County, Oregon and a copy sent to the delinquent operator. Any personal property subject to such lien seized by any deputy or employee of the Tax Administrator may be sold by the department seizing same at public auction after ten days notice, which means one publication in a newspaper published in the City of Gold Beach, Oregon. Any lien for taxes shown on the records of the proper county official shall, upon payment of all taxes, penalties, and interest thereon, be released by the Tax Administrator when the full amount determined to be due has been paid to the City. The operator or person making such payment shall receive a receipt therefore stating that the full amount of taxes, penalties, and interest thereon have been paid and that the lien is hereby released and the record of lien is satisfied.

4.265 Refunds.

(1) Refunds by the City to the operator. Refunds by the City to the operator. Whenever the amount of any tax, penalty or interest has been paid more than once or has been erroneously or illegally collected or received by the Tax Administrator under this code, it may be refunded, provided a verified claim in writing stating the specific reason upon which the claim is founded is filed with the Tax Administrator within three years from the date of payment. The claim shall be made on forms provided by the Tax Administrator. If the claim is approved by the Tax Administrator, the excess amount collected or paid may be refunded or may be credited on any amount then due and payable from the operator from whom it was collected or paid and the balance may be refunded to such operator, executors or assigns.

(2) Refunds by City to transient. Whenever the tax required by this code has been collected by an operator and deposited by the operator with the Tax Administrator and it later is determined that the tax was erroneously or illegally collected or received by the Tax Administrator, it may be refunded by the Tax Administrator to the transient provided a verified claim is founded and filed with the Tax Administrator within three years from the date of payment.

(3) Refunds by operator to tenant. Whenever the tax required by this code has been collected by the operator and it is later determined that the tenant occupies the lodging establishment for a period exceeding thirty-days (30) without interruption, the operator shall refund to such tenant the tax previously collected by the operator from that tenant as a

transient. The operator shall account for such collection and refund to the Tax Administrator. The operator shall be entitled to a corresponding refund under this section if the tax was remitted prior to the refund or credit to the tenant.

(4) No interest shall be paid by the Tax Administrator on any refunds made under this section.

4.270 Purpose of and Distribution Formula for Transient Room Tax Receipts.

It is the intent and purpose of this code to raise revenues for funding of a program of community advertising and promotion, and the disbursement formula therefore is as follows:

(1) Each operator liable for collection and remittance of the Transient Room Tax as imposed by this code, shall withhold five percent (5%) of the net tax collected to cover the operator's expense in collection and remittance of said tax.

(2) Whenever the tax required by this code has been collected by the operator and it is later determined that the tenant occupies the lodging establishment for a period exceeding thirty-days (30) without interruption, the operator shall refund to such tenant the tax previously collected by the operator from that tenant as a transient. The operator shall account for such collection and refund to the Tax Administrator. The operator shall be entitled to a corresponding refund under this section if the tax was remitted prior to the refund or credit to the tenant.

(3) There is hereby created a special fund of the City of Gold Beach to be known as "The Community Advertising and Promotion Fund" into which the Tax Administrator shall deposit seventy-five percent (75%) of the net tax collected under this code. Said fund shall be completely separate and apart from any other special or general funds of the City of Gold Beach

4.275 Record Keeping and Inspection.

(1) Records required for operators. Every operator shall keep guest records of room sales and accounting books and records of the room sales. Operators shall retain all such records for a period of three years and six months.

(2) Examination of records; investigations. The Tax Administrator or designee may examine during normal business hours records relating to room sales of any operator liable for the tax. The Tax Administrator may investigate the business of the operator to verify the accuracy of any return made or, if the operator makes no return, to ascertain and determine the amount required to be paid

(3) Confidential character of information obtained. It shall be unlawful for the Tax Administrator or any person having an administrative or clerical duty under the provisions of this code to make known in any manner whatsoever the business affairs, operations or information obtained by an investigation of records and equipment of any

person required to obtain a Transient Occupancy Registration Certificate or pay a transient occupancy tax, or other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures or any particular thereof set forth in any statement or application, or to permit any statement or application, or copy of either, or any book containing any abstract or particulars thereof to be seen or examined by any person; provided that nothing in this section shall be construed to prevent:

(a) The disclosure to, or the examination of records and equipment by another City of Gold Beach Official, employee or agent for collection of taxes for the sole purpose of administering or enforcing any provisions of this code, or collecting taxes imposed hereunder, or collecting city business license fees.

(b) The disclosure, after the filing of a written request to that effect, to the taxpayer, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested, of information as to any paid tax, any unpaid tax or amount of tax required to be collected, or interest and penalties; further provided, however, that the City Attorney approves each such disclosure and that the Tax Administrator may refuse to make any disclosure referred to in this paragraph when the public interest would suffer thereby.

(c) The disclosure of the names and address of any persons to whom Transient Occupancy Registration Certificates has been issued.

(d) The disclosure of general statistics regarding taxes collected or business done in the City.

4.280 Term, Powers and Duties of the Transient Lodging Tax Review and Expenditure Committee.

(1) The two members of said committee from applications received from the Gold Beach Chamber of Commerce shall have terms of four years each. Position number one shall be appointed on the even years and position number three shall be appointed on the odd years with the terms beginning on the first day of January. The two members of the committee from applications received from lodging establishment operators contributing to this fund shall have terms of four years each. Position number four shall be appointed on the even years and position number five shall be appointed on the odd years. Position number two of the committee shall be appointed on the even years from applications received from the community at large that are directly involved with the tourist industry. This position will be titled "member at large".

(2) Should any member resign or be removed as provided herein, the City Council shall appoint a replacement and said new member shall serve the remainder of the unexpired term.

(3) Any committee member may be removed from the committee for cause by majority vote of committee members and approval of the City Council.

(4) A quorum of three members of the committee will be necessary to conduct business of the committee. The committee shall pick a Chair and Secretary who serve at the pleasure of the committee. The committee shall keep a record of its meetings and procedures. All minutes, records and files pertaining to actions of the committee shall be kept at City Hall. The committee shall hold monthly meetings at the Gold Beach City Hall. All committee meetings shall be open to the public. Committee members shall attend all regularly scheduled meetings. The City Council may remove any committee member who misses in excess of two meetings per fiscal year. Committee members shall not receive any compensation for their services on the committee.

(5) The committee shall formulate a long-range strategy and plan for community promotion and advertising for the greater Gold Beach area including, but not limited to, a comprehensive media campaign for such promotion. The Committee may retain services of an advertising agency to provide professional expertise. The Committee shall formulate a fiscal year budget from July 1 to June 30 each year for such expenditures.

(6) Through the City's budget development and adoption process, the City Council will set funding levels for expenditures from the Community Advertising and Promotion Fund. The Tax Administrator will approve all specific line-item expenditures from the Fund prior to expenses being incurred. Any expenditure decisions made by the committee in violation of this section shall be null and void and not the responsibility of the City.

4.285 Appeals to City Council.

Any person aggrieved by any decision of the Tax Administrator may appeal to the City Council by filing notice of appeal with the Tax Administrator within twenty days (20) of the serving or the mailing of the notice of the decision given by the Tax Administrator. The Tax Administrator shall transmit said notice of appeal, together with any files of said appealed matter to the Council, who shall fix a time and place for hearing such appeal from the decision of the Tax Administrator. The Council shall give the appellant not less than twenty days (20) written notice of a time and place of said hearing of said appealed matter. Action by the Council on appeals shall be decided by a majority of the members of the Council present at the meeting where such appeal is considered. All decisions of the City Council in regards to appeals are final and binding.

4.286 Severability.

If any section, subsection, paragraph, sentence, clause or phrase of this code, or any part thereof, is for any reason held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of this code or any part thereof.

4.290 Violations.

It is unlawful for any operator or other person so required to fail or refuse to register as required herein, or to furnish any return required to be made, or fail to refuse to furnish a supplemental return or other data required to make, render, sign or verify any report shall make any false or fraudulent report, with the intent to defeat or evade the determination of any amount due required by this code.

4.295 Penalties.

Any person willfully violating any of the provisions of this codee shall be guilty of a misdemeanor and may be punishable by a fine of not more than five hundred dollars ($500.00). The maximum fine may be amended from time to time by ordinance of the Gold Beach City Council.

Gold Beach Sign Code

4.300 Title.

This portion of the Gold Beach Code shall be known and cited as the City of Gold Beach Sign Code.

4.305 Purposes.

This code has been enacted for the following purposes:

(1) To provide minimum standards to safeguard life, health, property and public welfare by regulating and controlling the quality of materials, construction, location, electrification and maintenance of all signs and sign structures not located within a building. The regulations of this Sign Code are not intended to permit any violations of the provisions of any other lawful code or ordinance of the City.

(2) To ensure that signs are designed, constructed, installed and maintained so that public safety and traffic safety are not compromised.

(3) To allow and promote positive conditions for meeting sign users' needs while at the same time avoiding nuisances to nearby properties.

(4) To reflect and support the desired character and development patterns of the City.

(5) To allow for a variety in number and type of signs in commercial and industrial zones while preventing signs from dominating the visual appearance of the area.

(6) To ensure that the constitutionally guaranteed right of free speech is protected.

(7) To allow for a variety in number and type of signs for a site. The provisions do not necessarily assure or provide for a property owner's desired level of visibility for the signs.

4.310 Definitions.

For the purpose of this Sign Code, certain terms, phrases, and words shall have the specific meaning they are given in this Code or, if not defined in this Code, the meaning given in the Uniform Building Code. Where terms are not defined either in this Code or the Uniform Building Code (UBC), they shall have their ordinary accepted meaning within the context of which they are used. Webster's International Dictionary of the English Language shall be considered as providing an ordinary accepted meaning. The following definitions control in this Code:

(1) Approved Plastic Material. Shall be those having a self ignition temperature of 650 degrees F, or greater, when tested in accordance with UBC Standard No. 52-3, and a smoke density rating not greater than 450, when tested in accordance with UBC Standard 42-1 in the manner intended for use, or a smoke density rating no greater than 75, when tested in the thickness intended for use by UBC Standard 52-2 Approved plastic shall be classified as CCI or CC2, in accordance with UBC Standard 52-4.

(2) City Official. The City Administrator or designee.

(3) Curb Line. Curb line is the line at the face of the curb nearest to the street or roadway. In the absence of a curb, the curb line shall be established by the City Official.

(4) Fin Sign. A sign attached to and projecting out from a building face or wall and generally at right angles to the building. Fin signs include signs projecting totally in the right-of-way, partially in the right-of-way, or fully on private property.

(5) Ground Sign. A sign supported by one or more supports placed in or upon the ground which is not attached to any building.

(6) Height. The height of a sign is the vertical distance above grade at the lowest point of grade under any part of the sign to the highest point of the sign.

(7) Illuminated Sign. Any sign which has characters, letters, figures, designs, or outline illuminated by electric lights or luminous tubes.

(8) Inoperable Vehicle Sign. Any sign attached or painted on a vehicle or trailer that is not operable or does not have a current valid license.

(9) Marquee. A permanent, fixed structure extending over the entrance to a building and serving some purpose other than strictly to provide shelter.

(10) Noncombustible. As applied to building construction material means a material which, in the form in which it is used, is either one of the following:

(a) Material of which no part will ignite and burn when subjected to fire. Any material conforming to UBC Standard No. 4-1 shall be considered noncombustible within the meaning of this section.

(b) Material having a structural base of noncombustible material as defined in subsection a. above, with a surfacing material not over 1/8 inch thick which has a flame-spread rating of 50 or less.

(c) Noncombustible does not apply to surface materials. Materials required to be noncombustible for reduced clearances to flues, heating appliances, or other sources of high temperature shall refer to material conforming to subsection (a) above. No material shall be classed as noncombustible which is subject to increase in combustibility or flame-spread rating beyond the limits herein established, through the effects of age, moisture or other atmospheric condition.

(d) Flame-spread rating as used herein refers to a rating obtained according to tests conducted as specified in UBC Standard No. 42-1.

(11) Obsolete Sign. Any sign which no longer applies to the business, property or site upon which it is located or which advertises a business which has been closed permanently. Any business which does not operate for 120 consecutive days shall be deemed permanently closed unless the operator establishes that the business will resume operations within one year.

(12) Outline Illumination. Lighting around the exterior of a sign face consisting of exposed reflective-type bulbs, incandescent lamps exceeding 40 watts, fluorescent lamps or neon tubing.

(13) Pole Sign. A sign on a frame, pole, or other support structure which is not attached to any building and is a sign wholly supported by a sign structure in the ground.

(14) Projecting Sign. Projecting sign is a sign other than a wall sign, which projects from and is supported by a wall of a building or structure.

(15) Projection. The distance by which a sign extends over public property or beyond the building line.

(16) Roof Sign. Signs erected, constructed and maintained wholly upon or over the roof on any building, with the principal support on the roof structure.

(17) Sign. Materials placed or constructed primarily to convey a message or other display and which can be viewed from a right-of-way, private roadway or another property, excluding canopies.

(18) Sign Face Area. The total area of a sign face, including all decorative or structural trim, facing announcement, demonstration display, illustration, or any other attention-

getting device, exclusive of essential structural supports. (See figures 1-A, 2-A and 3-A) appendix page 1. This excludes canopies, only the actual painted advertising message portion of the canopy is included in the sign face area.

(19) Sign Structure. Any structure which supports or is capable of supporting any sign.

(20) Temporary Sign. A sign not permanently attached to a building, structure, or the ground.

(21) Uniform Building Code or UBC. The Uniform Building Code promulgated by the International Conference of Building Officials as adopted by the City of Gold Beach.

(22) Vision Triangle. The vision triangle shown on appendix page 2, Figure 4A.

(23) Wall Sign. A sign attached to or painted on the exterior wall of any building or other structure. This includes signs attached to canopies, awnings, marquees or similar structures.

(24) Directional Signs.

(a) Arrows that are painted on pavement to direct traffic.

(b) Words on pavement to indicate type of parking space.

(c) Signs directing the public to business not visible from the street or sidewalk.

(d) Signs directing traffic to parking areas.

(e) Signs directing the public to rest rooms and or aid stations.

(f) Signs-"entrance, exit, office" (indicating office of the business).

(g) Directional signs shall not include names or type of business.

(25) Cluster Signs.

(a) Small individual signs attached to or suspended from a business name sign structure advertising products sold on the premises.

(b) Small individual signs attached to the building wall. Each wall of a building shall be considered a separate cluster.

(c) Each sign in a cluster shall not exceed 1.5 sq. ft.

(26) Political Signs. Political signs are signs which advocate in favor of, or opposition to a candidate for public office, a political party or a ballot measure.

(27) Property. Property shall mean Tax Lot.

4.315 Permit Required.

(1) No person shall erect, re-erect, construct, alter or maintain any sign unless that person obtains a sign permit for that sign.

(2) A separate sign permit is required for each sign and sign structure. Small cluster signs advertising the same business may be included in one permit. For cluster signs-each wall shall require a separate permit.

(3) A new sign permit is required each time a sign is relocated or reconstructed unless relocation is required by action of the State, County or City.

(4) The City Official shall grant an application for a sign permit if the City Official determines that the sign will meet all the requirements of this Code and all other requirements of state and federal law.

(5) If the sign meets all the requirements of this Code except the size and spacing requirements set forth in Section 4.365, and if:

(a) The sign was in place at the existing location on the date the first Gold Beach Sign Ordinance became effective; and

(b) The sign meets all requirements of state and federal law (including ORS 377.700-377.840); and

(c) The sign has had proper permits (if required) issued for its construction by all permit agencies,

then the City Official shall issue a sign permit which shall only authorize display of such a non-conforming sign until major repair, maintenance or replacement is required. Major repair or maintenance means repair or maintenance work costing more than 50% of the value of the sign.

(6) Any person erecting, re-erecting, constructing, altering or maintaining a sign without a valid sign permit shall remove that sign.

4.320 Other Permits.

(1) An additional electrical permit shall be obtained from the appropriate authority for electrical signs.

(2) Obtaining a sign permit from the City of Gold Beach does not relieve the owner of the sign from compliance with all other state or federal requirements nor from the obligation to obtain all other necessary permits.

(3) Outdoor Advertising Signs require a permit from the Director of Transportation under ORS 377.725 and shall comply with all applicable Oregon Administrative Rules, including OAR 734-060-0005.

4.325 Application for Permit.

Application for a sign permit shall be made in writing upon forms furnished by the City. Such application shall contain the name of the sign owner, location by street number of the proposed sign or sign structure, the name and address of the contractor or erector, and any plans or other pertinent information required by the City where such information is necessary to insure compliance with this Code.

4.330 Permit Fee.

The applicant shall pay such fees as specified and amended from time to time by ordinance of the City Council. Installation shall be completed not more than 90 days after the permit date. A 45-day extension may be granted if applied for in writing. If the sign is not installed within the times permitted, the permit shall be void. The square foot charge is based on the total sign face area for each property as defined in Section 4.010 (18).

4.335 Permit and Fee Exceptions.

(1) The following signs and operations shall not require a sign permit or fee but shall conform to all other applicable provisions of this Code:

(a) Temporary Signs.

(b) The changing of the advertising copy or message on a painted or printed sign or sign which is specifically designed for the use of replacement copy.

(c) The painting, repainting, cleaning or normal maintenance of a sign face.

(d) Directional signs painted on the pavement.

(e) Directional signs painted on buildings or attached to posts or buildings shall not be more than 2.25 square feet in area.

(f) Directional signs shall not be included in allowed sign space.

(g) Political signs (must be removed within 10 days following the final election for which they are intended).

(2) Signs erected prior to February 14, 1989 that have a conforming valid paid permit on file shall not require a fee but shall require a permit and shall conform to all other applicable provisions of this Code:

4.340 Exempt Signs.

The following signs are exempt from the provisions of this Code, but may be subject to other Gold Beach Codes or Ordinances:

(1) Signs legally erected in the right of way;

(2) Building address numbers;

(3) National, international and state flags;

(4) All signs erected by a public officer in the performance of a public duty.

4.345 Prohibited Signs.

The following signs are prohibited:

(1) Signs with strobe lights or flashing lights except time and temperature display;

(2) Signs attached to or painted on a vehicle that is not operable or does not have a current license;

(3) Signs with moving parts;

(4) Obsolete signs;

(5) Signs in areas zoned residential which exceed 3 square feet unless the owner has obtained a conditional use permit for a home occupation in which case signs in excess of 9 square feet are prohibited.

(6) Signs situated in a manner which results in the blocking, or partial blocking of an existing sign.

4.350 Nonconforming Signs.

(1) Signs not in compliance with the repair and maintenance standards of this Code (Section 4.355), shall be brought into compliance not later than 30 days after notification by the City.

(2) Signs not in compliance with the structural standards of this Code (Sections 4.365 and 4.370) shall be brought into compliance not later than 90 days after notification by the City.

(3) The owner of signs or property not in compliance with the size or spacing requirements of Section 4.365 of this Code shall remove all signs necessary to bring the signs or property into compliance when the sign requires major repair or maintenance (see section 4.315 (5)).

(4) Whenever a nonconforming sign is reconstructed, a new sign permit is required. Whenever a nonconforming sign is relocated, a new sign permit is required unless the relocation is required by action of the federal, state, county or city government. No new sign permit shall be granted unless the sign and property are in compliance with all requirements of this Code, including the size and spacing requirements of Section 4.365 of this Code.

4.355 Maintenance of Signs.

All signs and sign support structures, together with their support, braces, guys and anchors, shall be kept in repair and in a proper state of preservation. The display surfaces of all signs shall be kept neatly painted or posted at all times. Any sign or section, or part thereof, which is damaged 50 percent or more by wind, storm, fire or other cause, or becomes structurally unsound for any reason, shall be removed within ten days thereof, and not replaced until a new sign permit is obtained through the City as provided in this Code.

4.360 Inspections.

All signs for which a permit is required shall be subject to inspection by the City Official. Footing inspections may be required by the City Official for all signs having footings. All signs containing electrical wiring shall be subject to the provisions of the governing electrical code and the electrical components used shall bear the label of an approved testing agency. The City Official shall order the removal of any sign that is not maintained in accordance with these provisions or the provisions in Section 4.355.

4.365 Size and Spacing of Signs.

(1) Each property shall be allowed total sign face area which shall be equal to 1-1/2 square feet of signage for each linear front footage of the property on which the sign is to be located except:

(a) Each property shall be allowed at least 50 square feet of total sign face area and no more than 300 square feet of total sign face area except as set forth in subsections (b) and (c) below.

(b) A double faced sign that displays the identical advertising copy on both sides but can only be viewed from one direction shall have each side counted as 50% of allowed sign face area for that sign.

(c) Any property serving more than one business shall be allowed an additional ten square feet of total sign face area per business.

(2) No single sign face area shall exceed 200 square feet.

(3) For those signs which require a State permit, the minimum space between such signs within the City of Gold Beach and on the same side of the highway shall be 300 feet. For purposes of applying this spacing limitation, the following standards shall be used:

(a) Distances shall be measured lineally along the highway parallel to the center line of the highway.

(b) A back-to-back, double-faced or V-type sign shall be considered one sign.

4.370 Design and Construction.

(1) Signs and sign structures shall be designed and constructed to resist wind and seismic forces as specified in this section. All bracing systems shall be designed and constructed to transfer lateral forces to the foundations. For signs on buildings, the dead and lateral loads shall be transmitted through the structural frame of the building to the ground in such a manner as to not overstress any of the elements thereof.

(2) Signs will be designed and constructed to the following load standards:

(a) Wind Loads. Signs and structures shall be designed and constructed to resist wind forces as specified in Section 23 of the Uniform Building Code.

(b) Seismic Loads. Signs and sign structures shall be designed and constructed to resist seismic forces as specified in Chapter 23 of the Uniform Building Code.

(c) Combined Loads. Wind and seismic loads need not be combined in the design of signs or sign structures, only that loading producing the larger stresses need be used. Vertical design loads, except roof live loads, shall be assumed to be acting simultaneously with the wind and seismic loads.

(3) Allowable Stresses. The design of wood, concrete, steel or aluminum members shall conform to the requirements of Chapters 25, 26, 27 and 28 of the Uniform Building Code. Loads, both vertical and horizontal, exerted on the soil shall not produce stresses exceeding those specified in Chapter 29 of the Uniform Building Code. The working stresses of wire rope and its fastenings shall not exceed 25 percent of the ultimate strength of the rope or fasteners. Working stresses for seismic loads combined with dead loads may be increased as specified in Chapter 23 of the Uniform Building Code.

(4) Construction. Signs shall be constructed to the following standards:

(a) The supports for all signs or sign structures shall be placed in or upon private property and shall be securely built, constructed and erected in conformance with the requirements of this Code.

(b) Materials. Materials of construction for signs and sign structures shall be of the quality and grade as specified for buildings in the Uniform Building Code. In all signs and sign structures the materials and details of construction shall, in the absence of specified requirements, conform with the following:

(i) Structural steel shall be of such quality as to conform with UBC Standard No. 27-1. Secondary members in contact with or directly supporting the display surface may be formed of light gauge steel, provided such members are designated in accordance with the specifications of the design of light gauge steel, as specified in UBC Standard No. 27-9, and in addition shall be galvanized. Secondary members, when formed integrally with the display surface, shall not be less than No. 24 gauge in thickness. When not formed integrally with the display surface, the minimum thickness of the secondary members shall be No. 12 gauge. The minimum thickness of hot-rolled steel members furnishing structural support for signs shall be 1/4 inch, except that, if galvanized, such members shall not be less than 1/8 inch thick. Steel pipes shall be of such quality as to conform with UBC Standard No. 27.

(ii) Steel members may be connected with one galvanized bolt, provided the connection is adequate to transfer the stresses in the members.

(iii) Anchors and supports when of wood and embedded in the soil, or within 6 inches of the soil, shall be heartwood of a durable species or shall be pressure-treated with an approved preservative. Such members shall be marked or branded by an approved agency.

(c) Combustible Materials. Ground signs may be constructed of any material meeting the requirements of this code. Combination signs, roof signs, wall signs, projecting signs and signs on marquees shall be constructed of noncombustible materials, except as provided in subsection (d) of this section. No combustible materials other than approved plastics shall be used in the construction of electric signs.

(d) Nonstructural Trim. Nonstructural trim and portable display surfaces may be of wood, metal, approved plastics or any combination thereof.

(e) Anchors. Sign anchors shall conform to the following requirements:

(i) Members supporting unbraced signs shall be so proportioned that the bearing loads imposed on the soil in either direction, horizontal or vertical, shall not exceed the safe values. Braced ground signs shall be anchored to resist the specified wind or seismic load acting in any direction. Anchors and supports shall be designed for safe bearing loads on the soil and for an effective resistance

to pullout amounting to a force 25 percent greater than the required resistance to overturning. Anchors and supports shall penetrate to a depth below ground greater than that of the frost line.

(ii) Portable ground signs supported by frames or posts rigidly attached to the base shall be so proportioned that the weight and size of the base will be adequate to resist the wind pressure specified in this section.

(iii) Signs attached to masonry, concrete or steel shall be safely and securely fastened thereto by means of metal anchors, bolts or approved expansion screws of sufficient size and anchorage to support safely the loads applied.

(iv) No wooden blocks or plugs or anchors with wood used in connection with screws or nails shall be considered proper anchorage, except in the case of signs attached to wood framing.

(v) No anchor or support of any sign shall be connected to, or supported by, an unbraced parapet wall, unless such wall is designed in accordance with the requirements for parapet walls specified for seismic zones in the Uniform Building Code.

(f) Display Surfaces. Display surfaces in all types of signs may be made of metal, glass, approved plastics or wood.

(g) Height and Setbacks. All sign installations shall comply with the current Zoning Ordinance of the City of Gold Beach requirements for set-backs and building height. The total height shall be the combination of sign and building if the sign is roof-mounted.

4.375 Projection and Clearance.

(1) Signs shall conform to the clearance and projection requirements of this section, including Tables A and B contained in subsections 7 and 8 of this section.

(2) High Voltage Power Lines. Signs shall be located not less than 6 feet horizontally or 12 feet vertically from overhead electrical conductors which are energized in excess of 750 volts. The term "overhead conductors" as used in this section means any electrical conductor, either bare or insulated, installed above the ground, except such conductors as are enclosed in iron pipe or other material covering of equal strength.

(3) Fire Escapes, Exits or Standpipes. No sign or structure shall be erected in such a manner that any portion of its surface or supports will interfere in any way with the free use of any fire escape, exit or standpipe.

(4) Obstruction of Openings. No sign shall obstruct any opening to such an extent that light or ventilation is reduced to a point below that required by the Uniform Building Code.

Signs erected within 5 feet of an exterior wall in which there are openings within the area of the sign shall be constructed of noncombustible material or approved plastics.

(5) Projection over Alleys. No sign or sign structure shall project into any public alley below a height of 14 feet above grade, nor project more than 12 inches where the sign structure is located 14 feet to 16 feet above grade. The sign or sign structure may project not more than 36 inches into the public alley where the sign or sign structure is located more than 16 feet above grade.

(6) Clearance from Streets. Signs shall not project within 2 feet of the curb line.

(7) Clearance Requirements for Projecting Signs.

TABLE A – CLEARANCE OF PROJECTING SIGNS

CLEARANCE	MAXIMUM PROJECTION
Less than 8'	Not permitted
8'	1'
8' to 16'	1' plus 6" for each foot of clearance in excess of 8'
Over 16'	5'

(8) Maximum Thickness of Projecting Signs.

TABLE B - THICKNESS OF PROJECTING SIGNS

PROJECTION	MAXIMUM THICKNESS
5'	2'
4'	2'6"
3'	3'
2'	3'6"
1'	4'

4.380 Fin Signs.

(1) Fin signs shall be constructed of noncombustible material, except as otherwise provided in this Code.

(2) All supports of fin signs shall be placed upon private property and shall be securely built, constructed and erected to conform with requirements specified in this Code.

(3) Fin signs may project beyond the property or legal setback in accordance with projection limits specified in this Code, with permission of the adjacent property owner over which the sign projects.

(4) The thickness of that portion of a fin sign which projects over public property shall not exceed the maximum set forth in Table B.

4.385 Pole Signs.

(1) Pole signs shall be constructed of noncombustible material, except as otherwise provided in this Code.

(2) All supports of pole signs shall be placed upon private property and shall be securely built, constructed and erected to conform with requirements specified in this Code.

(3) Projection of pole signs shall conform to the requirements of this Code.

4.390 Ground Signs.

(1) Ground signs shall be constructed of any material meeting the requirements of this Code, except as otherwise provided in Section 4.370.

(2) Ground signs shall be designed in accordance with the requirements of this Code.

(3) Ground signs shall not project over public property or beyond a legal setback.

4.395 Roof Signs.

(1) Roof signs shall be constructed of noncombustible materials, except as otherwise provided in this Code.

(2) Roof signs shall be thoroughly secured and anchored to the frame of the building over which they are constructed and erected and shall be designed in accordance with the requirements specified in this Code.

(3) Projection. Roof signs may project over public property or beyond a legal setback line complying with the requirements as specified in this Code with permission of the adjacent property owner over which the sign projects.

(4) Clearance and Access. A passage clear of all obstructions shall be left under or around, and immediately adjacent to, all signs exceeding a height of 4 feet above the roof thereunder. Such passages shall be not less than 3 feet wide and 4 feet high and shall be at parapet or roof level. There shall be one such passage or access opening as follows:

(a) For each roof sign upon a building.

(b) An access opening for every 50 lineal feet of horizontal roof sign extension.

(c) Within 20 feet of walls and parapets when roof signs are at right angles to a face of the building.

4.400 Wall Signs.

(1) Wall signs shall be constructed of noncombustible material, except as otherwise provided in this Code.

(2) Wall signs shall be designed in accordance with the requirements specified in this Code.

(3) Projection. No wall sign shall have a projection over public property or beyond a legal setback line greater than the distances specified in this Code nor shall it extend above any adjacent parapet or roof of the supporting building.

(4) Thickness. The thickness of that portion of a wall sign which projects over public property or a legal setback line shall not exceed the maximum as set forth in Table B.

4.405 Projecting Signs.

(1) Projecting signs shall be constructed of noncombustible materials, except as otherwise specified in this Code.

(2) Projecting signs shall be designed in accordance with this Code.

(3) Projection. Signs may project over public property or a legal setback line a distance determined by the clearance of the bottoms thereof above the level of the sidewalk or grade immediately below, as set forth in Table A with the permission of the property owner over which the sign projects.

(4) Thickness. The thickness of a projecting sign exclusive of letters and trim shall not exceed that set forth in Table B.

4.410 Combination Signs.

(1) Combination signs are signs incorporating two or more types of signs as defined and described in the Code. Combination signs shall be constructed of noncombustible materials, except as otherwise specified in this Code.

(2) The individual requirements specified in this Code for roof, projecting and pole signs shall be applied to combination signs which incorporate one or more of those types of signs.

(3) All supports of combination signs shall be placed in or upon private property and shall be securely built, constructed and erected to conform with the requirements of this Code.

(4) Projection. Combination signs may project over public property or beyond a legal setback line as specified in this Code with permission of the property owner over which the sign projects.

(5) Thickness. The thickness and height of that portion of a combination sign which projects over public property shall not exceed the maximum as set forth in Tables A and B.

4.415 Marquees.

Signs may be placed on, attached to, or constructed in a marquee. Such signs shall, for the purpose of determining projection, clearance, height and material, be considered a part of and shall meet the requirements for a marquee as specified in the Uniform Building Code.

4.420 Electric Signs.

(1) Electric signs shall be constructed of noncombustible materials, except as otherwise allowed by this Code.

(2) The enclosed shell of electric signs shall be watertight, except that service holes fitted with covers shall be provided into each compartment of such signs.

(3) Installation. Electrical equipment used in connection with display signs shall be installed in accordance with local and state codes and Gold Beach Codes or Ordinances regulating electrical installation.

(4) Erector's Name. Every electric sign projecting over any street or alley or public place shall have painted on the surface of the sign the name of the sign erector and date of erection. Such name and date shall be of sufficient size and contrast to be readable from a reasonable distance. Failure to provide such name and date shall be grounds for rejection of the sign by the City Official.

(5) Lighting shall illuminate the advertising message only.

4.425 Temporary Signs.

(1) No permits are required for temporary signs.

(2) Temporary signs shall be limited to a maximum of 18 square feet, except banners for which a state sign permit is obtained.

(3) Temporary signs shall be included in determining the total allowable sign space for each property as limited by Section 4.365 of this Code.

(4) Except as provided in subsection (5) of this section, no temporary sign shall remain in place more than 40 days in any one calendar year or more than 40 consecutive days. Signs in place for a longer period of time shall be removed unless a sign permit for a permanent sign is obtained.

(5) Temporary signs exempt from 40-day time limit are:

(a) Signs displayed only during business hours and removed from view at the end of each day.

(b) Real estate signs posted on the property for sale, rent or lease. Such signs shall be removed ten days after the close of escrow or recording of sale documents.

(6) Temporary signs shall comply with section 4.370 (2) (a) and sections 4.375 (1) through 4.375 (4) of this Code.

4.430 Political Signs.

(1) No permits are required for political signs.

(2) Political signs shall be limited to a maximum of 32 square feet.

(3) Political signs shall be included in determining the total allowable sign space for each property as limited by section 4.365 of this Code.

(4) Political signs must be removed within ten (10) days following the final election for which they are intended.

(5) Political signs shall comply with section 4.370 (2) (a) and sections 4.375 (1) through 4.375 (4) of this Code.

4.435 Prohibited Conduct.

(1) No person shall install or attach any sign or poster to any utility pole, city sign pole, city sign standard or state sign pole or standard within the City of Gold Beach.

(2) No person shall erect, construct, maintain, repair or alter any permanent or temporary sign except in accordance with the provisions of this Code.

(3) No permanent sign shall be installed in a vision triangle. A temporary sign may be installed in a vision triangle, however, no temporary sign shall be located more than 30

inches above the road surface adjacent to the curb in the vision triangle. Height shall include supports and trim. **(See Figure 4, page 18-A.- this is not part of the ordinance we have.)**

4.440 Administration and Appeals.

(1) The City Official or designee is hereby authorized and directed to administer and enforce all of the provisions of this Code.

(2) Alternate Materials and Methods of Construction. The provisions of this Code are not intended to prevent the use of any material or method of construction not specifically proscribed by this Code, provided any such alternate has been approved as provided in this subsection. The City Official may approve any such alternate provided he/she finds that the proposed design is satisfactory and complies with the provisions of this Code and/or the State Building Code, and that the material, method, or work offered is, for the purpose intended, at least the equivalent of that prescribed in this Code in quality, strength, effectiveness, fire resistance, durability, and safety. The City Official shall require that sufficient evidence or proof be submitted to substantiate any claims that may be made regarding its use.

(3) Appeals.

(a) An affected person may appeal to the City Council from a decision of the City Official or designee made pursuant to this Code. Such appeal shall be taken within fifteen days of the decision by filing with the City Official a notice of appeal, specifying the action appealed from and the grounds for appeal. The City Official shall forthwith transmit to the City Council all the papers constituting the record upon which the action appealed from is taken.

(b) The decision of the City Official which is under appeal shall remain in effect during the appeal unless the City Official certifies to the City Council that, by reason of facts stated in the appeal, the City Official concludes that a stay is necessary to avoid immediate harm to the public health, safety or welfare or to property; in which case the decision shall be stayed until the appeal is decided. If the City Official refuses to grant a stay, the decision will remain in effect unless a stay is granted by a court having jurisdiction of the matter.

4.445 Sign Code Variance Procedures.

The City Council may grant sign code variances in accordance with the following procedures:

(1) Application. An application and related information shall be submitted by the applicant in the manner prescribed by the City Official, together with the fee established from time to time by ordinance passed by the City Council.

(2) Notice. Within ten days of receipt of a complete and accurate application, and at least ten days before the City Council hearing, the City Official shall mail notice of the request

to abutting property owners and occupants, including properties that would be abutting were it not for intervening streets or alleys.

(3) Timeline. Unless the applicant agrees to a longer time period, the City Council shall hold a hearing on the application and shall approve, conditionally approve, or deny a variance, with findings and conclusions thereon, within 30 days of receipt of a complete and accurate application.

(4) Criteria. The City Council's decision shall be based on the following criteria:

(a) Strict or literal interpretation and enforcement of certain of the regulations would result in practical difficulties and unnecessary physical or economic hardships inconsistent with the objectives of this Code.

(b) A practical difficulty or unnecessary hardship may result from:

(i) The size, shape or dimensions of a site, or the locations of existing structures thereon;

(ii) Geographic, topographic or other physical conditions on the site or in the immediate vicinity, or

(iii) Population densities, street locations or traffic conditions in the immediate vicinity.

(c) An economic hardship is one which results from an individual's inability to fairly and reasonably amortize the value of a nonconforming sign within the period of time prescribed by this Code. The power to grant variances does not extend to an economic hardship related to the cost, size or location of a new sign, or to the convenience of the applicant; nor is it intended to extend to the convenience of regional or national businesses who wish to use a standard sign, when those do not conform to the provisions of this Code.

(5) The City Official or designee shall mail a copy of the decision to the applicant and persons who have requested a copy on the date it is rendered.

(6) Expiration of Variance. Unless actual construction or alteration has begun within 90 days, a variance approval terminates. However, prior to expiration, the applicant may request in writing and the City Official or designee may extend approval for six-month periods. The City Official or designee shall not extend approval for more than two years from the first effective approval date.

(7) Compliance with Conditions Required. If a variance is granted subject to certain conditions or a substitute plan, compliance with the conditions or the substitute plan is required. Departure from approval conditions or the substitute plan is a violation of this Code.

4.550 Enforcement - Notice and Opportunity to Comply.

(1) The City Official or designee shall give written notice of any violation of this Code to the owner or lessee of the sign or property in question. The notice shall state the alleged violation and the relief sought.

(2) The owner or lessee shall have ten days to execute and deliver to the City Official or designee an assurance of voluntary compliance. The assurance shall set forth what actions, if any, the owner or lessee intends to take with respect to the alleged violation. The assurance of voluntary compliance shall not be considered an admission of a violation for any purpose. If the City Official or designee is satisfied with the assurance of voluntary compliance, it may be submitted to the Municipal Court for approval and, if approved, shall be filed with the clerk of the court as an order of the court.

(3) The City Official or designee may reject any assurance:

(a) Which does not provide for correction of the violation or removal of the sign in a reasonable time and manner; or

(b) Which does not provide for restitution in specific amounts to the City or to any person in cases involving any ascertainable loss of money or property as a result of the alleged violation; or

(c) Which does not contain any provision, including but not limited to the keeping of records, which the City Official reasonably believes to be necessary to insure the continued cessation of the alleged violation.

(4) Willful violation of any of the terms of an assurance of voluntary compliance which has been approved and filed with the court shall constitute a contempt of court.

4.460 Filing of Complaint; Temporary Restraining Order.

(1) After the expiration of ten days from the date of notice given under this Code, the City Official or designee may bring suit in the name of the City in the Municipal Court to restrain the violation, to seek a civil penalty, or both.

(2) If the City Official or designee alleges that he/she has reason to believe that the delay caused by complying with the notice provisions of section 4.455 of this Code would cause immediate harm to the public health, safety or welfare or to property, he/she may immediately institute a suit under subsection (1) of this section.

(3) A temporary restraining order may be granted without prior notice to the owner or lessee if the Municipal Court finds there is a threat of immediate and irreparable harm to the public health, safety or welfare or to property and demonstrates that reasonable efforts to give prior notice were unsuccessful. The court shall fix a time not to exceed ten days after which the

temporary restraining order shall expire by its terms, unless within the time fixed, a hearing is held and, for good cause shown, the court extends the restraining order or provides for any other equitable relief.

4.465 Enforcement - Remedial Power of the Court.

(1) The Municipal Court is empowered to hear and determine violations of this Code. In addition to any other penalty provided by law, the court is empowered to issue any injunction, order or judgment necessary to restore to any person any money or property of which he/she was deprived by any violation of this Code, or which is necessary to insure cessation of the violation.

(2) City may apply to any other court of competent jurisdiction to obtain any relief authorized by law to prohibit the continuation of any violation of this Code.

4.470 Enforcement - Violation.

(1) Any person violating any of the provisions of this Code may be punished, upon conviction thereof, by a fine not to exceed $300, or such other amount as the Gold Beach City Council shall set from time to time by ordinance. A violation as to each individual sign occurring for one day shall be considered a separate violation.

(2) The conviction of any person for violation of any of the provisions of this Code shall not operate to relieve such person from paying any fee or damages or prevent City from taking other remedial action to ensure compliance with this Code.

Vendor Assisted Tobacco Sales Code

4.500 Findings.

(1) Youth addiction to tobacco products is a public health problem with grave health consequences.

(2) Tobacco use is the leading preventable cause of death in Curry County.

(3) Each day in Oregon, the equivalent of a classroom full of children begins smoking. In Curry County, 22% of students begin smoking before age 13, 28% of high school students' smoke and 6% chew tobacco.

(4) More than half the tobacco retail outlets in Curry County have self-service tobacco displays when customers, including young people, have access to cigarettes, spit tobacco, and cigars without the assistance of a store employee.

(5) Cigarettes are the item most frequently taken by shoplifters.

4.505 Purpose.

The purpose of this Code is to limit the sale of tobacco products to minors by way of vendor assisted tobacco sales.

4.510 Definitions.

(1) "Minor" – Any person under eighteen years of age.

(2) "Self-Service Displays" – Open display of tobacco products to which the public has access without the assistance of a store employee.

(3) "Tobacco product" – Any tobacco cigarette, cigar, pipe tobacco, smokeless tobacco, chewing tobacco, or any other form of tobacco which may be utilized for smoking, chewing, inhalation, or other means of ingestion.

(4) "Tobacco Retail Store" – A retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.

(5) "Vendor Assisted" – Only a store employee has access to the tobacco product and assists the customer by supplying the tobacco product; the customer does not take possession of the tobacco product until after it is purchased.

4.515 Vendor Assisted Tobacco Sales Required.

Except as provided in Section 4.520., no person or business may sell, permit to be sold, or offer for sale any tobacco product by means of self service displays or any means other than Vendor-Assisted Sales.

4.520 Exceptions.

This Code shall not apply to Tobacco Vending Machines regulated by Oregon State Law, Tobacco Retail Stores, or to any business, retailer or establishment that is licensed by the Oregon Liquor Control Commission for a dispensing license and required to be posted preventing minors from access to the premises.

4.525 Non-retaliation.

No person or employer may discharge, refuse to hire or in any manner retaliate against any employee, applicant for employment or customer because such employee, applicant, or customer reports or attempts to prosecute any violation of this Code.

4.530 Penalties.

Violation of this Code shall be punishable by a fine not to exceed two hundred and fifty dollars ($250.00) or such other maximum fine as the Gold Beach City Council shall set

from time to time by ordinance. The Gold Beach Police Department shall have the authority to enforce this Code.

Social Gaming Code

4.600 Title.

The portion of the Gold Beach Code shall be known as the Social Gaming Code.

4.605 Gambling prohibited.

No person shall participate in, operate, assist in operating, or allow to be operated on any premises under his or her control any unlawful gambling game or activity, including a lottery. No person shall have in their possession any property, instrument or device designed or adapted for use in any type of unlawful gambling activity. Any such property or device is nuisance and may be seized by any police officer. Said possession shall be a violation of this section and upon conviction of a person owning or controlling such property, the Municipal Judge shall order the property confiscated and destroyed.

4.610 Definitions.

As used in this Code, except where the context indicates otherwise, the following definitions apply:

(1) The term "gambling" shall mean any contest, game, gaming scheme, gaming device or machine in which the outcome depends in a material degree upon an element of chance, notwithstanding that the skill of the contestants may also be a factor therein; in which a person stakes or risks something of value upon the outcome of such a contest of chance or a future contingent event, not under the control or influence of the person, upon an agreement or understanding that he or someone else will receive something of value in the event of a certain outcome. The term "gambling" shall not include (a) social games or (b) lottery games authorized and operated pursuant to ORS Chapter 461 and the Oregon Constitution.

(2) "Social games" mean:

(a) A game, other than a lottery, between players in a private home, where there is no house player, no house bank or house odds and there is no house income from the operation of the social game; and

(b) Games, other than a lottery, between players in a private business, private club, or place of public accommodation, licensed pursuant to this Code, where no house player, house bank or house odds exist and there is no house income from the operation of the social game.

(c) "Player" means a person who engages in any form of gambling solely as a contestant or bettor, without receiving or becoming entitled to receive any profit

therefrom, other than personal gambling winnings, and without otherwise rendering any material assistance to the establishment, conduct or operation of the particular gambling activity. A person who gambles at a social game of chance on equal terms with the other participants therein is a person who does not otherwise render material assistance to the establishment, conduct or operation thereof by performing, without fee or remuneration, acts directed toward the arrangement or facilitation of the game, such as inviting persons to play, permitting the use of premises therefor and supplying the cards or other equipment used therein. A person who engages in bookmaking is not a player.

(3) "Promotes unlawful gambling" means that a person, acting other than solely as a player, engages in conduct that materially aids any form of unlawful gambling. Conduct of this nature includes, but is not limited to, conduct directed toward the creation or establishment of the particular game, contest, scheme, device or activity involved, toward the acquisition or maintenance of premises, paraphernalia, equipment or apparatus therefor, toward the solicitation or inducement of persons to participate therein, toward the conduct of the playing phases thereof, toward the arrangement of any of its financial or recording phases or toward any other phase of its operation. A person promotes unlawful gambling if, having control or right of control over premises being used with his or her knowledge for purposes of unlawful gambling, he or she permits the unlawful gambling to occur or continue or makes no effort to prevent its occurrence or continuation.

(4) "Unlawful" means not specifically authorized by law. A "social games table" is defined as a game playing surface used in social games which can accommodate no more than six (6) players.

4.620 <u>License Required.</u>

Social games are authorized in a private business, private Club, or place of public accommodation only upon issuance of a license as provided under this Code. Licenses thereby issued are subject to the provisions of this Code.

4.625 <u>Application for License.</u>

Any person applying for a license under this Code must complete and file with the City Administrator an application for Social Games License. Said application shall be submitted under oath and shall include the following:

(1) True name and address of the applicant and location of the business establishment.

(2) True name and address of all owners of the business establishment for which the license is requested. If different than the applicant, then the name of the manager in charge of said business establishment.

(3) Number of tables to be licensed.

(4) Primary type of business conducted on the premises.

(5) The names and addresses of any other persons who will supervise the play of social games.

(6) Any other information requested by the Council or the City Administrator.

4.630 Consideration of Application.

(1) The City Council shall consider the application at its next regularly scheduled meeting following the filing with the City Administrator, provided said filing is made ten (10) days prior to the meeting date. The Council may:

(a) Grant the license.

(b) Take the application under advisement to be reconsidered at a specific date with or without a public hearing.

(c) Deny the application and refuse to grant a license.

(2) The license shall not be granted if:

(a) Any false or misleading information is supplied in the application or any information requested is omitted either in the original application or at other proceedings.

(b) Any person who is listed on the application and/or said premises has had a liquor license revoked or suspended for any reason, on two (2) different occasions, by the Oregon Liquor Control Commission, within a period of five (5) years before the date of the application.

(c) If any owner of the premises, his agent, employee, representative or other person acting on behalf of said owner, has previously violated any section of this Code or of any predecessor ordinance regarding social gambling.

(d) Any owner or manager of the business premises has been convicted of a felony within the last ten (10) years.

4.635 Issuance of License.

Upon approval of an application, the City Administrator is to issue a social games license to the applicant. A license shall contain:

(1) The true name and address of the business establishment being licensed.

(2) The number of tables licensed for social games thereunder.

(3) The date and duration of said license.

4.640 Responsibility of Licensee.

Each licensee hereunder shall be completely responsible for the operation of the social games, conducted on its premises, and said licensee is solely responsible for providing that said games are played in accordance with this Code and the provisions of the Oregon Revised Statutes.

4.645 License Non-Transferable.

No social games license issued hereunder is assignable or transferable in any manner. Any complete or partial change of ownership of the licensed premises, or of the person(s) who supervise the play of social games, shall be immediately reported to the office of the City Administrator and said change shall be presented and acted upon by the City Council, in the manner outlined in Section 4.630.

4.650 License Fee, Duration and Renewal.

The annual license fee shall be $300.00 per social games table, payable immediately at the time of issuance of the social games license. The fee for a license issued after January 1 shall be $150.00 and the license shall be valid until June 30 of the year of issuance. A license may be purchased after June 1 for $25, but only if it is bought in conjunction with a license for the following fiscal year at a total fee of $325 for a 13 month license. The fee schedule for a social games license granted under this Code may be amended from time to time by ordinance of the City Council.

Except as otherwise provided in this Section 4.650, all licenses shall run from July 1 to June 30 of each fiscal year without regard to the dates they are granted during the year. Filing of a timely application for renewal of a social games license under this Code shall be the full responsibility of the owner and/or manager of the premises previously licensed. Filing, consideration and issuance of the renewal application shall follow the procedures outlined in Sections 4.625, 4.630 and 4.635 of this Code.

4.655 Suspension and revocation of license.

The Mayor shall temporarily suspend any social games license issued hereunder if:

(1) Any owner or manager of the business premises has been convicted of a felony within the last ten (10) years.

(2) Any owner or manager or social games supervisor of the business premises has been previously convicted of any crime involving gambling, or has been involved

directly or indirectly in a forfeiture proceeding regarding a gambling device as defined herein.

(3) Any false or misleading information is supplied in the application or any information requested is omitted either in the original application or at other proceedings.

(4) Any owner of the business premises or the business premises itself has a license revoked or suspended by the Oregon Liquor Control Commission during the period of the social games license.

(5) Any owner or manager or social games supervisor of the business premises profits from gambling or promotes gambling, either on the licensed premises and/or in any other activity.

(6) Any other conduct involving moral turpitude on the part of any of the premises owners, agents, employees, or other representatives.

A suspension shall be subject to the right of appeal to the City Council meeting in a regular scheduled session. Notice of such appeal must be filed with the City Administrator within ten (10) days or such action of the Mayor shall be deemed to be final and conclusive. A temporary suspension shall be for thirty (30) days.

Permanent revocation may be made only by the City Council and such revocation shall only take place at a City Council meeting in regular council session upon application of the Mayor, and only after the licensee has been served with notice at least fourteen (14) days prior to the City Council meeting. Such notice shall include the time and date of the City Council meeting and the grounds upon which the permanent revocation is sought. Notice shall be deemed to be received by the licensee if the City Administrator mails such notice to the address listed by the licensee on his or her application.

4.660 Regulations.

It shall be unlawful to operate a social game as licensed pursuant to this code in violation of any of the following regulations and rules:

(1) All social games licensed under this Code shall be conducted and operated in full conformity and subject to all provisions of the laws of Oregon and the City of Gold Beach.

(2) All social games shall be open to police inspection during all hours of operation. Social games licenses shall be in full view and available for inspection during all hours of operation.

(3) The playing of all social games shall be arranged so as to provide free access and visibility to any interested party. Doors, if any, leading to the social games must remain unlocked during hours of its operation.

(4) No person under the age of twenty-one (21) years shall be permitted to participate in or remain near any social games.

(5) No licensee shall allow the playing of any social games between the hours of 2:30 a.m. and 7:00 a.m.

(6) No charge or house income of any type shall be collected from any player for the privilege of participation in the social game.

(7) A licensee may post a single sign, not to exceed one foot by one foot in dimension, inside the licensed premises, containing the words "Social Games." A licensee may also include the words "Social Games" in advertisements. Advertisements or signs advertising specific games are prohibited. All other signs or advertisements of social games not specifically authorized are prohibited.

(8) There shall be a limit on any bet of Five Dollars ($5.00) in any social game. This limit may be amended from time to time by ordinance of the City Council.

4.665 Penalties.

Violation of or failure to comply with any provision of this Code is punishable upon conviction, by a fine not to exceed Five Hundred Dollars ($500.00) or such other amount as the Gold Beach City Council may set from time to time by ordinance.

Section 2. The following ordinances, and all other ordinances or portions of ordinances of the City of Gold Beach in conflict herewith, are repealed:

(1) 526 (social gaming).

(2) 577 (business licenses).

(3) 597 (transient room tax).

(4) 612 (sign ordinance).

(5) 562 (vendor assisted tobacco sales).

Section 3. General Savings Provision and Continuity of Existing Provisions. This code shall not affect the rights and duties that matured, penalties that were incurred and proceedings that were begun before the effective date of this code. The provisions of this code that are the same in substance as code or ordinance provisions that are in effect immediately before this code becomes effective shall be construed as restatements and continuations of the prior provisions.