

7.375 Prohibited Gaming. Except as provided in section 7.380, no person shall engage in social games or gambling within the city.

7.380 Exceptions.

(1) Charitable, fraternal, nonprofit civic associations and religious organizations may engage in social games where no house player, house bank or house odds exist and there is no house income from the operation of the social games.

(2) Charitable, fraternal and religious organizations may operate bingo, lotto or raffles in compliance with ORS 167.118 and when licensed to operate such games pursuant to ORS 167.118, 464.250 to 464.380, 464.420 and 464.450 to 464.530.

7.385 Definitions. The definitions in ORS 167.117 are applicable to sections 7.375 and 7.380.

**BUSINESS PRIVILEGE TAX--
NATURAL GAS SUPPLIERS**

[Sections 7.400 to 7.445 deleted by Ordinance No. 1487, adopted August 7, 2002.]

PUBLIC UTILITIES PRIVILEGE TAX

7.500 Authority. The privilege tax for use and occupancy of city streets covered by sections 7.500 to 7.525 is enacted pursuant to the authority of the city under Oregon law, including the authority to impose privilege taxes on public utilities.

7.505 Tax Imposed. A tax for the privilege of occupying and using streets and other facilities within the city of one and one-half percent is imposed on the gross revenue received by any supplier of electrical energy to consumers within the City that has received a franchise from the City. [Section 7.505 amended by Ordinance No. 1477 adopted November 28, 2001.]

7.510 Methodology for Calculation. The term "gross revenue" shall have the same meaning as set forth in the franchise ordinance granting a franchise to the Portland General Electric Company, or if that franchise ordinance does not define the term, in the franchise agreement with Portland General Electric Company. The methodology for calculating tax shall be identical to the methodology for calculating Portland General Electric Company's franchise fee. [Section 7.510 amended by Ordinance No. 1477 adopted November 28, 2001.]

7.515 Tax Collection. The tax imposed by sections 7.500 to 7.525 shall be due semi-annually for the preceding six-month period. The tax shall be due as follows:

(1) On or before April 1, the tax for part or all of the six-month period extending from July 1 through December 31, inclusive of both dates, of the preceding calendar year; and

(2) On or before October 1, the tax for part or all of the six-month period extending from January 1, through June 30, inclusive of both dates, of the same calendar year.

7.520 Effective Date. The tax for the privilege of occupying and using streets and other facilities shall become effective as of May 1, 1993, for gross revenues from energy consumption within the city on and after that date.

7.525 Classification of Tax. The city council determines that the tax imposed by sections 7.500 to 7.525 is not a tax subject to the property tax limitations of Article XI, Section 11(b) of the Oregon Constitution.

**CABLE TELEVISION--
FRANCHISE REGULATIONS**

7.600 Definitions. For purposes of sections 7.600 to 7.635, unless the context requires otherwise, the following mean:

Access. The availability for use by various agencies, institutions, organizations, groups and individuals in the community,

including the city and its designees, of the cable communications system to acquire, create, and distribute programming not under the franchisee's editorial control, including, but not limited to public, educational and government programming.

Cable service. Programming, in any combination, provided on the cable communications system to subscribers.

Cable Communications System. A system of plant, facilities, equipment, and closed signal transmission paths, including, without limitation, antennas, cables, amplifiers, towers, microwave links, studios, real and personal property, and any and all other conductors, home terminals, converters, remote control units, and all associated equipment or facilities designed and constructed for the purposes of distributing cable service to subscribers and of producing, receiving, amplifying, storing, processing or distributing audio, video, voice, digital, analog or other forms of electronic or optical signals, whether processed by or owned, rented, leased, leased-purchased or otherwise controlled by or within the responsibility of the franchisee.

Franchise. The privilege conferred upon a person, firm or organization by the city to operate a cable communications system under the terms and provisions of sections 7.600 to 7.635.

Franchisee. The person, firm or organization to which a franchise is granted to operate a cable communications system pursuant to the authority of sections 7.600 to 7.635.

Leased Access Channel. Any channel or portion of a channel commercially available for programming for persons other than the franchisee for a fee or charge, or other considerations to be paid by those persons to the franchisee.

Programming. The process of causing television programs or other patterns of signals in video, voice or data formats to be transmitted on the cable communications system, and includes all programs or patterns of signals transmitted or capable of being transmitted, on the cable communications system.

Public Right-of-Way. The surface of, and the space above and below, any public street, road, alley, highway, dedicated way, local access road or road easement used or intended to be used by the general public for motor vehicles, and any utility easement within the city, to the extent the city has the right to allow the franchisee to use them.

7.605 Authority. The city council of the city of West Linn recognizes, declares and establishes the authority to regulate the construction, operation and maintenance of cable communications systems (hereinafter "systems") for the area located within the city limits and to exercise all powers necessary for that purpose, including, but not limited to, the following:

(1) To grant by resolution, nonexclusive franchises for the development and operation of a system or systems.

(2) To impose different franchise requirements based on reasonable classifications.

(3) To contract, jointly agree or otherwise provide with other local or regional governments, counties or special districts for the development, operation, and/or regulation of systems, or franchises therefor, notwithstanding the fact that the systems extend beyond the jurisdiction of the city.

(4) To purchase, hire, construct, own, maintain, operate or lease a system and to acquire property necessary for any such purpose.

(5) To regulate and supervise all facets of a system, including but not limited to:

(a) Consumer service, consumer protection and privacy standards.

(b) Disputes among the city, franchisees, and subscribers.

(c) Franchisee fair employment practices.

(d) The development, management and control of access channels.

(e) Programming, channel capacity and system interconnections.

- (f) Rates and review of finances for rate adjustments.
- (g) Construction timetables, standards, and service extension policies.
- (h) Modernization and upgrade of technical aspects.
- (i) Leased access channels.
- (j) Ensuring adherence to federal, state and local regulations.
- (k) Franchise transfer and transfer of control of ownership.
- (l) Franchise renewal.
- (m) Franchise revocation.
- (n) Enforcement of buy-back, lease-back or option-to-purchase provisions.
- (o) Receivership and foreclosure procedures.
- (p) Compliance with city standards for public rights-of-way.
- (q) Regulate telecommunications utilities which operate a cable communications system.

(6) Reserve the power to exercise this grant of authority to the fullest extent allowed by law, and in a manner that is consistent with superior law.

7.610 Grant of Franchise, Renewal.

(1) In the event that the council finds it in the best interests of the city to consider granting a franchise for a system, the procedures set forth in sections 7.600 to 7.635 shall be followed.

(2) By resolution of the council, the city manager shall be directed to prepare a request for proposal (hereafter referred to as an "RFP") containing at least the following:

- (a) Information and instructions relating to the preparation and filing of bid proposals.
- (b) Requirements regarding the development, operation and regulation of a system, including but not limited to the following:
 - (i) The length, renewal and transfer or assignment of the franchise, including foreclosure and receivership provisions,

- (ii) A description of the franchise territory and the extension of service,
- (iii) Access requirements,
- (iv) The system design,
- (v) Technical performance standards,
- (vi) Fees, records and reporting,
- (vii) Indemnification, insurance, and liability for damages, and
- (viii) Provision of an option for the city to acquire the system upon revocation or expiration of the franchise.

(c) Criteria to be used in evaluating applicant proposals.

(3) When a person is operating an existing system without a franchise, by resolution of the council, the city manager shall be directed to prepare a proposed franchise, containing at least the requirements listed in (2)(b) above, for presentation to the operator.

- (4) The council, by resolution, may:
- (a) Approve the RFP, or proposed franchise, as proposed, or modify or otherwise make amendments thereto as it deems necessary;
 - (b) Authorize the city manager to seek bids for a system pursuant to the RFP, or enter discussions with a current operator on the award of a franchise.

(5) The council may award a franchise only after a public hearing on the proposed franchise, notice of which shall be published in a local newspaper of general circulation in the city at least ten days prior to the date of the hearing. The potential franchisee shall be notified by mail of the public hearing; provided, however, that no defect in the notice or failure to notify shall invalidate the franchise awarded. The council may award the franchise, modify the proposed franchise and award or take no action.

(6) No franchise or award thereof shall be deemed final until adoption of a

resolution containing the terms and conditions thereof. The franchisee shall bear the costs of all publications and notices given in connection with the award of the franchise, and the costs incurred by the city in evaluating the proposed franchise.

(7) A request for renewal of a franchise will be considered and processed in conformance with federal law. The council may, by resolution, adopt procedures to be followed in the consideration of a renewal request.

7.615 Administration of Cable Communications Provisions and Franchise.

The council shall have the power to carry out any or all of the following functions:

(1) Employ the service of a technical consultant, to assist in the analysis of any matter related to any franchise, RFP or proposed franchise under sections 7.600 to 7.635;

(2) Act on applications for franchises;

(3) Act on matters which might constitute grounds for revocation or termination of a franchise pursuant to its terms;

(4) Resolve disagreements among franchisees and public and private users of the system;

(5) Consider requests for rate settings or adjustments;

(6) Coordinate and facilitate the use of access channels;

(7) Act in intergovernmental matters relating to systems, cooperate with regulators and operators of other systems, and supervise interconnection of systems;

(8) Review all franchisee records required by the franchise and, in the council's discretion, require the preparation and filing of information additional to that required by the franchise;

(9) Conduct evaluations of the system and the franchisee's compliance with franchise requirements at least every three years;

(10) Adopt and amend regulations and procedures necessary to enforce franchises and to clarify terms thereof;

(11) Appoint in advisory committee to assist the council in exercising its authority pursuant to sections 7.600 to 7.635;

(12) Any other actions the council deems necessary to carry out the purpose of sections 7.600 to 7.635.

7.620 Intergovernmental Agreements.

The council may enter into intergovernmental agreements as authorized by Oregon law, with any other jurisdiction to provide for the cooperative regulation and control of any aspect of a cable communications system. Such agreements may provide for the delegation of any and all powers of the council to an entity provided for in the intergovernmental agreement, except for the powers to enter into or revoke a franchise agreement.

7.625 Violation and Penalties.

(1) Any person, firm or corporation, other than the city, whether as principal, agent, employee or otherwise, violating or causing the violation of any provision of sections 7.600 to 7.635 or performing any of the acts or functions itemized under section 7.600, which defines a cable communications system, without having been awarded a franchise to perform said acts or functions pursuant to the terms of sections 7.600 to 7.635 shall be deemed to have committed an infraction.

(2) Violation by a franchisee of any provision of a franchise granted pursuant to sections 7.600 to 7.635 is an infraction.

(3) Each violation occurring on a separate day is considered a separate violation of sections 7.600 to 7.635.

7.630 Cumulative Remedies. The rights, remedies and penalties provided in this section are cumulative and not mutually exclusive and are in addition to any other rights, remedies and penalties available to the city under any other chapter or law.

7.635 Injunctive Relief. Upon authorization by the council, the city attorney may commence an action in the circuit court or other appropriate court to enjoin the continued violation of any provision of sections 7.600 to 7.635.