

ORDINANCE NO. 5059

AN ORDINANCE AMENDING TITLE 5 BUSINESS TAXES, LICENSES AND REGULATIONS; ADDING CHAPTER 5.40 - CARE FACILITY SPECIALTY BUSINESS LICENSE.

RECITALS:

The City of McMinnville is authorized by the Oregon Constitution and its City Charter to adopt local laws and regulations providing for the health, welfare and safety of its residents.

Approximately 3% of the City's residents are domiciled in Residential Care Facilities, Assisted Living Facilities, Nursing Facilities or Memory Care Facilities (collectively referred to as "Care Facilities"), which are licensed and certified by the State of Oregon. This segment of the population is among the most vulnerable of the City's citizens, often requiring dedicated medical and related support services. Due to the vulnerable nature of their residents, Care Facilities are heavily regulated by the State and require a heightened level of inspection and oversight by the City to ensure that the operation and maintenance of such facilities meets the City's building code, fire code and public safety requirements.

It is necessary to establish a specialty business license program for Care Facilities to provide for adequate levels of oversight for this industry operating with the City of McMinnville. The operation of Care Facilities is regulated by the City to ensure that the special health, safety, and welfare needs of these vulnerable citizens are met.

Calls for emergency medical services (EMS) to Care Facilities account for approximately 37% of all EMS system calls for service to the City; a call rate that is approximately 12 times larger than the EMS call rate for the general population. A significant portion of EMS calls to Care Facilities are for non-emergency medical services or other nonessential services that do not result in a medically necessary patient transport. This type of non-emergency and nonessential use of the City's EMS system negatively impacts the City's ability to provide emergency medical services to all of the City's residents.

Care Facilities in the City experience high levels of turnover among management staff, which requires that the City dedicate additional resources to such facilities for inspection, education and oversight activities in order to ensure that Care Facilities operate in a manner that meets the medical needs and expectations of their residents while not improperly utilizing the City's EMS system.

It is necessary to establish fees to reimburse the City for the costs associated with the use of the City's EMS system by Care Facilities for non-emergency medical and related support services that negatively impact the City's emergency medical response system.

NOW, THEREFORE, THE COMMON COUNCIL FOR THE CITY OF MCMINNVILLE HEREBY ORDAINS AS FOLLOWS:

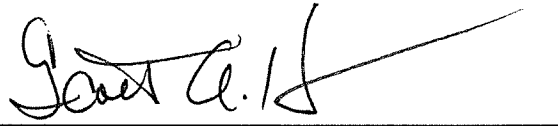
1. That Chapter 5.40 "Care Facility Specialty Business License" is added to the McMinnville City Code as provided in Exhibit A to this Ordinance.
2. That this Ordinance shall take effect 30 days after its passage by the City Council.

Passed by the Council on October 8, 2018, by the following votes:

Ayes: Garvin, Peralta, Ruden, Stassens

Nays: _____

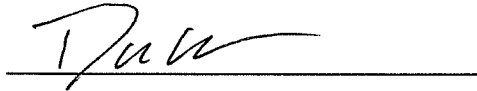
9 M6 10/23/18
Approved on October 8, 2018.



MAYOR

Approved as to form:

Attest:



CITY ATTORNEY



CITY RECORDER

Exhibit A

Chapter 5.40 – CARE FACILITY SPECIALTY BUSINESS LICENSE

Sections:

5.40.010 - Definitions.

5.40.020 - Specialty Business License Required

5.40.030 - Application for License; Issuance

5.40.040 - Examination of business premises; Administrative Hearing

5.40.050 - Display of license

5.40.060 - License Fees

5.40.070 - Standard of Care; Service Fees for Nonemergency Use of EMS System

5.40.010 - Definitions. For the purpose of this chapter, the following definitions will apply:

- A. "Assisted Living Facility" means an assisted living facility as defined in OAR 411-054-0005.
- B. "Care Facility" or "Care Facility business" means any establishment, whether operated for-profit or not-for-profit, that is licensed and certified by the State or Oregon as a Residential Care Facility, Assisted Living Facility, Nursing Facility, or Memory Care Facility.
- C. "EMS" or "EMS system" means the emergency medical services system operated by the City of McMinnville, using Paramedics, Emergency Medical Technicians, Ambulances and any other emergency response personnel or apparatus deemed appropriate for the provision of emergency medical services by the City.
- D. "Memory Care Facility" means a memory care facility as defined in OAR 411-057-0005.
- E. "Nursing Facility" means a nursing facility as defined in OAR 411-085-0005.
- F. "Person" means any person, firm, co-partnership, association, joint venture, syndicate, society or domestic or foreign corporation, and includes fraternal organizations, clubs, lodges and similar places or establishments employing full-time or part-time employees in any business which is not specifically exempt from the provisions of this chapter by the Constitution, laws or regulations of the United States or of the State.
- G. "Residential Care Facility" means a residential care facility as defined in OAR 411-054-0005.

5.40.020 – Specialty Business License Required.

- A. No person shall carry on any Care Facility business within the City without first obtaining from the City a specialty business license therefor, nor shall any person carry on any such business without complying with the provisions of this chapter.
- B. Any person that advertises or otherwise holds themselves out to the public as engaged in any Care Facility business for which a license is required, shall be conclusively presumed as carrying on a Care Facility business, and shall pay such fees as are required by this chapter.
- C. All monies received from a specialty business licenses issued under this chapter will be deposited in the General Fund for the purpose of supporting the City's building code, fire code, and public safety operations.
- D. The City Manager may adopt and enforce all policies, regulations and procedures deemed prudent and necessary to implement the provisions of this chapter.

5.40.030 - Application for License; Issuance

- A. Application for the license required by this chapter shall be made upon forms and in the manner provided by the City on or before the first day of January of each year for which a license is required.
- B. Any new Care Facility that is not in operation on or before the first day of the license year and that desires to conduct business within the City shall make application for the license required by this chapter to the Fire Department before starting a business.
- C. Incomplete applications will expire if not completed within ninety days. In the event a license application expires, the applicant may reapply for the business license upon payment of a new application fee.
- D. The Fire Department will review any completed application and, if it complies with all requirements of this chapter, including being legally allowed to operate in the City and all fees having been paid, the Fire Department will issue a license within thirty days of application being accepted as complete.

5.40.040 - Examination of business premises; Administrative Hearing.

- A. The City Manager is directed and empowered to authorize City officials and agents to investigate and examine all places of business licensed or subject to license under the terms of this chapter at any time and all reasonable times in accordance with applicable law for the purpose of determining whether such place of business is safe, sanitary and suitable for the business so licensed or for which application for license is made.
- B. The City Manager will adopt regulations that provide for notice and a right to administrative hearing if it is determined that any such place of business is dangerous to public health, safety, welfare or is likely to become or is at that time a public menace or nuisance. The purpose of the hearing will be to determine whether the concerned business will be permitted to receive a specialty business license, or if the concerned business had previously been issued a license, whether such license should be suspended or revoked.
- C. The notification to the concerned business shall set forth the time and place of the hearing and will cite specific incidents that constitute the basis for the determination by any City officer or agent that the concerned business is dangerous to either public health, safety, welfare or is likely to become or is at the present time a public menace or nuisance.

5.40.050 - Display of license.

- A. All licenses issued in accordance with this chapter must be openly displayed in the place of business or kept on the person or on the vehicle of the person licensed and shall be immediately produced and delivered for inspection to the Chief of Police, the Chief of the Fire Department, the Code Compliance Officer, other departments and/or their agents and subordinates, when so requested.
- B. If any person operates a business in the City in more than one location, each location shall be considered a separate business for the purpose of this chapter.
- C. The issuing of a license pursuant to this chapter or the collection of a fee or tax shall not permit any person to engage in any unlawful business.

5.40.060 – License Fees.

- A. All persons, upon submittal of an initial application for a Care Facility Specialty Business License, must pay an application fee.
- B. Prior to issuance of an initial Care Facility Specialty Business License and prior to each subsequent annual license renewal, each applicant or licensee must pay a Care Facility Specialty Business License Fee to the City, which will be calculated for each facility based upon the number of Residential Care Facility beds for residents at the facility. The amount of the specialty business license fee will be established by Resolution of the City Council.

- C. If an application is received on or before June 30, the full application fee and the full annual license fee is required. An application received on or after July 1 will be charged the full application fee and one-half the annual license fee.
- D. License fees not paid within thirty days of the required date shall be deemed delinquent. An initial collection charge may be imposed for delinquent fees. An additional collection charge equal to a percentage of the fee may be imposed for each month or portion thereof that the fees remain delinquent. The City Manager is authorized to waive payment of collection fees under circumstances where imposition thereof would create an injustice or unreasonable hardship.
- E. The fees imposed by this chapter shall be in addition to the general ad valorem taxes now or hereafter levied pursuant to law. All ordinances of the City in force on the effective date of the ordinance codified in this chapter pertaining to or covering any business, pursuit or occupation and providing a license or condition for its operation, shall remain in full force and effect to the extent not directly in conflict with the provisions of this chapter.
- F. No transfer or assignment of any license issued hereunder shall be valid or permitted, except that whenever any person sells or transfers in, and the fee has been paid, then the vendee thereof shall not be required to pay the balance of the license year.
- G. In the event the applicable classification or fees assessable to a business require clarification or interpretation, any interested person may request a determination by the City Manager, whose decision shall be final. The City Manager is authorized to waive all or a portion of established fees to meet the intent and purpose of this chapter.

5.40.070 – Standard of Care; Service Fees for Nonemergency Use of EMS System

- A. Care Facilities that are required to obtain a Specialty Business License from the City are expected to provide a standard of care for their residents that meets or exceeds the requirements of the State of Oregon without assistance from the City's EMS system. In addition to any requirements imposed by the State, Licensed Care Facilities are expected to be capable of performing the following activities without the assistance of the City's EMS system:
 - 1) Assisting residents who have fallen and are not injured;
 - 2) Evaluating a resident who experiences a change of condition;
 - 3) Performing a lift assist;
 - 4) Assisting residents to renew their prescriptions in a timely manner;
 - 5) Transporting residents to hospital because Care Facility failed to assist a resident in renewing their prescription;
 - 6) Starting an IV;
 - 7) Replacing a Foley Catheter;
 - 8) Performing Wound Care; or,
 - 9) Transporting a resident by Wheel Chair car, medical taxis, and stretcher cars, or Facility van, whether for the convenience of a patient, family, physician or Licensed Care Facility.
- B. Care Facilities will be assessed a service fee for each non-emergency use of the City's EMS system for the purpose of:
 - 1) providing non-emergency or nonessential services described in this Section;
 - 2) complying with corporate or company policies designed to transfer liability from the Care Facility,
 - 3) transporting patients from a Licensed Care Facility for services that the Licensed Care Facility is expected to be capable of performing with its own resources and staff;
 - 4) transporting patients by ambulance service when not medically necessary; and
 - 5) transporting patients at a higher level of service (Advanced Life Support) when a lower level of service would suffice (i.e. Wheel Chair car, medical taxis, and stretcher cars, or Facility van).

- C. The determination regarding whether to assess a fee for any EMS call to the facility for non-emergency calls will be made by the ranking City Officer on scene in response to the EMS call.
- D. The amount of the fee for non-emergency use of the City's EMS system will be established by Resolution of the City Council.
- E. All monies received by the City from fees authorized by this Section shall be deposited in the Ambulance Fund for the purpose of supporting the City's EMS operations.
- F. Care Facilities are prohibited from seeking reimbursement or payment of any portion of the fees imposed by this Section from any resident or patient of the facility. Violation of this subsection by any person is classified as a Class A Violation, pursuant to ORS 153.012.