



RESOLUTION 2022-21

AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT WITH BENTON COUNTY TO PROVIDE TOBACCO RETAIL LICENSING WITHIN THE CITY OF MONROE

WHEREAS, the State of Oregon requires all retailers of tobacco products within the City of Monroe to be licensed; and

WHEREAS, the State of Oregon requires the City to administer licensing of tobacco retailers in its jurisdiction that includes verification of all standards and rule established by Oregon Statutes; and

WHEREAS, Benton County has in place the rules and procedures to administer Tobacco Retail Licensing to meet relevant Oregon Statutes though Chapter 17 of its codes; and

WHEREAS, Benton County can administer tobacco retail licensing at a lower cost to Monroe retailers than through the State of Oregon; and

WHEREAS, the City of Monroe does not, at present, the resources to administer a similar tobacco retail licensing program as does Benton County;

NOWHEREFORE, the City of Monroe does hereby authorize and adopt the agreement between Benton County and the City of Monroe to administer a tobacco retail licensing program "Attachment A"; and authorizes Mayor Dan Sheets to sign the Intergovernmental Agreement with Benton County to establish and administer the licensing program.

Adopted by the City Council this 24th day of October, 2022.

APPROVED:



Dan Sheets, Mayor



Date

ATTEST:



Steve Martinenko, City Recorder

ATTACHMENT A

INTERGOVERNMENTAL AGREEMENT FOR TOBACCO RETAILING LICENSING

This Agreement is entered into between Benton County, a political subdivision of the State of Oregon ("Benton"), and the City of Monroe, an Oregon municipality ("Monroe"), each a unit of local government as defined by ORS 190.003, for the purpose of providing cost effective tobacco retail licensing administrative and enforcement services, as follows:

RECITALS

- ORS 190.010 authorizes units of local governments to enter into agreements for the performance of any or all functions and activities that a party to the agreements, its officers or agents, have authority to perform; and
- Benton and Monroe have the authority to perform the functions and activities set forth in this Agreement; and
- Benton has adopted Benton County's Tobacco Retail License Code (BCC) Chapter 17, establishing a tobacco retail licensing program; and
- Monroe has the need for Benton to administer and enforce BCC ch. 17 within the city limits; and
- Benton has the ability to provide, and experience in providing tobacco retail licensing administrative and enforcement services; and
- There are increased efficiencies through intergovernmental cooperation, which benefit both Monroe and Benton.

AGREEMENT

A. Obligations of the Parties:

1. In general, Benton agrees to administer and enforce BCC ch. 17, regarding tobacco retail licensing within the corporate limits of the City of Monroe. Specifically, Benton will:
 - a. Review applications for retail licenses and verify the appropriateness of and eligibility for issuance, including verification of all standards established in BCC ch. 17, including proximity to schools and proximity to another tobacco retailer.
 - b. Collect retail tobacco licensing fees and any fines.
 - c. Issue annual retail tobacco licenses, as applied for and approved by Benton.
 - d. Verify compliance with all standards and requirements of BCC ch. 17, including at least one on-site visit per retailer, per twelve-month period.
 - e. Issue citations, suspend, revoke or not renew tobacco retail licenses per BCC ch. 17.
 - f. Commence legal actions and prosecutions as needed to enforce BCC ch. 17, including actions taken against tobacco retailers operating without a valid license.
 - g. Seize all products offered for sale or exchange in violation of BCC ch. 17.
 - h. Maintain all records related to the administration and enforcement of BCC ch. 17 on behalf of Monroe.

- i. Ensure retailer compliance with age verification requirements.
 - j. Verify compliance with all applicable local, state, or federal laws or regulations applicable to the sale of tobacco products or paraphernalia.
 - k. Provide services per this Agreement at no cost to City, relying only upon the collection of fees and fines, as set forth in BCC ch. 17 and Section A(1)(b), above.
 - l. Advise City in advance of any proposed fee adjustments to BCC ch. 17.
 - m. Provide annual reporting of regular inspection results and, if utilized, the "minor decoy inspections", within 90 days of conclusion of inspection period.
 - n. Provide City with an annual list of licensed retailers, including license status updates.
 - o. Process all retailer complaints, and apprise City staff of Benton's actions relating to BCC ch. 17 administration and the resolution of all complaints filed.
2. City will establish a City staff point of contact and provide Benton with that staff's full contact information in order to allow for the efficient and timely performance of Benton's obligations under this Agreement.

B. Term & Termination:

1. This Agreement is effective when signed by all parties and expires on June 30, 2025, unless extended by written mutual agreement.
2. Termination: This Agreement shall continue through its term or until terminated by mutual written agreement or as provided in Section B(3), below.
3. This Agreement may be terminated by either party upon providing written notice to the other party on or before December 31st of each year, effective July 1st of the following year.

C. Dispute Resolution. The parties are required to exert every effort to cooperatively resolve any disagreements that may arise under this Agreement. This may be done at any management level, including at a level higher than the persons directly responsible for the administration of this Agreement. In the event that the parties alone are unable to resolve any conflict under this Agreement, the parties agree to use good faith efforts to resolve their differences through mediation, if agreed to by both parties, or binding arbitration.

D. Indemnification. To the extent permitted by the Oregon Constitution and by the Oregon Tort Claims Act, and to the extent otherwise provided for in private contracts of insurance, each party agrees to indemnify, defend, and hold the other, its elected officials, agents, officers and employees, harmless from all damages, losses and expenses, including but not limited to attorney fees, and to defend all claims, proceedings, lawsuits and judgements arising out of or resulting from that party's performance or failure to perform under this Agreement. However, neither party will be required to indemnify or defend the other for any liability arising solely out of the wrongful acts of its own elected officials, officers, employees or agents.

E. Amendments. This Agreement may only be modified by written agreement signed by all parties.

F. Waiver. The failure of any party to enforce any provision of this Agreement does not waive that or any other provision.

G. Force Majeure. Neither party will be held responsible for delay nor default due to Force Majeure acts, events or occurrences unless they could have been avoided by the exercise of reasonable care, prudence, foresight and diligence by that party.

H. Merger. This Agreement constitutes the entire agreement between the parties. No waiver, consent, modification, or change of terms of this Agreement binds any party unless in writing and signed by all parties. There are no understandings, agreements or representations, oral or written, not specified herein regarding this Agreement.

EACH PARTY, BY EXECUTION OF THIS AGREEMENT, HERBY ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

Benton County

City of Monroe

County Administrator

Date: _____

City Manager

Date: _____

Reviewed as to Form:

Benton County Counsel

Date: _____