

### **734-059-0020**

#### Business Defined

- (1) As used in OAR chapter 734, division 059, unless the context of the rule requires otherwise, a business means a commercial or industrial enterprise operated with the intent of economic gain.
- (2) The location of a business includes the main buildings as well as other physical areas necessary or customarily incident to the business, including a limited amount of open space as is arranged and designed to be used in immediate connection with such buildings and uses.
- (3) In determining whether a location is a business, the Department may consider the totality of the circumstances, including but not limited to the following:
  - (a) Whether the operation is open to potential customers;
  - (b) Whether the operation has the appropriate license, permit, or meets other requirements to operate under local, state, and federal law;
  - (c) How long the operation has been in existence;
  - (d) Whether the primary use of the location is as a residence;
  - (e) Whether the location has indices of operation such as telephone and other communication service, appropriate equipment, appropriate vehicular access, parking and other facilities, regular hours of operation, etc.
- (4) Vacant lots, fields used for crops, grazing or timber are not considered the location of a business.
- (5) The following are not businesses for the purposes of ORS 377.710(20):
  - (a) public or private utilities (e.g. telephone poles, cell phone towers)
  - (b) railroad tracks
  - (c) outdoor advertising sign or other signs

### **734-059-0025**

#### Activity Open to the Public

As used in OAR chapter 734, division 059, unless the context of the rule requires otherwise, an activity open to the public means a location, the main purpose of which involves the admission of or providing service to members of the public. This includes without limitation:

- (a) places of worship
- (b) educational facilities
- (c) meeting halls
- (d) facilities of non-profit or charitable organizations
- (e) public parks
- (f) government offices

### **734-059-0030**

#### Compensation Defined

- (1) As used in OAR chapter 734, division 059, unless the context of the rule requires otherwise, compensation means the exchange of something of value. It includes, without limitation, money, securities, real property interest, personal property interest, barter of goods or services, promise of future payment, or forbearance of debt.
- (2) Compensation does not include:
  - (a) Goodwill;
  - (b) The exchange of a *de minimis* value in relation to the benefit acquired. When an exchange of substantial value is for a purpose other than posting of a sign on the land, and a negligible amount of value is added for the sake of a sign as an accessory to that purpose, the Department may consider that a *de minimis* amount that does not constitute compensation for purposes of ORS 377.710(20).
  - (c) An exchange of value that a land owner (or other person with a right to possession of the land) provides to a sign company when:
    - (A) The compensation to the sign company is only for sign structure construction or maintenance on behalf of the land owner; and
    - (B) The land owner fully controls the content of the sign.
- (3) In all cases the Department shall consider the totality of the circumstances, including without limitation, whether the compensation arrangement is reasonable and credible.