

TITLE XI: BUSINESS REGULATIONS

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CHAPTER 110: OCCUPATIONAL LICENSE FEE

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§ 110.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words and expressions in the singular shall include the plural, and words and expressions in the masculine shall include the feminine and the neuter.

ADMINISTRATOR. The official designated by the City Council to supervise and administer the terms of this chapter, or the City Clerk when the city does not have an Administrator.

ASSOCIATION. A partnership or any other form of unincorporated enterprise owned by two or more persons.

BUSINESS. An enterprise, activity, profession or undertaking of any nature conducted for gain or profit, whether conducted by an individual, co-partnership, association, corporation or other entity, but shall not include the usual activities of a board of trade, chamber of commerce, trade association or labor union, community chest fund or foundation, corporation or association organized and operated

exclusively for religious, charitable, scientific, literary, educational or fraternal purposes, where no part of the earnings, income or receipts of such units, groups or association inures to the benefit of any private shareholder or other person, and so recognized by the Internal Revenue Service under Section 501 (c) of the United States Internal Revenue Code.

COMPENSATION. The amount paid to any natural person for services rendered, in money or value in kind, regardless of the form or method of payment. It includes the receipt, whether actual or constructive, by an individual of the earnings of an individual business enterprise or of a partnership.

CORPORATION. A corporation or joint stock company organized under the laws of the United States, the Commonwealth of Kentucky, another state, territory or foreign country or dependency thereof.

EMPLOYER. An individual, co-partnership, association, corporation, governmental body or any other entity who (or that) employs one or more persons on the basis of a salary, wage, commission or other compensation, regardless of whether such employer is engaged in business, and includes all non-profit, charitable, religious and fraternal and like or similar organizations, groups or associations.

LICENSEE. Any person required hereunder to file a separate return or to pay a license fee thereon under this chapter.

NET PROFIT. The net income from the operation of a business after provision for all costs and expenses incurred (or disbursed) in the conduct thereof, and the term shall be defined as the same as reported for federal income tax purposes, excluding items exempt hereunder, but without the deduction of taxes based on income.

NONRESIDENT. An individual, co-partnership, fiduciary, or association or other entity domiciled outside the city.

PERSON. Every natural person, co-partnership, fiduciary, association or corporation. Whenever the term **PERSON** is used in any clause prescribing and imposing a penalty in the nature of a fine or imprisonment, the word, as applied to an association, shall mean the partners or members thereof, and as applied to a corporation, shall mean the officers and directors thereof.

RESIDENT. An individual, co-partnership, association, corporation or other entity domiciled or having a business situs in the city.

SALES. Net sales of merchandise or of services, or both, computed by whatever method of accounting is authorized for federal income tax purposes.

SALES WITHIN THE CITY. Sales of merchandise delivered to a customer within the city or of services performed within the city for a customer.

TAXPAYER. Any person or business made liable for taxation or for the payment of amounts withheld from employees under the terms of this chapter.

YEAR. The calendar year or the fiscal year employed by a business subject to the license tax imposed by this chapter, if the taxpayer reports for federal income tax purposes on the basis of a period other than the calendar year. If, under any of the provisions of this chapter a period of less than a full year is involved, the full-year basis of computation shall be employed and the fraction of a year allocated by employing the ratio of the number of full months of tax liability to the number of months in a calendar year.

(Ord. 85-4, passed 6-24-85)

§ 110.02 LICENSE FEE IMPOSED; INTENT.

(A) There is hereby levied and imposed, for the purposes of the General Fund of the city, an annual license fee upon all persons, associations and/or corporations for the privilege of engaging in occupations, trades, professions or any other business activity, which license fee shall be measured by and equal to 1% of all salaries, wages, commissions and other compensations earned by such persons for work done or services performed or rendered in the city; and the net profits of all businesses, professions or occupations from activities conducted in the city.

(B) Where such salaries, wages, commissions and other compensation are earned for work done or services performed or rendered both within and without the city, said license fee shall be measured by such part of the salaries, wages, commissions or other compensation as is earned as a result of work done or service performed or rendered within the city. Such license fee shall be computed by obtaining the percentage which the compensation for the work performed or services rendered within the city bears to the total compensation earned.

(C) Whenever the net profit or gain from any trade, occupation, profession or business activity is derived from activity or business both within and without the city, the license fee required under this chapter shall be computed and paid upon the proportion of net profit or gain derived from activity within the city.

(D) It is not the intention of the city or this chapter to impose and require any occupational license fee prohibited by law.

(Ord. 85-4, passed 6-24-85; Am. Ord. 94-09, passed 6-14-94)

§ 110.03 COMPUTATION OF FEE.

The net profits of business, trades, occupations or professions conducted both within and without the city shall be computed as follows:

(A) The entire net profits from all sources shall be multiplied by the business allocation percentage, which shall be that percentage which the gross receipts of the licensee from sales or services rendered within the city bears to the total gross receipts from sales or services rendered wherever made.

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(B) Sales within the city shall be sales of merchandise made within the city and delivered to a customer within the city or services performed within the city for a customer.

(C) Gross receipts earned within the city shall also include rentals from property situated in Lebanon, where the rental of such property is a business activity.

(D) Receipts from sales of capital assets, that is, property not held by the licensee for sale to customers in the regular course of business, are not subject business receipts.

(E) Receipts from the sale of real property held by the licensee as a dealer or broker from sale to customers in the regular course of business are subject business receipts and are allocable to Lebanon if the real property be situated in the city.

(F) Receipts from sales of intangibles included in business capital, held by the licensee as a dealer for sale to customers in the regular course of business, are subject business receipts and are allocable to the city if the sales were made in the city or through a regular place of business of the licensee in the city.

(G) Where a lump sum is received by the licensee in payment for services within and without the city, the amount attributable to services within the city is to be determined on the basis of the relative values of, or amounts of time spent in the performance of, such services within and without the city, or by some other reasonable method approved by the Administrator.

(H) All receipts of the period covered by the report (computed on the cash or accrual basis, in accordance with the method used in the computation of the licensee's entire net income) must be taken into account.

(Ord. 85-4, passed 6-24-85)

§ 110.04 APPORTIONMENT OF COMPENSATION OR NET PROFIT OR GAIN.

In all cases of license fees computed upon the basis of apportionment of compensation or net profit or gain, as provided in § 110.03, the apportionment may be shown by the sworn statement of the licensee or employer, but shall not be binding upon the city. Such an apportionment shall be subject to verification and determination by the Administrator or his/her agents or employees through examination and audit of the books and records of the licensee or employee, or both, as required by the Administrator.

(Ord. 85-4, passed 6-24-85)

§ 110.05 EXEMPTIONS.

(A) Wages, salaries or other compensation received by domestic servants employed in a private home shall, because of the undue burden of administration, be exempt from the operation of this chapter.

(B) Governmental entities and bona fide non-profit organizations shall be exempted from the requirement of filing an annual return of net profits and from the payment of an annual license fee, but such exemption shall not extend to the requirement of withholding and, reporting license fees for employees of such governmental entities or non-profit corporations.

(Ord. 85-4, passed 6-24-85)

§ 110.06 BUSINESS LICENSE REQUIRED.

Every person conducting a business as defined in this chapter shall first obtain a license from the Administrator before the commencement of such business, the fee for which shall be \$25, except as provided in § 110.09. Said fee shall be credited upon the payment of the annual license fee at the time of the annual filing, as provided elsewhere in this chapter.

(Ord. 85-4, passed 6-24-85)

§ 110.07 RESPONSIBILITIES OF EMPLOYERS.

(A) Each employer who employs one or more persons within the city shall deduct monthly, or more often than monthly, at the time of payment thereof, the license fee due from each employee measured by the amount of salaries, wages, commissions or other compensation due by said employer to said employee, and shall pay to the Administrator the amount of license fees so deducted, less 2% of such fees.

(B) The payment required to be made on account of deductions by employers with fewer than 20 employees shall be made quarterly, on or before the last day of the month next following the end of the quarter, for the quarterly periods ending March 31, June 30, September 30 and December 31 of each year. The payment required to be made on account of deductions by employers with 20 or more employees shall be made monthly, on or before the last day of the next succeeding month.

(C) Each employer affected by this section shall furnish to each employee, on or before January 31 of each year, a statement showing the amount of wages, salaries, commissions or other compensation earned within the city and the amount of license fee deducted and paid by said employer during the preceding calendar year.

(D) Each employer affected by this section shall, annually, during the month of January, make a return to the Administrator in which is set forth the name and residence of each employee of said employer during the preceding calendar year, giving the amount of salaries, wages, commissions or other compensation earned during such preceding year, the amount of license fee withheld from each employee, together with such other pertinent information as the Administrator may require. Provided, however, that the failure or omission by any employer to deduct such license fee shall not relieve the employee from the payment of such license fee and compliance with such regulations with respect to making returns and payments thereof, as may be fixed in this chapter or established in regulations published by the Administrator as authorized in § 110.12.

(Ord. 85-4, passed 6-24-85)

§ 110.08 RESPONSIBILITY OF PERSONS REQUIRED TO PAY FEE.

(A) Each person required to pay a license fee imposed by this chapter, whose license fee is not withheld by his/her employer, shall, on or before the fifteenth day of the fourth month following the close of each year, make and file with the Administrator a return, in duplicate, on a form furnished by the Administrator, setting forth the aggregate amount of salaries, wages, commissions and other compensation or net profits during the preceding year, with such other pertinent information as the Administrator may require. Provided, however, that where the entire amount of license fee due has been withheld under the provisions of §§ 110.02, 110.06, 110.07 or 110.09, the Administrator may, upon the written request of such licensee, waive the requirement of the filing of said return by the licensee.

(B) Provided further that where the fiscal year of the business, profession or other activity differs from the calendar year and the licensee files a federal income tax return for such other fiscal period, the license fee shall be measured by the net profits of the fiscal year, and where the return is made for a fiscal year or any other period different from a calendar year, the said return shall be made on or before the fifteenth day of the fourth month following the end of the said fiscal year or other period.

(C) Such return shall show the amount of the license fee imposed by this chapter.

(D) The person making the return shall, at the time of the filing thereof, pay to the Administrator the amount of license fees shown as due thereon, less 2% of such fees. Provided, however, that where any portion of the license fee so due shall have been deducted at the source, credit for such amount shall be deducted from the amount shown to be due and only the balance, less 2% of the balance, if any, shall be due and payable at the time of the filing of the return, as hereinabove provided.

(E) The Administrator shall have the authority to extend the time for filing of said return, upon written request of the licensee, at the discretion of the Administrator. Provided, however, that any balance unpaid when payment is due under the terms of this chapter shall bear interest at the rate of 12% per annum until paid.

(Ord. 85-4, passed 6-24-85)

§ 110.09 MINIMUM LICENSE FEES REQUIRED OF CERTAIN BUSINESSES.

The legislative body of the City of Lebanon hereby finds that the following occupations and businesses are of such a nature as to require special regulation and supervision for the public good and safety, and therefore the following minimum license fees are imposed on every person, corporation, association, or other entity engaged in the enumerated businesses, occupations, callings or professions, or using, holding or exhibiting articles or things named in this section, and each such person, association, corporation or other entity shall pay in advance to the city for each calendar year or fiscal year, in accordance with the yearly basis used by the licensee in making a return under the terms of this chapter, the license fee or fees herein set forth, which payment shall be a credit on the license fee as otherwise provided under this chapter. In the event a licensee engages in more than one type of activity within a single business entity, the highest minimum license fee shall apply.

(A) Agents, representatives or solicitors, not otherwise specifically licensed or specifically provided for, taking or soliciting orders or making sales, the fee of \$10 per day or \$100 yearly, payable before commencing the activity.

(B) Auction house or lot, the fee of \$10 per day or \$100 yearly, payable before commencing the activity.

(C) Auctioneers, not otherwise licensed, the fee of \$10 per day or \$100 yearly, payable before commencing the activity.

(D) Collection agencies, the fee of \$100 yearly, payable at the beginning of the year.

(E) Itinerant contractors, painters, plumbers, plasterers and like or similar occupations, the fee of \$10 yearly for each person engaged in the employment or occupation, payable at the beginning of the year or before commencing the activity.

(F) Pawnbrokers, the fee of \$100 yearly, payable at the beginning of the year.

(G) Peddlers and itinerant merchants of any kind of merchandise from any car, truck, lot or premises, the fee of \$35 per day or \$100 per year, payable before commencing the activity.

(H) Pool room, billiards parlor or game room the fee of \$100 per year, payable at the beginning of the year.

(I) Trucks, truck-trailers, semi-trailers, trailers, automobiles, wagons or drays used for the purpose of hauling, transporting, loading or unloading any freight, livestock, furniture, machinery, junk, fruit, vegetables, groceries, fixtures, produce, appliances, equipment or any other merchandise, the fee of \$5 per day or \$30 per year for each such vehicle, payable before commencing the activity. No license shall be required for any truck or vehicle which is either: exempted by the Kentucky Revised Statutes from the payment of city license taxes, or operated by any farmer exclusively for the transportation of the products of his/her farm or land, or used exclusively by any person, firm or corporation otherwise licensed by the city to engage in a business or occupation when used by said person, firm or corporation to call on or make deliveries to its customers.
(Ord. 85-4, passed 6-24-85)

Cross-reference:

Peddlers, itinerant merchants, and solicitors, see Chapter 111

§ 110.10 COLLECTION OF FEES; RECORDS AND REPORTS.

It shall be the duty of the Administrator to collect and of the Treasurer to receive the license fees imposed by this chapter. The Administrator shall keep records showing the amount received by him/her from each licensee and employer and the date of such receipt, but such records shall be subject to the safeguards provided in § 110.11. The Administrator shall report at least quarterly to the Mayor and the City Council the sum of license fees collected.

(Ord. 85-4, passed 6-24-85)

§ 110.11 CONFIDENTIALITY OF INFORMATION.

(A) Any information concerning an individual licensee or taxpayer gained by the Administrator or by any other official, agent or employee of the city as a result of any returns, investigations, hearings or verifications required or authorized by this chapter shall be confidential and shall not be deemed to constitute public information under the Open Records Law, except for official purposes and except in accordance with proper judicial order, or as otherwise provided by law.

(B) Provided, however, such persons acting officially on behalf of the city may disclose to the Commissioner of Revenue of the Commonwealth of Kentucky or his/her duly authorized agent all such information and grant to such persons the right to inspect any of the books and records of the city if said Commissioner of Revenue of the Commonwealth of Kentucky grants to the city the reciprocal right to obtain information from the files and records of the Department of Revenue of the Commonwealth of Kentucky, and maintains the privileged character of the information so furnished by the city to him/her.

(Ord. 85-4, passed 6-24-85)

§ 110.12 RULES AND REGULATIONS; EXAMINATIONS BY ADMINISTRATOR.

(A) The Administrator is hereby charged with the enforcement of the provisions of this chapter and is hereby empowered to prescribe, adopt, promulgate, publish and enforce rules and regulations relating to any matter or thing pertaining to the administration and enforcement of the provisions of this chapter. Said regulations may include, but are not limited to, provisions for the re-examination and correction of returns as to which an overpayment or underpayment is claimed or found to have been made and prescription of the format in which returns and other reports are required to be made. The rules and regulations made and promulgated by the Administrator shall be binding upon the licensee and the employers upon their publication in the *Lebanon Enterprise*.

(B) The Administrator or any agent or employee designated in writing by him/her is hereby authorized to examine the books, papers and records of any employer or supposed employer, or of any licensee or supposed licensee, in order to determine the accuracy of any return made, or if no return was made, to ascertain the amount of license fee imposed by the terms of this chapter.

(C) Each such employer or supposed employer or licensee or supposed licensee is hereby directed and required to give to the Administrator or his/her duly authorized agent or employee the means, facilities and opportunity for such examination and investigation as are hereby authorized.

(D) The Administrator is hereby authorized to examine any person under oath concerning any wages, salaries, commissions or other compensation or net profits which were or should have been returned, and to this end he/she may compel the production of books, papers, records and the attendance of all persons before him/her, whether as parties or as witnesses, whom he/she believes to have knowledge of such wages, salaries, commissions or other compensation or net profits, to the extent that any officer empowered to administer oaths in the Commonwealth of Kentucky is permitted to so order.

(Ord. 85-4, passed 6-24-85)

§ 110.13 PENALTY AND INTEREST ON UNPAID FEES.

(A) All license fees imposed by this chapter remaining unpaid after they become due shall bear interest at the rate of 12% per annum, and the person from whom the license fees are due shall further be charged a penalty of 0.5% of the amount of the unpaid license fee for each month or fraction of a month said license fees remain unpaid.

(B) Any person or employer who fails or refuses to withhold monthly the license fee measured by a per centum of salaries, wages, commissions or other compensation, or who fails to pay said license fees, after withholding the same, to the Administrator at the time it is due as provided under the terms of § 110.07 shall become liable for the amount due to the city, and the same shall bear interest at the rate of 12% per annum, in addition to which a penalty of 0.5% of such amount shall be added thereto for each month or fraction of a month said license fees remain unpaid.
(Ord. 85-4, passed 6-24-85)

§ 110.14 ANNUAL LICENSE PERIOD.

(A) The annual license period shall be from the first day of January through December 31, except for licensees otherwise authorized to use a different fiscal year.

(B) Licensees authorized to file returns for a fiscal period other than the calendar year shall have credits applied to the amount of license fee due in a corresponding and proportional manner, on a month-by-month basis.
(Ord. 85-4, passed 6-24-85)

§ 110.99 PENALTY.

(A) Any person or corporation who shall fail, neglect or refuse to make any return required by this chapter, or any employer who shall fail to withhold said license fees or to pay over to the city fees withheld under the terms of this chapter, or any person who shall refuse to permit the Administrator or any agent or employee designated by him/her, to examine him or her, or his or her books, records and papers, or who shall knowingly make any incomplete, false or fraudulent return, or who shall attempt to do anything whatever to avoid the full disclosure of the amount of earnings, compensation or profits subject to the terms of this chapter in order to avoid the payment of the whole or any part of the license fee shall be guilty of a misdemeanor, and upon conviction, be subject to a fine or penalty of from \$300 to \$500 for each offense, within the discretion of the court, in addition to any or all of the other penalties provided for in this chapter.

(B) Any person, firm or corporation who shall engage in any occupation without first obtaining the required license therefor, or who shall fail to pay the required license fee when the same shall be due, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than \$100 nor more than \$500 for each offense, and each day that any person, firm or corporation continues to operate without the required license shall be deemed a separate offense.

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(C) Every breach of confidence as provided for in § 110.11 shall constitute a separate offense, and any person or agent divulging such information shall, upon conviction, be guilty of a misdemeanor and shall be subject to a fine of not exceeding \$100 or imprisonment of not exceeding ten days, or both, at the discretion of the court.

(Ord. 85-4, passed 6-24-85)

CHAPTER 111: PEDDLERS, ITINERANT MERCHANTS, AND SOLICITORS

Section

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- 111.02 License requirement
- 111.03 Application procedure
- 111.04 Standards for issuance
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- 111.07 Appeal procedure
- 111.08 Exhibition of identification
- 111.09 Sale of food from motor vehicles
- 111.10 Standards for on-street solicitation

- 111.99 Penalty

Cross-reference:

Minimum license fees required of certain businesses, see § 110.09

§ 111.01 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUSINESS. The business carried on by any person who is an itinerant merchant, peddler, or solicitor as defined in this section.

GOODS. Merchandise of any description whatsoever, and includes, but is not restricted to, wares and foodstuffs.

ITINERANT MERCHANT. Any person, whether as owner, agent, or consignee, who engages in a temporary business of selling goods within the city and who, in the furtherance of such business, uses any building, structure, vehicle, or any place within the city.

PEDDLER.

(1) Any person who travels from place to place by any means carrying goods for sale, or making sales, or making deliveries; or

(2) Any person who, without traveling from place to place, sells or offers goods for sale from any public place within the city.

A person who is a peddler is not an itinerant merchant.

SOLICITOR. Any person who travels by any means from place to place, taking or attempting to take orders for sale of goods to be delivered in the future or for services to be performed in the future. A person who is a solicitor is not a peddler.

§ 111.02 LICENSE REQUIREMENT.

(A) Any person who is an itinerant merchant, peddler, or solicitor shall obtain a license before engaging in such activity within the city.

(B) The fee for the license required by this chapter shall be as set forth in § 110.09.

(C) No license issued under this chapter shall be transferable.

(D) All licenses issued under this chapter shall expire 90 days after the date of issuance thereof. Penalty, see § 111.99

§ 111.03 APPLICATION PROCEDURE.

(A) All applicants for licenses required by this chapter shall file an application with the City Clerk. This application shall be signed by the applicant if an individual, or by all partners if a partnership, or by the president if a corporation. The applicant may be requested to provide information concerning the following items:

(1) The name and address of the applicant;

(2) (a) The name of the individual having management authority or supervision of the applicant's business during the time that it is proposed to be carried on in the city;

(b) The local address of such individual;

(c) The permanent address of such individual;

(d) The capacity in which such individual will act;

(3) The name and address of the person, if any, for whose purpose the business will be carried on, and, if a corporation, the state of incorporation;

(4) The time period or periods during which it is proposed to carry on applicant's business;

- (5) (a) The nature, character, and quality of the goods or services to be offered for sale or delivered;
- (b) If goods, their invoice value and whether they are to be sold by sample as well as from stock;
- (c) If goods, where and by whom such goods are manufactured or grown, and where such goods are at the time of application;
- (6) The nature of the advertising proposed to be done for the business;
- (7) Whether or not the applicant, or the individual identified in division (A)(2)(a) above, or the person identified division (A)(3) has been convicted of any crime or misdemeanor and, if so, the nature of each offense and the penalty assessed for each offense.

(B) Applicants for peddler or solicitor licenses may be required to provide further information concerning the following items, in addition to that requested under division (A) above:

- (1) A description of the applicant;
- (2) A description of any vehicle proposed to be used in the business, including its registration number, if any.

(C) All applicants for licenses required by this chapter shall attach to their application the following:

- (1) If required by the city, copies of all printed advertising proposed to be used in connection with the applicant's business;
- (2) If required by the city, credentials from the person, if any, for which the applicant proposes to do business, authorizing the applicant to act as such representative.

(D) Applicants who propose to handle foodstuffs shall also attach to their application, in addition to any attachments required under division (C), a statement from a licensed physician, dated not more than ten days prior to the date of application, certifying the applicant to be free of contagious or communicable disease.

Penalty, see § 111.99

§ 111.04 STANDARDS FOR ISSUANCE.

(A) Upon receipt of an application, an investigation of the applicant's business reputation and moral character shall be made.

(B) The application shall be approved unless such investigation discloses tangible evidence that the conduct of the applicant's business would pose a substantial threat to the public health, safety, morals, or general welfare. In particular, tangible evidence of any the following will constitute valid reasons for disapproval of an application:

- (1) Has been convicted of a crime of moral turpitude; or
- (2) Has made willful misstatements in the application; or
- (3) Has committed prior violations of ordinances pertaining to itinerant merchants, peddlers, solicitors, and the like; or
- (4) Has committed prior fraudulent acts; or
- (5) Has a record of continual breaches of solicited contracts; or
- (6) Has an unsatisfactory moral character.

§ 111.05 REVOCATION PROCEDURE.

Any license or permit granted under this chapter may be revoked by the City Clerk after notice and hearing, pursuant to the standards in § 111.06. Notice of hearing for revocation shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be mailed to the licensee at his last known address, at least ten days prior to the date set for the hearing.

§ 111.06 STANDARDS FOR REVOCATION.

A license granted under this chapter may be revoked for any of the following reasons:

- (A) Any fraud or misrepresentation contained in the license application; or
- (B) Any fraud, misrepresentation, or false statement made in connection with the business being conducted under the license; or
- (C) Any violation of this chapter; or
- (D) Conviction of the licensee of any felony, or conviction of the licensee of any misdemeanor involving moral turpitude; or
- (E) Conducting the business licensed in an unlawful manner or in such a way as to constitute a menace to the health, safety, morals, or general welfare of the public.

§ 111.07 APPEAL PROCEDURE.

(A) Any person aggrieved by a decision under §§ 111.04 or 111.06 shall have the right to appeal to the legislative body. The appeal shall be taken by filing with the legislative body, within 14 days after notice of the decision has been mailed to such person's last known address, a written statement setting forth the grounds for appeal. The legislative body shall set the time and place for a hearing, and notice for such hearing shall be given to such person in the same manner as provided in § 111.05.

(B) The order of the legislative body after the hearing shall be final.

§ 111.08 EXHIBITION OF IDENTIFICATION.

(A) Any license issued to an itinerant merchant under this chapter shall be posted conspicuously in or at the place named therein. In the event more than one place within the city shall be used to conduct the business licensed, separate licenses shall be issued for each place.

(B) The City Clerk shall issue a license to each peddler or solicitor licensed under this chapter. The license shall contain the words "Licensed Peddler" or "Licensed Solicitor," the expiration date of the license, and the number of the license. The license shall be kept with the licensee during such time as he is engaged in the business licensed.

Penalty, see § 111.99

§ 111.09 SALE OF FOOD FROM MOTOR VEHICLES.

(A) No individual, firm, corporation or association shall sell foodstuffs or other merchandise from motor vehicles, carriages, wagons or carts which are parked on any street or public thoroughfare in the city.

(B) Nothing herein contained shall prevent or prohibit the sale of foodstuffs or other merchandise by vendors thereof who peddle their products from house to house in the residential sections of the city. (Ord. 420.1, passed 8-3-48) Penalty, see § 111.99

§ 111.10 STANDARDS FOR ON-STREET SOLICITATION.

(A) Except as otherwise provided, no person shall stand on a highway or street for the purpose of soliciting contributions from the occupant of any vehicle except when the person is doing so pursuant to a solicitation permit issued to a soliciting agency that complies with the conditions as set forth below.

(B) The City Administrator or his or her designee shall issue a solicitation permit to a soliciting agency that meets all of the following requirements:

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(1) The agency must be qualified and approved by the Internal Revenue Service as a non-profit tax exempt organization under Internal Revenue Code, Section 501, and must at the time of its application provide to the city a copy of said exemption. Such agency shall, in addition to meeting the Internal Revenue Code, Section 501 requirement, also be either a charitable agency or an agency which is community based and providing a benefit to the entire community, such as the Crusade for Children, Toys for Kids, Marion County Project Graduation, Relay for Life, Knights of Columbus, St. Jude's or Lions Club, which specifically named organizations are exempt from the Section 501 requirement.

(2) The agency shall be liable for any injuries to any person or property during the solicitation which is casually related to an act of ordinary negligence of the agency or its agent, and the agency must file with the city, with its application for a solicitation permit, a certificate of insurance (or as an alternative, an insurance certificate evidencing an umbrella policy for its parent organization and containing at least equal provisions protecting the city) showing liability insurance in the minimum amount of \$300,000 for personal injury per occurrence and \$100,000 for property damage during the period of requested solicitation, and the city shall be named as an additional insured on the certificate.

(3) All applications for a solicitation permit shall be filed with the city in writing at least 30 days in advance. No more than ten roadblock permits shall be issued by the city in any calendar year.

(C) The soliciting agency shall be subject to the following conditions:

(1) Any person engaged in solicitation on behalf of the soliciting agency shall be at least 16 years of age and shall at all times wear a high visibility vest provided by the city.

(2) Traffic cones shall be placed along the street lane(s) where the soliciting person or persons stand.

(3) Should any persons engaged in solicitation be under the age of 18, an adult sponsor must be present at all times to supervise such persons.

(4) No more than one solicitation permit shall be issued by the city to a soliciting agency for each calendar year. The permit shall be good for no more than two days and the two days shall be consecutive days.

(5) Soliciting pursuant to a permit shall take place only at intersections in travel lanes where the traffic has come to a complete stop. Solicitation may take place only at the intersections of Spalding and Main and Walnut and Main.

(6) Each solicitor shall wear an identification card which clearly displays the name of the soliciting agency. Signage in all directions shall be displayed in four inch letters showing the name of the agency and the purpose which the solicitation is for.

(7) No more than one soliciting agency shall be authorized to solicit at a particular intersection.

(8) Solicitation shall take place during daylight hours only, for no more than eight consecutive hours, shall conclude at least one-half hour before dark, and shall take place only on a Saturday, Sunday or both.

(9) The soliciting agency shall be required to file an application for a solicitation permit on a form provided by the city and apply for any other permits that may be required by any applicable law or ordinance.

(D) No person shall stand on a highway or street, or on any street or highway, or highway right-of-way, for the purpose of handing out pamphlets and/or distributing literature to the occupant of any vehicle, unless such pamphlets or literature is directly connected to a solicitation for which a solicitation permit has been issued.
(Ord. 04-02, passed 5-10-04)

§ 111.99 PENALTY.

(A) Whoever violates any provision of this chapter shall be guilty of a misdemeanor and shall be fined not more than \$500. Each day's violation shall constitute a separate offense.

(B) Any person, firm or corporation violating any of the provisions hereof shall be deemed guilty of a punishable violation, and upon conviction thereof shall be fined in an amount not exceeding \$250 or be imprisoned for a period not exceeding 90 days, or both so fined and imprisoned. Each day such violation is committed or permitted to continue shall constitute a separate offense.
(Am. Ord. 04-02, passed 5-10-04)

CHAPTER 112: PAWNBROKERS

Section

- 112.01 Definitions
- 112.02 Bond
- 112.03 Register to be kept; daily reports
- 112.04 Receipt to be given for each article; sale of article
- 112.05 Maximum interest, resale price
- 112.06 Receipt to be given for payment of loan
- 112.07 Prohibited activities
- 112.08 Enforcement

- 112.99 Penalty

§ 112.01 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

PAWNBROKER. Any person who loans money on deposit of personal property; deals in the purchase of personal property on condition of selling the property back again at a stipulated price; makes a public display at his place of business of the sign generally used by pawnbrokers to denote their business; or who publicly exhibits a sign advertising money to loan on personal property or deposit.

(KRS 226.010)

§ 112.02 BOND.

Every person to whom a city license is granted to carry on the business of a pawnbroker shall annually enter into bond to the city, with good and sufficient surety to be approved by City Council, in the penal sum of \$1000. This bond shall be conditioned that he will observe the provisions of this chapter and all ordinances and laws in force in the city not inconsistent with this chapter.

(KRS 226.020)

§ 112.03 REGISTER TO BE KEPT; DAILY REPORTS.

(A) Every pawnbroker shall keep a register of all loans and purchases of all articles effected or made by him. The register shall show the dates of all loans or purchases, and the names of all persons who have left any property on deposit as collateral security or as a delivery or sale. Opposite the names and dates shall be written in plain hand a full description of all property purchased or received on deposit as collateral security, the time when the loan falls due, the amount of purchase money, the amount loaned, and the interest charged. The register shall at all times be open to the inspection of any police officer of the city when in the discharge of his official duty.

(KRS 226.040)

(B) Every pawnbroker shall, by 11:00 a.m. each day, make available to the Chief of Police a true and correct written report of all goods received by him, whether by pawn or purchase, during the 24 hours preceding each report. The report shall describe the goods as accurately as practicable. The Chief of Police shall furnish blanks for these reports. (KRS 226.070)

Penalty, see § 112.99

§ 112.04 RECEIPT TO BE GIVEN FOR EACH ARTICLE; SALE OF ARTICLE.

(A) Every pawnbroker shall give a plain written or printed ticket for the loan to the person negotiating or selling, and a plain written or printed receipt of the articles that have been purchased or upon which money is loaned, having on each a copy of the entries required by § 112.03(A) to be kept in his register. He shall not make any charge for the ticket or receipt.

(B) A pawnbroker may sell any article pawned after the expiration of 90 days from the maturity of the loan. However, not less than ten days before making the sale, the pawnbroker shall give notice to the person by whom the article was pawned by mail addressed to the post office address of that person as shown on the pawnbroker's register, notifying such person that, unless he redeems the article within ten days from the date of mailing of the notice, the article will be sold.

(KRS 226.050) Penalty, see § 112.99

§ 112.05 MAXIMUM INTEREST, RESALE PRICE.

Any pawnbroker as defined in § 112.01, may, in loaning money on deposit of personal property, charge, contract for, or receive interest at a rate not exceeding 2% per month on the unpaid principal balance of the loan, and may charge, contract for, and receive a reasonable fee, not to exceed one-fifth of the value of the loan per month, for investigating the title, storing and insuring the property, closing the loan, making daily reports to local law enforcement officers if required by § 112.03, and for other expenses, losses, and incidental costs associated with servicing such loans. Further, this fee, when made and collected, shall not be deemed as interest for any purpose of law. No pawnbroker shall directly or indirectly charge, receive, or contract for any interest or consideration greater than that allowed by this section.

(KRS 226.080) Penalty, see § 112.99

§ 112.06 RECEIPT TO BE GIVEN FOR PAYMENT OF LOAN.

Every pawnbroker, upon receiving any payment of money from a borrower, shall give to that person a plain and complete receipt for such payment, specifying separately the amount applied to principal and the amount applied to interest. In a case where the pawnbroker has purchased personal property under an agreement to sell it back at a stipulated price, the pawnbroker shall, on receiving any payment of money from the person from whom the purchased, give that person a receipt stating the original purchase price, the stipulated resale price, and the amount received.

(KRS 226.090) Penalty, see § 112.99

§ 112.07 PROHIBITED ACTIVITIES.

No pawnbroker shall receive, by way of either pledge or pawn, any article whatever from a minor at any time nor from any person between 8:00 p.m. and 7:00 a.m.

(KRS 226.030) Penalty, see § 112.99

§ 112.08 ENFORCEMENT.

The Police Department shall enforce the provisions of this chapter unless otherwise provided by KRS 226.100. However, county police, for the purpose of locating stolen goods, may carry out the provisions of KRS 226.060 within the city.

(KRS 226.100)

§ 112.99 PENALTY.

(A) Any pawnbroker or pawnbroker's clerk who violates any of the provisions of this chapter for which no penalty is otherwise provided shall, upon conviction, be guilty of a misdemeanor and shall be fined not less than \$50 nor more than \$500, and his license may be forfeited to the city. (KRS 226.990(1))

(B) Any pawnbroker who violates any of the provisions of § 112.03(B) shall be guilty of a misdemeanor and shall be fined not less than \$20 nor more than \$100. (KRS 226.990(3))

CHAPTER 113: INSURANCE COMPANIES

Section

- 113.01 Imposition of license fee
- 113.02 Amount of fee for companies issuing life insurance
- 113.03 Amount of fee for companies issuing policies other than life insurance
- 113.04 Due date; interest
- 113.05 Written breakdown of collections
- 113.06 Minimum fee

§ 113.01 IMPOSITION OF LICENSE FEE.

There is hereby imposed on each insurance company a license fee for the privilege of engaging in the business of insurance within the corporate limits of the city, on a calendar-year basis.
(Ord. 84-12, passed 10-24-84)

§ 113.02 AMOUNT OF FEE FOR COMPANIES ISSUING LIFE INSURANCE.

The license fee imposed upon each insurance company which issues life insurance policies on the lives of persons residing within the corporate limits of the city shall be 10% of the first year's premiums actually collected within each calendar quarter by reason of the issuance of such policies.
(KRS 91A.080(2)) (Ord. 84-12, passed 10-24-84; Am. Ord. 88-1, passed 3-8-88; Am. Ord. 90-1, passed 4-9-90)

§ 113.03 AMOUNT OF FEE FOR COMPANIES ISSUING POLICIES OTHER THAN LIFE INSURANCE.

The license fee imposed upon each insurance company which issues any insurance policy which is not a life insurance policy shall be 10% of the premiums actually collected within each calendar quarter by reason of the issuance of such policies on risks located within the corporate limits of the city on those classes of business which such company is authorized to transact, less all premiums returned to policyholders; however, any license fee or tax imposed upon premium receipts shall not include premiums received for insuring employers against liability for personal injuries to their employees, or death caused thereby, under the provisions of the Workers' Compensation Act and shall not include

premiums received on policies of group health insurance provided for state employees under KRS 18A.225(2), or premiums received by any state employee benefit fund created pursuant to KRS Chapter 18A for the purpose of providing health benefits to state employees.
(KRS 91A.080(3), (10)) (Ord. 84-12, passed 10-24-84; Am. Ord. 88-1, passed 3-8-88; Am. Ord. 89-12, passed 8-7-89; Am. Ord. 90-1, passed 4-9-90)

§ 113.04 DUE DATE; INTEREST.

All license fees imposed by this chapter shall be due no later than 30 days after the end of each calendar quarter. License fees which are not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6).
(KRS 91A.080(8), (9)) (Ord. 84-12, passed 10-24-84)

§ 113.05 WRITTEN BREAKDOWN OF COLLECTIONS.

Every insurance company subject to the license fees imposed by this chapter shall annually, by March 31, furnish the city a written breakdown of all collections in the preceding calendar year for the following categories of insurance:

- (A) Casualty.
- (B) Automobile.
- (C) Inland marine.
- (D) Fire and allied perils.
- (E) Health.
- (F) Life.

(KRS 91A.080(8)) (Ord. 84-12, passed 10-24-84)

§ 113.06 MINIMUM FEE.

The minimum license fee imposed hereunder shall be \$10 per year.
(Ord. 84-12, passed 10-24-84)

CHAPTER 114: FLEA MARKETS AND YARD SALES

Section

- 114.01 Definitions
- 114.02 Regulation of flea markets
- 114.03 Regulation of yard sales

- 114.99 Penalty

§ 114.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

FLEA MARKET. The outdoor display and sale of personal property, including, but not limited to, antiques and semi-antiques, collectibles, junk, weapons, clothing, and new and used goods and items, generally acquired for purposes of resale and not initially acquire for the personal use of the seller and/or the seller's family.

YARD SALE. The outdoor display and sale and the display and sale within a garage, tent, carport or other similar structure of the above-referenced items of personalty which were generally initially acquired for the personal use of the seller and/or the seller's family.
(Ord. 92-4, passed 5-11-92)

§ 114.02 REGULATION OF FLEA MARKETS.

It shall be unlawful to conduct, sell at, or participate in a flea market at any time within the city, other than those properly licensed and approved flea markets conducted during the Country Ham Days Festival.

(Ord. 92-4, passed 5-11-92) Penalty, see § 114.99

Cross-reference:

Kentucky Country Ham Days Festival, see §§ 117.15, 117.16

§ 114.03 REGULATION OF YARD SALES.

It shall be unlawful to conduct, sell at, or participate in, other than as a purchaser or prospective purchaser, at any yard sale within the city during all or any part of more than six days during any calendar year.

(Ord. 92-4, passed 5-11-92) Penalty, see § 114.99

§ 114.99 PENALTY.

(A) Any person, firm or corporation violating any of the provisions of § 114.02 or failing or refusing to comply with same shall be guilty of a violation and shall be fined not less than \$25 nor more than \$100 for each offense and each day a violation hereof exists shall constitute a separate offense.

(B) Any person, firm or corporation violating any of the provisions of § 114.03 or failing or refusing to comply with same shall be guilty of a violation and shall be fined not less than \$25 nor more than \$50 for each offense and each day a violation hereof exists shall constitute a separate offense.

(Ord. 92-4, passed 5-11-92)

CHAPTER 115: PRECIOUS METALS

Section

- 115.01 Dealers to keep daily register
- 115.02 Copy of register to be furnished to Chief of Police
- 115.03 Articles to be kept separate; examination by Police Department
- 115.04 Photograph of seller required
- 115.05 Transactions with minors prohibited
- 115.06 Exemptions

- 115.99 Penalty

§ 115.01 DEALERS TO KEEP DAILY REGISTER.

It shall be the duty of all persons dealing in the purchase or exchange of second-hand or antique jewelry, coins, watches, diamonds or other precious stones, cutlery, old gold, silver, platinum, or other precious metals, or any other second-hand manufactured articles, composed wholly or in part of gold, silver, platinum or other precious metals to keep a daily register on a form provided by the Lebanon Police Department, of every article purchased or exchanged by them in the course of their business and the persons from whom such articles were acquired. Said register shall contain as minute a description of each article as is possible, including any identification numbers and the manufacturer's name, as well as the name, age, sex, race, address, driver's license number, general description of the individual or individuals selling or exchanging the articles, and their signatures.
(Ord. 81-3, passed 2-9-81) Penalty, see § 115.99

§ 115.02 COPY OF REGISTER TO BE FURNISHED TO CHIEF OF POLICE.

All persons engaged in business as described in § 115.01 above, shall furnish to the Chief of Police each day at the Police office by 11:00 a.m., a copy of the register for all transactions which took place during the preceding day.
(Ord. 81-3, passed 2-9-81) Penalty, see § 115.99

§ 115.03 ARTICLES TO BE KEPT SEPARATE; EXAMINATION BY POLICE DEPARTMENT.

All persons engaged in business as described in § 115.01 above, shall retain each and every article received by them in the same state or condition in which it was received, and all articles received during any one day's transaction shall be kept separately and shall not be co-mingled with articles received during any other day's transactions. Furthermore, all articles shall be made available for examination within the city to members of the Police Department, and the Sheriff's Department, State Police, or other law enforcement officials for a period of five consecutive days after their receipt, before such articles are resold, exchanged or removed from the city, unless written permission is obtained from the Chief of Police.

(Ord. 81-3, passed 2-9-81) Penalty, see § 115.99

§ 115.04 PHOTOGRAPH OF SELLER REQUIRED.

No person engaged in business as described in § 115.01 above shall purchase or exchange second-hand or antique jewelry, coins, watches, diamonds or other precious stones, cutlery or old gold, silver, platinum or other precious metals, or other second-hand manufactured articles composed wholly or in part of gold, silver, platinum, or other precious metals unless the person first obtains an instant developing photograph of the seller or exchanger of the above enumerated items. The photograph is to be identified in such a way that the person or persons shown in the photograph can be identified with each entry of the register identified in § 115.01. The photograph and register shall be maintained for a period of one year after the date on which the transaction occurred.

(Ord. 81-3, passed 2-9-81) Penalty, see § 115.99

§ 115.05 TRANSACTIONS WITH MINORS PROHIBITED.

No person engaged in business as described in § 115.01 above, shall purchase or exchange second-hand or antique jewelry, coins, watches, diamonds or other precious stones, cutlery, or old gold, silver, platinum or other precious metals, or any other second hand manufactured articles composed wholly or in part of gold, silver, platinum or other precious metals from any person less than 18 years of age.

(Ord. 81-3, passed 2-9-81) Penalty, see § 115.99

§ 115.06 EXEMPTIONS.

Nothing contained herein shall require compliance of §§ 115.01 through 115.05 by a person engaging in business within the city who possesses a current business license for the operation of such a business from the city and is:

(A) Accepting returns for cash, credit, or replacement of any item originally purchased from said person;

(B) Exchanging an item for another item of greater value.
(Ord. 81-3, passed 2-9-81)

§ 115.99 PENALTY.

Violation of any of the duties, requirements, or prohibitions contained in this chapter shall be punishable as a Class A Misdemeanor as defined by the Kentucky Revised Statutes, subject to a fine of up to \$500 and imprisonment for up to 12 months.
(Ord. 81-3, passed 2-9-81)

CHAPTER 116: ALCOHOLIC BEVERAGES

Section

Licensing

- 116.01 Definitions
- 116.02 License required
- 116.03 Application for license
- 116.04 License fees
- 116.05 Reasons for denial of license
- 116.06 Hours sales prohibited
- 116.07 Termination of license

Regulations Concerning Minors

- 116.20 Definition
 - 116.21 Sales to minors prohibited
 - 116.22 Unlawful acts by persons underage
 - 116.23 Aiding or assisting persons underage
 - 116.24 Posting of signs required
 - 116.25 Enforcement action by State Alcoholic Beverage Control Board
-
- 116.99 Penalty

LICENSING

§ 116.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALCOHOL. Ethyl alcohol, hydrated oxide of ethyl or spirit of wine, from whatever source or by whatever process it is produced.

ALCOHOLIC BEVERAGE. Every liquor or solid, whether patented or not, containing alcohol in an amount in excess of that permitted under KRS Chapter 242 and capable of being consumed by human beings. It includes every beverage for which the Commonwealth of Kentucky requires a license under KRS Chapter 243.

CITY ADMINISTRATOR or **ADMINISTRATOR.** The city's Alcoholic Beverage Control Administrator.

CONVICTED. A finding of guilt resulting from a plea of guilty, the decision of a court, or the findings of a jury, irrespective of a pronouncement of judgment or the suspension of the judgment.

DISTILLED SPIRITS. Any product capable of being consumed by human beings which contains alcohol in excess of the amount permitted by KRS Chapter 242, obtained by distilling, mixed with water or other substances in solution, except wine.

MALT BEVERAGE. Any fermented undistilled alcoholic beverage of any name or description, manufactured from malt wholly or in part, or from any substitute for malt, and having an alcoholic content greater than that permitted under KRS Chapter 242.

PREMISES or **LICENSED PREMISES.** A building or structure and does not include any appurtenant structures, parking lots or areas outside the confines of such building or structure.

RESTAURANT. As used in reference to Class "F" licenses referred to herein means eating establishments open to the general public having dining facilities for not less than 100 persons, and as used in reference to Class "D" licenses referred to herein means businesses with dining facilities which receive at least 50% of their gross annual income from their dining facilities by the sale of food.

RETAIL SALE. Any sale where delivery is made to any person not holding a license.

SALE. Any transfer, exchange or barter for consideration, and includes all sales made by any person, whether principal, proprietor or agent, servant or employee, of any alcoholic beverage. **SALE** further means to solicit or receive an order for, keep or expose for sale, keep with intent to sell, and the delivery of any alcoholic beverage.

WHOLESALE SALE. A sale to any licensed person for the purpose of resale.

WINE. The product of the normal alcoholic fermentation of the juices of fruits, with the usual cellar treatment and necessary additions to correct defects due to climatic, saccharin and seasonal conditions. It includes champagne and sparkling and fortified wine of an alcoholic content not to exceed 24% by volume.

(Ord. 88-11, passed 8-8-88)

§ 116.02 LICENSE REQUIRED.

It shall be unlawful to sell or offer for sale at wholesale or at retail in the city any alcoholic beverage without having the appropriate wholesale or retail license hereinafter provided for, or in violation of the terms of such license. Each license issued shall be applicable only to the specific premises shown thereon and, shall not entitle the holder of the license to sell from any other premises within the city.

(Ord. 88-11, passed 8-8-88) Penalty, see § 116.99

§ 116.03 APPLICATION FOR LICENSE.

(A) Applications for licenses shall be made to the City Administrator, in writing, signed by the applicant, if an individual, or by a duly authorized agent thereof, if a corporation. Such applications shall be made on forms supplied by the City Administrator and no license shall be issued until completed in full and the appropriate fee therefor has been paid. (Ord. 88-11, passed 8-8-88)

(B) All applicants, all officers of any applicant corporation, all persons holding 5% or more of the stock in an applicant corporation or owners or partners of an applicant partnership shall each submit fingerprints and a current color photograph of themselves with all other documents as required in the application process or during any subsequent renewal if not previously provided or otherwise deemed necessary by the City Administrator. (Ord. 97-06, passed 11-10-97)

§ 116.04 LICENSE FEES.

(A) The licenses authorized under this subchapter shall be divided into the following categories and the applicant shall, at the time of his application, pay to the City Administrator the appropriate fee for each license applied for:

(1) Reserved

..... (2)
permits only retail sale of distilled spirits and wine in sealed packages, but not for consumption on the licensed premises

..... (3)
permits only the retail sale of malt beverages in sealed packages, but not for consumption on the licensed premises

..... (4)
permits only retail sale of wine for consumption on the licensed premises where sold, and not for resale in any form

..... (5)
permits only the retail sale of malt beverages by the drink for consumption on the licensed premises of restaurants, and not for resale in any form

..... (6)
permits holders of valid Class "B" licenses to engage in the retail sale of malt beverages by the drink for consumption on the licensed premises where sold, but not for resale in any form

..... (7)
permits only retail sale of distilled spirits by the drink for consumption on the licensed premises where sold, and not for resale in any form. Available only to hotels, motels or inns containing not less than 50 sleeping units and having dining facilities for not less than 100 persons or bona fide restaurants open to the general public having dining facilities for not less than 100 persons

..... (8)
permits only the retail sale of malt beverages by the drink for consumption on the licensed premises where sold, but not for resale in any form-- available for any licensee and/or licensed premises one time per year (July 1 through June 30) for not to exceed three consecutive days

(B) Persons desiring to obtain a license hereunder for only part of a license year shall pay a prorated fee equal to as many twelfths of the annual license fee as there are calendar months remaining in the license year, including the month in which the license is granted. In no event shall the prorated license fee be less than one-half the full annual license fee.
(Ord. 88-11, passed 8-8-88; Am. Ord. 98-04, passed 10-12-98)

§ 116.05 REASONS FOR DENIAL OF LICENSE.

No license provided for in this chapter shall be issued to:

(A) A person who has been convicted of a felony; except if the person has had his or her civil rights restored by the authority of the governor of the state in which the adjudication was made.

(B) A person whose license under this section has been revoked for any cause;

(C) A person who at the time of application for renewal of any license issued hereunder would not be eligible for such license upon a first application;

(D) A partnership, unless all the members of the partnership shall be qualified to obtain such a license;

(E) A corporation, if any officer, manager or director thereof, or any stockholder or stockholders owning in the aggregate more than 5% of the stock of such corporation would not be eligible to receive a license hereunder for any such reason;

(F) A person whose place of business is to be conducted by a manager or agent unless such manager or agent possesses the same qualifications required of the licensee;

(G) A person who has, within five years of the application date, been convicted of a violation of any federal or state law concerning the manufacture, possession, transportation or sale of alcoholic beverages, or who shall have forfeited his bond to appear in court to answer charges for any such violation;

(H) Any person, firm or corporation not eligible for a state alcoholic beverage license regulating the sale of the same alcoholic beverages for which such person proposes to acquire a city license.

(Ord. 88-11, passed 8-8-88; Am. Ord. 97-06, passed 11-10-97)

§ 116.06 HOURS SALES PROHIBITED.

No premises for which there has been granted any license for the sale of distilled spirits or wine shall remain open for any purpose between midnight and 6:00 a.m., or any time during the 24 hours on a Sunday, or during the hours the polls are open for any regular, primary, school or special election. Provided, that if a licensee provides a separate department within the licensed premises capable of being locked and closed off, within which is kept all stocks of distilled spirits and wine, and all fixtures and apparatus connected with the alcohol business, and said department is kept locked during the times mentioned above, the licensee shall be deemed to have complied with this section. No malt beverages shall be sold, given away or delivered by anyone holding any license to sell malt beverages between midnight and 6:00 a.m. or at any time during the 24 hours of a Sunday or during the hours the polls are open on an election day.

(Ord. 88-11, passed 8-8-88) Penalty, see § 116.99

§ 116.07 TERMINATION OF LICENSE.

Each license issued hereunder shall terminate on June 30 following the issuance thereof. Should any such license be issued by the city and any required city, county, or federal approval, certification or licensing not be obtained by the applicant or should same be voluntarily or involuntarily withdrawn, removed, relinquished or suspended, then the license issued hereunder by the city shall immediately become null and void and shall be surrendered to the City Administrator. Any license fee paid shall thereupon be automatically forfeited and shall not be prorated. Following a license suspension or revocation a new license may be applied for upon the making of a new application and the payment of a new license fee.

(Ord. 88-11, passed 8-8-88)

REGULATIONS CONCERNING MINORS**§ 116.20 DEFINITION.**

For the purpose of this chapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

NIGHTCLUB. Any establishment, place, location or building where alcoholic beverages are sold and where food and other drink may be procured and which permits dancing to organized band music or music produced by way of a juke box.

(Ord. 1020.3, passed 1-12-59)

§ 116.21 SALES TO MINORS PROHIBITED.

It shall be unlawful for any person to sell alcoholic beverages to a person under 21 years of age. (Ord. 1020.3, passed 1-12-59) Penalty, see § 116.99

§ 116.22 UNLAWFUL ACTS BY PERSONS UNDERAGE.

(A) It shall be unlawful for any person under the age of 18 years to enter any nightclub as defined in § 116.20, or upon the premises whereon distilled spirits are sold. The word “premises” shall be interpreted to mean the building wherein the distilled spirits are sold.

(B) It shall be unlawful for any person under the age of 21 years to possess, purchase or attempt to purchase, or engage another to purchase for him or her, directly or indirectly any alcoholic beverages.

(C) It shall be unlawful for any person under 21 years of age to misrepresent his or her age for the purpose of obtaining alcoholic beverages, or to induce any such licensee or employee of any licensee, to sell or serve alcoholic beverages to such person, directly or indirectly.

(D) It shall be unlawful for any person under 18 years of age to misrepresent his or her age for the purpose of gaining entry to any night club, or premises where distilled spirits are sold. (Ord. 1020.3, passed 1-12-59) Penalty, see § 116.99

§ 116.23 AIDING OR ASSISTING PERSONS UNDERAGE.

It shall be unlawful for any person to aid or assist any person under the age of 21 years in purchasing, delivering, serving, or in any way procuring directly or indirectly any alcoholic beverages. (Ord. 1020.3, passed 1-12-59) Penalty, see § 116.99

§ 116.24 POSTING OF SIGNS REQUIRED.

(A) All night clubs or business establishments which sell distilled spirits shall post in a conspicuous and prominent place inside the establishment a sign furnished by the city which shall read as follows:

“(1) Any person under the age of 18 is subject to a fine of up to \$50 if he or she enters this business establishment.

(2) Any person under the age of 21 is subject to a fine up to \$50 if he or she purchases, or attempts to purchase any alcoholic beverages.

(3) Any person under the age of 21 is subject to a fine of up to \$50 if he or she misrepresents his or her age for the purpose of purchasing alcoholic beverages.

(4) Any person under the age of 18 is subject to a fine of up to \$50 if he or she misrepresents his or her age in order to gain entrance to this business establishment.”

(B) All other business establishments licensed by the State of Kentucky to sell alcoholic beverages shall post in a conspicuous and prominent place inside the establishment a sign furnished by the city which shall read as follows:

“(1) Any person under the age of 21 is subject to a fine of up to \$50 if he or she purchases, or attempts to purchase any alcoholic beverages.

(2) Any person under the age of 21 is subject to a fine of up to \$50 if he or she misrepresents his or her age for the purpose of purchasing alcoholic beverages.”

(Ord. 1020.3, passed 1-12-59) Penalty, see § 116.99

§ 116.25 ENFORCEMENT BY STATE ALCOHOLIC BEVERAGE CONTROL BOARD.

Any fine or penalty imposed under this subchapter shall be in addition to and independent of any action which may be taken by, through, or on behalf of the Kentucky Alcoholic Beverage Control Board or its agents.

(Ord. 1020.3, passed 1-12-59)

§ 116.99 PENALTY.

(A) Any person violating any provision of §§ 116.01 through 116.07 shall be guilty of a misdemeanor and shall be fined not less than \$100 nor more than \$500 for each offense and each day in which a violation shall occur shall be deemed to constitute a separate offense. Any person or

licensee violating any provision of §§ 116.01 through 116.07 twice in a 24-month period shall have, in addition to the fines involved, all alcoholic beverage licenses issued by the city revoked and all license fees paid shall thereupon be automatically forfeited and shall not be prorated. (Ord. 88-11, passed 8-8-88)

(B) Any person who violates any provision of § 116.21 shall be guilty of a misdemeanor and subject to a fine of \$100 and no more than \$500 in addition to court costs. The punishment provided herein shall apply not only to the holder of any alcoholic beverage licensee, but also to any employee or clerk of the licensee.

(C) Any person violating any provision of § 116.22 shall be guilty of a violation and shall be fined a minimum of \$20 and a maximum of \$50 in addition to court costs.

(D) Any person who violates any provision of § 116.23 shall be guilty of a misdemeanor and shall be subject to a fine of not less than \$100 and not more than \$500 in addition to court costs.

(E) Any owner or licensee of such establishment violating any provision of § 116.24 shall be guilty of a violation and shall be subject to a fine of \$50 and no more than \$100.
(Ord. 1020.3, passed 1-12-59)

CHAPTER 117: AMUSEMENTS

Section

Pool and Billiards

- 117.01 Location requirements
- 117.02 Hours of operation

Kentucky Country Ham Days Festival

- 117.15 Business approval required
- 117.16 Bicycles, roller skates, skateboards and the like prohibited

Carnivals

- 117.30 Operation unlawful
- 117.99 Penalty

POOL AND BILLIARDS

§ 117.01 LOCATION REQUIREMENTS.

(A) It shall be unlawful for any person, persons, firm or corporation to maintain or operate for profit any pool tables or hall or billiard tables or hall in the city except on premises which are on the ground or street level.

(B) Before any person, persons, firm or corporation shall maintain or operate for profit, any pool tables or halls or billiard tables or halls at any place in the city, said applicant, person, persons, firm or corporation shall first obtain approval, initially and annually thereafter, of the applicant and the location thereof from the City Council before said license shall issue.

(Ord. 430.1, passed 10-4-49) Penalty, see § 117.99

§ 117.02 HOURS OF OPERATION.

No place of business in which billiard or pool tables are operated shall be open during the hours between 12:00 midnight and 6:00 a.m. on any day nor at any time on Sunday.
(Ord. 430.2, passed 6-3-52) Penalty, see § 117.99

KENTUCKY COUNTRY HAM DAYS FESTIVAL**§ 117.15 BUSINESS APPROVAL REQUIRED.**

(A) All persons, corporations, or other individuals desiring to operate any business, including but not limited to, any type of concession, booth or trading stall within the city limits during the duration of the Kentucky Country Ham Days Festival must have the approval of the Kentucky Country Ham Days Board of Directors.

(B) This section shall apply to those businesses which are established to operate only during the period of time designated as the Kentucky Country Ham Days Festival and further this section shall be in effect during the Kentucky Country Ham Days Festival and the duration and time of the Kentucky Country Ham Days Festival shall be the duration as established by the Kentucky Country Ham Days Board of Directors from year to year.

(Ord. 430.3, passed 4-19-76)

Cross-reference:

Regulation of flea markets, see § 114.02

§ 117.16 BICYCLES, ROLLER SKATES, SKATEBOARDS AND THE LIKE PROHIBITED.

It shall be illegal for anyone, other than parade participants prior to, during and immediately after the Festival Parades, to operate any bicycle, unicycle, roller skates or skateboard on the streets and sidewalks of the city in the designated festival area during the duration of the Kentucky Country Ham Days Festival. Further, the Police Department shall confiscate any such device for the period of the Kentucky Country Ham Days Festival and return it to its rightful owner after the festival has concluded.

(Ord. 81-14, passed 9-15-81)

CARNIVALS

§ 117.30 OPERATION UNLAWFUL.

It shall be unlawful for any person, firm or corporation to operate a carnival or other similar type of exhibition within the city limits.

(Ord. 1020.1, passed 5-3-49) Penalty, see § 117.99

§ 117.99 PENALTY.

(A) Any person, firm or corporation violating the provisions of § 117.01 shall be guilty of a misdemeanor and shall be fined not less than \$20 nor more than \$25 for each offense, and each day during which a violation of § 117.01 exists or occurs shall constitute a separate offense. (Ord. 430.1, passed 10-4-49)

(B) Any person, firm or corporation violating the provisions of § 117.02 shall be guilty of a violation and shall be fined not less than \$10 nor more than \$100 for each offense. (Ord. 430.2, passed 6-3-52)

(C) Whoever violates §§ 117.15 or 117.16 shall be guilty of a violation and shall be fined not less than \$50 or not more than \$100, upon conviction of violation. (Ord. 430.3, passed 4-19-76)

(D) Any person, firm or corporation violating the provisions of § 117.30 shall be guilty of a misdemeanor and shall be fined not less than \$100 nor more than \$500, and each day during which the provisions of § 117.30 are violated shall constitute a separate offense. (Ord. 1020.1, passed 5-3-49)

CHAPTER 118: ADULT ENTERTAINMENT

Section

- 118.01 Definitions
- 118.02 Adult entertainment establishments
- 118.03 Licenses
- 118.04 Premises to furnish clear view
- 118.05 Restrictions on advertisement

§ 118.01 DEFINITIONS.

The following words, terms and phrases, when used in this chapter shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning;

ADULT DANCING. Includes but not be limited to any dancing which exposes to view by patrons or spectators on the premises at any time the specified anatomical areas and/or consists of specified sexual activities, both as set forth above.

ADULT ENTERTAINMENT ESTABLISHMENT. An adult motion picture theater, massage parlor or establishment, an adult book store, an adult escort service, or any other business establishment whose principal business use or regular business use, is to offer adult oriented entertainment or matter as characterized by an emphasis on specified sexual activities and/or exposure of specified anatomical areas. Adult oriented entertainment shall mean any exhibition, live performance, display or dance of any type which has as a significant or substantial portion of such performance any specified sexual activities as defined herein, or the exhibition of any specified anatomical area.

ENTERTAINMENT AREA. An area in an adult entertainment establishment consisting of a platform or other structure raised not less than 18 inches above the immediately surrounding main floor area and encompassing an area of at least 100 square feet.

PERSON. An individual, firm, partnership, joint venture, association, independent contractor, corporation (domestic or foreign), trust, estate, assignee, receiver or any other group or combination acting as a unit.

PREMISES. The entire property, interior and exterior, including parking lots and other outside areas.

SPECIFIED ANATOMICAL AREAS. Includes, but not be limited to the following;

(1) Less than completely and opaquely covered human genitals or pubic region, the cleavage of the human buttock, any portion of the human female breast below a horizontal line across the top of the areola at its highest point. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or in part.

(2) The human male genitals in a discernible turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES. Includes, but not be limited to, bestiality, erotic or sexual stimulation with objects or mechanical devices, human genitalia in a state of sexual stimulation, arousal or tumescence, fondling, touching of human genitalia, pubic region, buttock, anus or female breast, acts of human anilingus, cunnilingus, fellatio, flagellation, masturbation, sadism, sadomasochism, sexual intercourse, or sodomy, or any excretory functions as part of or in connection with any of the activities set forth above.

(Ord. 98-5, passed 8-10-98)

§ 118.02 ADULT ENTERTAINMENT ESTABLISHMENTS.

(A) *General requirements.* In addition to the licensing and other general requirements contained in this chapter relating to adult entertainment establishments, each adult entertainment establishment shall comply with the following requirements;

(1) *Prohibited activities.* No person shall display or expose specified anatomical areas or simulate specified sexual activities individually or with any patron, spectator, employee or other person on the premises of an adult entertainment establishment.

(2) *Entertainment area.* No person in an adult entertainment establishment shall engage in any form of entertainment or dancing except while said person is positioned in or occupying an entertainment area, as defined above, and while the person so dancing, performing, displaying or exhibiting is positioned not less than six feet from any patron or spectator.

(3) *Entertainment area exclusion.* No spectator, patron, or person who is not employed by the adult entertainment establishment shall be present in an entertainment area, as defined above, during the course of any adult entertainment, dancing or performance.

(4) *Physical contact prohibition.* While on the premises of an adult entertainment establishment, no employee thereof shall be permitted to have any physical contact with any other employee thereof, patron, spectator or other person while that employee is entertaining, dancing or performing, and all such performances shall occur only in an entertainment area. No employee of the

adult entertainment establishment shall touch the breast, buttock, or genitals of any patron, spectator, person, or other employee of the adult entertainment establishment, and no patron, spectator, or other person, shall touch the breast, buttock, or genitals of any employee of the adult entertainment establishment, patron, spectator, or other person, while on the premises of the adult entertainment establishment. No person on the premises of an adult entertainment establishment shall be permitted to use or be present in areas partitioned or screened from public view and which are designed to be occupied, together or alone, by any person or persons for the display of or exhibition of specified anatomical areas.

(5) *Age restriction.* No person under 18 years of age shall be permitted in an adult entertainment establishment.

(6) *Business hours.* No adult entertainment establishment shall be open for business between the hours of 12:00 a.m. and 6:00 a.m. each day or at any time during the 24 hours of a Sunday.

(B) *Penalty.* Any person who shall violate any of the provisions of § 118.02 shall, upon conviction thereof, be fined not more than \$500 or imprisoned for a period of not more than 12 months, or both so fined and imprisoned, and each day of violation shall be considered to be a separate offense. (Ord. 98-5, passed 8-10-98)

§ 118.03 LICENSES.

(A) *General requirements.* No person shall own an adult entertainment establishment as defined in § 118.01 without first obtaining an adult entertainment establishment license. No person shall operate an unlicensed adult entertainment establishment.

(B) *Application process.* The owner of an adult entertainment establishment shall apply for a license with the City Clerk. The applicant shall complete an application on the form prescribed by the city and shall submit the following information;

(1) The name and business address of the establishment, including any assumed or fictitious names under which the establishment is or will be operated.

(2) The name, including any assumed or fictitious name or alias, business address, social security or tax identification number of the owner and every officer, partner, director, or person performing a similar function to an officer, partner or director and the names and addresses of all individuals who own 10% or more of the partnership, corporation, limited liability corporation or company, or limited liability partnership, which is the owner of the establishment.

(3) In the event the owner of the adult entertainment establishment is not the owner of record of the real property on which the establishment is located or is to be located, the application shall include a notarized statement from the owner(s) of record of the real property acknowledging that an

adult entertainment establishment is located or is to be located on the real property upon the issuance of the license. The applicant also shall furnish the name and address of the owner(s) of record of the real property and a copy of the lease or rental agreement or memorandum thereof.

(4) The name, including any assumed or fictitious name or alias, business address, date of birth, social security number, and photograph of all persons engaged in the day to day management of the adult entertainment establishment. All person who at any time shall be responsible for attending the entrance of the establishment for the purpose of compliance with this chapter shall be included in this subsection.

(5) The name, including any assumed or fictitious name or alias, business address, date of birth, social security number, and photograph of the individual designed by the applicant to undertake to keep the applicant, if licensed, at all times in compliance with the restrictions, requirements, and conditions set forth in this chapter, together with the written statement of such individual stating that he has received a copy of this chapter and that he willfully undertakes on behalf of the applicant to comply therewith.

(6) The name, including any assumed or fictitious name or alias, business address, date of birth, social security number, and photograph of the individual designed by the applicant to be responsible for keeping current the information required hereunder at all times together with a written statement from such individual stating that he has received a copy of this chapter and that he willfully undertakes on behalf of the applicant to comply with the requirements herein pertaining to the disclosure of information.

(7) The nature of the activity or activities to be engaged in at such location.

(8) A criminal record report for the applicants, owners, officers, directors, partners, employees or other persons whose names are required pursuant to this section together with a list of all criminal convictions of such persons within the last five years for the offenses listed below in this chapter. Any of such persons who is on parole shall submit with the application the terms of the parole.

(9) The name and mailing address of the owner to whom notice will be given in case of violations or other matters affecting the license hereunder.

(10) The applicant must submit to fingerprinting by the City Police Department.

(11) The applicant must be current on all fees or taxes of any kind or nature owed to the city.

(12) The premises to be licensed must meet all established zoning, fire, building, and/or plumbing codes and cannot provide direct interior access to residential living quarters.

(13) The applicant shall file a floor plan exhibiting all entrances, exits, stairways, and all rooms in the building and their intended uses, for purposes of enabling the city to provide emergency services.

(C) *Supplemental information.* The information required by subsection (B) of this section shall be kept current at all times even after the granting of the adult entertainment license. It shall be the responsibility of the owner or other person designated in the license application to notify the City Clerk, in writing, no later than 48 hours after the effective date of any change, alteration or modification in any information contained in the application.

(D) *Review process.* The Building Inspector or his designee shall inspect the premises proposed to be licensed within 15 days after the completed application and all information required by this chapter has been submitted and the application fee has been paid. The Building Inspector shall report to the City Clerk, who shall issue a license if all restrictions, requirements, conditions, and all applicable requirements of this chapter and other applicable laws have been met. The City Clerk shall grant or deny a license application within 20 days of the filing of such application.

(E) *Prohibitions.* No adult entertainment establishment license shall be issued if the applicant or any operator, officer, director, partner or shareholder;

(1) Is less than 18 years of age;

(2) Has been convicted of any of the following offenses within five years of the date of the application;

(a) Gambling, conspiracy to promote gambling, or possession of gambling records or gambling devices;

(b) Prostitution promoting prostitution, permitting prostitution, or solicitation for the purpose of prostitution;

(c) The sale, transfer, possession or use of any controlled substance;

(d) Any sexual offenses, including rape, sodomy, sexual abuse, sexual misconduct or indecent exposure;

(e) Distribution of obscene material to a minor, use of a minor to produce, promote, or distribute obscene material, advertising obscene materials, or promoting the sale of obscenity;

(f) Unlawful transaction with a minor (as defined in KRS Chapter 530 or other similar laws), use of a minor in a sexual performance, promoting a sexual performance by a minor, or possession of or advertising matter portraying a sexual performance by a minor; or

(g) Murder, manslaughter, or felony assault (as defined in KRS Chapters 507 or 508 or similar laws);

(3) Has failed in the operation of an adult entertainment establishment to comply with any health, zoning, fire or building code enacted or adopted by the city and has failed to correct such violation as provided in this chapter.

(F) *Notice.* If the Building Inspector's inspection reveals a failure to comply with any provisions of this chapter or of any required code, regulation or law, the Building Inspector shall notify the applicant in writing of that fact, stating what failures have been discovered, allowing a reasonable time to correct such defects and informing the applicant of the appeal procedure if the applicant does not agree with the Building Inspector's decision or finding.

(G) *No transfer of license.* The adult entertainment establishment license issued under this chapter does not authorize the operation of an adult entertainment establishment at any place other than the address designated in the application and such license is not transferable. A transfer is deemed to occur when the business is sold, leased or subleased, when securities which constitute a controlling interest in the business are sold or otherwise exchanged, or a trust, gift or other similar legal device is established which transfers the ownership or control of the business, except for a transfer by bequest or other operation of law upon the death of the natural person possessing the ownership or control of the business.

(H) *Access to licensed premises.* The application for or the granting of an adult entertainment establishment license is deemed to permit periodic inspections by law enforcement officers, or by other persons designated or authorized by the Building Inspector, of all areas of any establishment requiring a license under this chapter for the purpose of verifying compliance with the terms and conditions of this chapter. It shall be unlawful for an applicant, licensee, owner, operator or employee of an adult entertainment establishment to refuse to permit a law enforcement officer or authorized person to inspect the entire premises or any part thereof at any time during the normal business hours of the establishment, or at any time the establishment is open or occupied.

(I) *Application and license fee.* Concurrent with the submission of a license application, the applicant shall pay to the city a nonrefundable fee of \$100. Every adult entertainment establishment shall pay to the city an annual license fee of \$3,000, which fee is due and payable upon the issuance of a license and on or before July 1 of each year thereafter. When a license is first issued, the annual fee may be prorated at the rate of \$250 per month for the remaining months of the current fiscal year, which prorated fee is fully due and payable upon the issuance of the license. Provided, however, that no license shall be issued for less than the sum of \$1,500. No licensee shall be rebated any portion of any license fee paid to the city.

(J) *Expiration.* Each license shall expire on June 30 of each calendar year, unless earlier suspended or revoked. Application for a new license should be made at least 30 days prior to the expiration date.

(K) *Suspension.* The Building Inspector may suspend an adult entertainment establishment license for a period of not to exceed 30 days if the Building Inspector determines that the applicant, owner, operator or any employee thereof has violated any provision of this chapter, has been on the adult entertainment establishment premises while intoxicated or in a disorderly condition (consistent with the definition of disorderly conduct contained in KRS Chapter 525), has refused to allow an inspection of the premises or any part thereof, or has knowingly permitted any violation of state law to occur on the premises.

(L) *Revocation.* The Building Inspector shall revoke an adult entertainment license if he determines that;

(1) Cause for suspension under division (K) above occurs and the license has been suspended within the preceding 12 months;

(2) An applicant knowingly gave false or misleading information in the initial license application or in any subsequent license application;

(3) An applicant, owner, operator or employee has knowingly allowed possession, use or sale of controlled substances on the premises;

(4) An applicant, owner, operator, or employee has knowingly allowed prostitution or solicitation for prostitution on the premises;

(5) An applicant, owner, operator, or employee has knowingly operated an adult entertainment establishment during a period of time when the establishment's license was suspended; or

(6) An applicant, owner, operator, or employee has knowingly allowed a violation specified in division (E) above to occur on the premises.

(M) *Hearing for denials suspension or revocation; appeal.* If the Building Inspector determines that grounds exist to deny, suspend or revoke an adult entertainment license, the Building Inspector shall notify the applicant or licensee in writing of the Building Inspector's intent to deny, suspend or revoke, including the grounds therefor. The notice shall be sent to the applicant or licensee by certified mail at the address specified in the application and a copy shall be sent to the City Clerk. Within five business days of receipt of such notice, the applicant or licensee may provide to the Building Inspector, in writing, a response which shall include a statement of reasons why the license should not be denied, suspended or revoked and may include a request for a hearing. A copy shall be sent to the City Clerk. If a response is not timely received by the Building Inspector, the notice shall be a final administrative act of denial, suspension or revocation. If a timely response is received by the Building Inspector, he shall, within three business days of his receipt of the response, either withdraw the written notice of intent to deny, suspend or revoke by giving notice of such withdrawal to the applicant or licensee or schedule a hearing before the City Council and shall give notice of such hearing to the applicant or licensee. A copy thereof shall be provided to the City Clerk. The hearing shall be informal in nature and shall be conducted within 20 business days of the Building Inspector's receipt of the applicant's or licensee's response. The City Council shall issue an oral decision at the conclusion of the hearing and shall render a written decision within five business days after the completion of the hearing and shall serve the applicant or licensee with a copy of the decision by certified mail. The applicant or licensee may appeal a decision of the City Council to the Marion Circuit Court after receipt of the written notice of the decision. If an applicant or licensee pursues a judicial appeal of a final decision of the City Council, then that licensee or applicant may continue to operate the adult entertainment establishment pending the completion of judicial review.

(N) *Penalty.* Any person who shall violate any of the provisions of § 118.03 of this chapter shall, upon conviction thereof, be fined not more than \$500 or imprisoned for a period of not more than 12 months, or both so fined and imprisoned, and each day of violation shall be considered a separate offense.

(Ord. 98-5, passed 8-10-98)

§ 118.04 PREMISES TO FURNISH CLEAR VIEW.

(A) *General requirements.* An adult entertainment establishment shall at all times provide a clear view of the entire area open to the public, from the front entrance to the entertainment area. No partition, box, stall, screen, curtain, plant or other object shall be installed or placed so as to obstruct the view or the general observation from the front entrance of persons in any entertainment area, however, partitions, subdivision, or panels that are not higher than 48 inches from the floor shall not be construed as obstructing view or the general observation of persons from the front entrance.

(B) *Prohibitions.* The darkening of any portion of the adult entertainment establishment open to the public in any manner as to prevent any person standing at the front entrance from observing the conduct of patrons therein or of the entertainment areas shall be prohibited.

(C) *Penalty.* Any person who violates any of the provisions of this section shall upon conviction thereof, be fined not more than \$500 or imprisoned for a period of 90 days or both so fined and imprisoned and each day of violation shall be considered a separate offense.

(Ord. 98-5, passed 8-10-98)

§ 118.05 RESTRICTIONS ON ADVERTISEMENT.

Any adult entertainment establishment license holder shall be required to identify such business as “adult” in any advertisement. No lettering, words, or representation of matter relating to sexual activities as defined in this chapter shall be contained in any advertisement. Adult entertainment activities or photographs of the same shall not be displayed about or within any adult entertainment establishment in such a manner as to be open to the general public view from outside the adult entertainment establishment. Each application for an adult entertainment establishment license shall be accompanied by a photograph or drawing of any signs to be displayed on or about the exterior of the premises with an indication as to the dimensions of the same. Signage shall be posted in conspicuous locations indicating that persons must be of appropriate age or older to enter.

(Ord. 98-5, passed 8-10-98)