

TITLE XI: BUSINESS REGULATIONS

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CHAPTER 112: PAWNBROKERS

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§ 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 the City Commission, in the penal sum of one thousand dollars (\$1,000). 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) (1) Every pawnbroker shall keep a register of all loans and purchases of all articles by the pawnbroker from the general public. The register shall:

(a) Be reported to an online, Internet-based transaction recording service accessible to law enforcement agencies;

(b) Show the dates and the amounts of all loans or purchases by the pawnbroker from the general public, and the names and:

1. A driver's license number;
2. Another state or federally issued picture identification card number; or
3. If the identification specified in division (A)(1)(b)1. or 2. of this section is not available, a Social Security number may be accepted;

of all persons who have left any property that has been pawned or sold;

(c) At all times be available to the inspection of any law enforcement officer of this state when in the discharge of his or her official duty; and

(d) Contain a full description of all property purchased by the pawnbroker from the general public or received on deposit as collateral or security. When requested by law enforcement and pertaining to an investigation, a photograph of the merchandise shall be made available to law enforcement if the property is still in the possession of the pawnbroker. For purposes of this division (A)(1)(d), "FULL DESCRIPTION" includes but is not limited to:

1. Make;
2. Model;
3. Color;
4. Size;
5. Manufacturer;
6. Vintage; and
7. Distinguishing marks or characteristics.

(2) When secondhand merchandise is sold to a pawnbroker, the merchandise shall be held for a minimum of twelve (12) days before being resold.

(3) Prior to the release of property to a representative of law enforcement, the law enforcement representative shall provide to the pawnbroker a case report or other documentation that the item has been reported as stolen.

(KRS 226.040)

(B) (1) 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 twenty-four (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. Every pawnbroker in a city or in the unincorporated area of any county shall by 11:00 a.m. each day, make available to the chief of police of the city, the chief law enforcement officer of the county, or to the Department of Kentucky State Police, a true and correct written report of all goods received by him or her, whether by pawn or purchase, during the twenty-four (24) hours preceding each report. The report shall describe the goods as accurately as practicable.

(2) The chief of police of the city, the chief law enforcement officer of the county, or the Department of Kentucky State Police shall furnish blanks for the reports required by division (B)(1).
(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 sixty (60) days from the maturity of the loan. However, not less than ten (10) 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 (10) 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 two percent (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 (1/5) 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

(2) In the case of a person paying wages on behalf of a nonresident alien individual, foreign partnership, or foreign corporation, not engaged in trade or business within the United States, the term "EMPLOYER" means such person.

"INTERNAL REVENUE CODE." The Internal Revenue Code as defined in KRS 67.750(7).

"NET PROFIT." Gross income as defined in Section 61 of the Internal Revenue Code minus all the deductions from gross income allowed by Chapter 1 of the Internal Revenue Code, and adjusted as follows:

(1) Include any amount claimed as a deduction for state tax or local tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, local taxing authority in a state, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any foreign country or political subdivision thereof;

(2) Include any amount claimed as a deduction that directly or indirectly is allocable to income which is either exempt from taxation or otherwise not taxed;

(3) Include any amount claimed as a net operating loss carryback or carryforward allowed under Section 172 of the Internal Revenue Code;

(4) Include any amount of income and expenses passed through separately as required by the Internal Revenue Code to an owner of a business entity that is a pass-through entity for federal tax purposes; and

(5) Exclude any amount of income that is exempt from state taxation by the Kentucky Constitution, or the Constitution and statutory laws of the United States.

"PERSON." Every natural person, whether a resident or non-resident of the city. Whenever the word "PERSON" is used in a clause prescribing and imposing a penalty in the nature of a fine or imprisonment, the word, as applied to a partnership or other form of unincorporated enterprise, shall mean the partners or members thereof, and as applied to corporations, shall mean the officers and directors thereof.

"RETURN" or "REPORT." Any properly completed and, if required, signed form, statement, certification, declaration, or any other document permitted or required to be submitted or filed with the city.

"SALES REVENUE." Receipts from the sale, lease, or rental of goods, services, or property.

"TAX DISTRICT." Any county or city with the authority to levy net profits or occupational license taxes.

"TAXABLE NET PROFIT."

(1) In case of a business entity having payroll or sales revenue only within the city means net profit as defined in this section.

(2) In case of a business entity having payroll or sales revenue both within and without the city means net profit as defined in this section, and as apportioned under § 110.04 of this chapter.

"TAXABLE YEAR." The calendar year or fiscal year ending during the calendar year, upon the basis of which net income is computed. (Ord. 0807, passed 7-15-08)

Statutory reference:

Definitions, see KRS 67.750 and 67.775

§ 110.02 OCCUPATIONAL LICENSE APPLICATION REQUIRED.

(A) Every person or business entity engaged in any trade, occupation, or profession, or other activity for profit or anyone required to file a return under this chapter in the city shall be required to report and/or complete and execute the questionnaire prescribed by the city. Each person shall be required to report and/or complete a separate questionnaire for each separate business before the commencement of business or in the event of a status change, other than change of address. Licensees are required to notify the city of changes of address, or the cessation of business activity, and of other changes which render inaccurate the information supplied in the completed questionnaire.

(B) The following money receipts are not deemed to be "salaries, wages, commissions, and other compensations and net profits" within the meaning of this chapter, to wit:

(1) Old age or retirement payments;

(2) Periodical payments made to persons retired from services after reaching a specified age or after a started period of employment are not subject to the license fee.

(3) Disability, sickness and accident plans are not subject to the license fee. Unemployment compensations payments by the Commonwealth of Kentucky or any agent are not subject to the license fee.

(4) Death benefits. Death benefits payable by an employer to the beneficiary of an employee or to his estate, whether payable in a single sum or otherwise, are not subject to the license fee.

(5) Benefits arising under Workmen's Compensation Act as compensation for disabilities sustained during the course of employment, together with any amount of damages received by suit or agreement on account of such disability are not subject to the city net profit tax.

(C) Insurance. General individuals engaged in the sale of insurance may be either employees or independent contractors, a determination which shall be governed by generally accepted principles of the accounting profession and the rules and regulations of the Internal Revenue Service.

(1) Agencies. If an insurance office is located inside the city, all net profits are subject to the city net profit tax. Every agency making payment of compensation to an employee shall deduct and withhold upon the payment of the compensation any tax imposed against the compensation by the city. Amounts withheld shall be paid to the city in accordance with § 110.03. Every employer required to deduct and withhold tax under this section shall, for the quarter ending after January 1 and for each quarter ending thereafter, on or before the end of the month following the close of each quarter, make a return and report to the city, and pay to the city, the tax required to be withheld under this section, unless the employer is permitted or required to report within a reasonable time after some other period as determined by the city.

(2) Self-employed insurance agents based in a city office. All commissions, bonuses, and the like are subject to the city net profit tax.

(3) Group Insurance Commissions. Commissions paid on the sale of contracts of group insurance are subject if the group is located within the city.

(4) Residence. As a unit without regard to the residence of the writing agent.

(5) Bonuses and insurance payments subject to net profit tax. That proportionate part of all bonuses and incentive payments received

by an agent, which bears the same ratio to the total amount of commissions received by him on policies sold to residents, bears to the total amount of commissions received by him on all policies sold to both residents and non-residents is subject to the net profit tax.

(D) Income received from real estate.

(1) All individuals who derive income from any real estate must pay a business license/registration fee to do business in the city.

(2) The rent received from warehouses, apartment houses, hotels, motels, office buildings, storage facilities and structures rented for any commercial or business operation shall constitute a subject activity, and the net income there from is subject to the tax imposed by this chapter.

(3) Rents from single dwellings or single apartments or other rental property not specifically set out above shall constitute a subject activity and the net income there from is subject to the fee imposed by this chapter.

(4) All corporations engaged in the rental or real estate of partnership organized for that purpose shall be considered to be engaged in a subject activity.

(5) When any property falls within the classifications above given, the manner of its acquisitions, i.e. purchase, gift, inheritance, fiduciary or as fiduciary mortgage in position, and the like does not affect the subject of the income derived there from.

(6) Where the property is located within the city limits, the silence of the beneficiary is immaterial.

(7) Brokers or agencies. If a real estate office is located inside the city, all net profits from that location are subject to the city net profit tax.

(8) Real estate agents. Real estate agents are independent contractors and must have a license in order to conduct business within the city. All property sold within the city is subject to the net profit tax. For the sale of property outside the city, the determining factors shall be the amount of time spent in an office, at a place of public records, and at the place of closing the sale if any or all of these are within the city. Only time spent outside the city is not subject to the net profit tax.

(9) Real estate agents based in a city Office: All commissions, bonuses, and the like are subject to the city net profit tax. *EXCEPTION:* All individuals who sell real estate may exclude from the city net profit tax work time actually spent outside the city. Detailed records must be kept and submitted to the city.

(E) Before engaging in any business, trade, occupation or profession in the city, every person, firm, or corporation desiring to do so shall procure a license. The charge for the business license/registration fee will be (see attached list) per business or person. Charge for loading/unloading license is \$40 per business or person. Each license shall be issued for a period of one year. Person(s) or businesses who fails to obtain a business license/registration fee or loading/unloading license fee, shall be subject to penalties, interest, and fines as outlined in § 110.12(H).

(F) Non-city resident who conduct yard/tag sales within the city limits must pay a business license registration fee to the city. Business license/registration fee expires December 31 of each year. *EXCEPTION:* City resident/property owner does not have need to obtain a business license/registration fee; however if any other party joins a city resident in the yard sale/tag sale they must have a business license/registration fee.

(G) Independent contractor. An independent contractor is a person who, while performing services for another, is not under the direction and control of such other person as to the result to be accomplished by the work, as to the details and means to the result is accomplished, such as authors, professional persons, plumbers, electricians, seamstresses, laundresses, tailors, registered nurses. The income received by such person is subject to the net profit tax. (Note: Consequences of treating an employee as an independent contractor. If you classify an employee as an independent contractor and you have no reasonable basis for doing so, you may be held liable for employment taxes for that worker.) See Internal Revenue Code Section 3509 for more information.

(H) Trusts. Whenever a trust estate is engaged in enterprise, activity or business, which is productive of income, said activity or business shall be considered subject to the net profit tax.

(I) Capital Gains. Capital losses are not deductible under this chapter. Gains from the sale of a business asset (4797) are subject to this chapter and losses from the sale of a business asset (4797) are deductible under this chapter.

(J) Musicians and entertainers.

(1) Contractor. The term "CONTRACTOR" means that individual musician through whom the purchaser and the musician negotiate the contract of services and the performance thereof. The contractor may or may not perform actual musical service under a contract which he has negotiated.

(2) Purchaser of music. The person, partnership, organization or association for whom or for which the musical services are to be performed or furnished and who excises an employer's control over the conduct of the musicians: for example, hotels, cafes, taprooms, restaurants, theaters, clubs, radio stations and radio sponsors.

(3) Responsibility for withholding fee. When a contract for the purchase of music has been executed between a purchaser and a contractor, the musician shall be deemed to be the employee of the purchaser. The purchaser shall be the person responsible for withholding the license fee from the wages paid to musicians, and the remittal thereof to the occupational tax department.

(4) Entertainers other than musicians. An entertainer other than a musician is usually engaged by a purchaser through a booking agent. The booking agent, once the contract of employment has been executed, does not exercise an employer's control over the entertainer. The owner of a hotel, café, taproom, restaurant, theater or club or any place which furnishes entertainment to the public or to its patrons, shall be deemed the person liable as an employer of entertainers. Such employer must deduct the license fee from the compensation paid to the entertainer and remit the same to the occupational tax department.

(K) Other compensation.

(1) Tips received are subject to the net profit tax and will be reported in the same manner as an independent contractor.

(2) Vacation and holiday benefits are subject to the payroll tax and the tax shall be withheld and paid by the employer.

(3) Payments made to employees by an employer at the time of the voluntary or involuntary separation of the employee from the service of the employer are subject to the payroll tax and the tax shall be withheld and paid by the employer.

(L) Other individuals. Any individual who works both inside and outside of the city must submit at the time of filing a net profit tax return, a detailed record of work time spent outside the city.

(M) (1) For each place at which business is carried on a separate license shall be paid, and any person desiring to engage in any business for which a license is required shall designate the place at

which business is carried on, and the license to be issued shall designate such place, and such license shall authorize the carrying on of such business only at the place designated.

(2) Every person dealing in two or more businesses, vocations, occupations or professions scheduled herein, shall take out and pay for a license for each line of business.
(Ord. 0807, passed 7-15-08; Am. Ord. 0902, passed 5-4-09)

OCCUPATIONAL LICENSE TAX

10B

§ 110.03 OCCUPATIONAL LICENSE TAX PAYMENT REQUIRED.

(A) Except as provided in divisions (C) and (F) of this section, every person or business entity engaged in any business for profit and any person or business entity that is required to make a filing with the Internal Revenue Service or the Kentucky Revenue Cabinet shall be required to file and pay to the city an occupational license tax for the privilege of engaging in such activities within the city. The occupational license tax shall be measured by 1% of:

(1) All wages and compensation paid or payable in the city for work done or services performed or rendered in the city by every resident and nonresident who is an employee, whether temporary, transient, or permanent without regard to home office location or address of payroll issuer.

(2) The net profit from business conducted in the city by a resident or nonresident business entity or \$25, whichever is greater.

(B) Minimum and maximum liability. A tax district may impose minimum and maximum tax liabilities for the tax on net profits.

(C) All partnerships, S corporations, and all other entities where income is "passed through" to the owners are subject to this chapter. The occupational license tax imposed in this chapter is assessed against income before it is "passed through" these entities to the owners.

(D) If any business entity dissolves, ceases to operate, or withdraws from the city during any taxable year, or if any business entity in any manner surrenders or loses its charter during any taxable year, the dissolution, cessation of business, withdrawal, or loss or surrender of charter shall not defeat the filing of returns and the assessment and collection of any occupational license tax for the period of that taxable year during which the business entity had business activity in the city.

(E) If a business entity makes, or is required to make, a federal income tax return, the occupational license tax shall be computed for the purposes of this chapter on the basis of the same calendar or fiscal year required by the federal government, and shall employ the same methods of accounting required for federal income tax purposes.

(F) The occupational license tax imposed in this section shall not apply to the following persons or business entities:

(1) Any compensation received by members of the Kentucky National Guard for active duty training, unit training assemblies and annual field training;

(2) Any compensation received by precinct workers for election training or work at election booths in state, city, and local primary, regular, or special elections.

(Ord. 0807, passed 7-15-08)

Statutory reference:

Cessation of business, see KRS 67.763

Federal tax return, see KRS 67.765

Minimum and maximum tax liability, see KRS 67.773

§ 110.04 APPORTIONMENT.

(A) Except as provided in division (D), net profit shall be apportioned as follows:

(1) For business entities with both payroll and sales revenue in more than one tax district, by multiplying the net profit by a fraction, the numerator of which is the payroll factor, described in division (B), plus the sales factor, described in division (C), and the denominator of which is two; and

(2) For business entities with sales revenue in more than one tax district, by multiplying the net profit by the sales factor as set forth in division (C).

(3) For the purposes of divisions (A) through (D), the business entity shall file an apportionment form provided by the city.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid or payable in the city during the tax period by the business entity for compensation, and the denominator of which is the total compensation paid or payable by the business entity everywhere during the tax period. Compensation is paid or payable in the city based on the time the individual's service is performed within the city.

(C) The sales factor is a fraction, the numerator of which is the total sales revenue of the business entity in the city during the tax period, and the denominator of which is the total sales revenue of the business entity everywhere during the tax period.

(1) The sales, lease, or rental of tangible personal property is in the city if:

(a) The property is delivered or shipped to a purchaser, other than the United States government, or to the designee of the purchaser within the city regardless of the f.o.b, point or other conditions of the sale; or

(b) The property is shipped from an office, store, warehouse, factory, or other place of storage in the city and the purchaser is the United States government.

(2) Sales revenues, other than revenue from the sale, lease or rental of tangible personal property or the lease or rental of real property, are apportioned to the city based upon a fraction, the numerator of which is the time spent in performing such income-producing activity within the city and the denominator of which is the total time spent performing that income-producing activity.

(3) Sales revenue from the sale, lease, or rental of real property is allocated to the tax district where the property is located.

(D) If the apportionment provisions of this section do not fairly represent the extent of the business entity's activity in the city, the business entity may petition the city or the city may require, in respect to all or any part of the business entity's business activity, if reasonable:

(1) Separate accounting;

(2) The exclusion of any one or more of the factors;

(3) The inclusion of one or more additional factors which will fairly represent the business entity's business activity in the city; or

(4) The employment of any other method to effectuate an equitable allocation and apportionment of net profit.

(E) When compensation is paid or payable for work done or services performed or rendered by an employee, both within and without the city, the license tax shall be measured by that part of the compensation paid or payable as a result of work done or service performed or rendered within the city. The license tax shall be computed by obtaining the percentage which the compensation for work performed or services rendered within the city bears to the total wages and compensation paid

or payable. In order for the city to verify the accuracy of a taxpayer's reported percentages under this subsection, the taxpayer shall maintain adequate records.
(Ord. 0807, passed 7-15-08)

Statutory reference:

Net profit apportioned, see KRS 67.753

Payroll and sales factors, see KRS 67.753

§ 110.05 EMPLOYERS TO WITHHOLD.

(A) Every employer making payment of compensation to an employee shall deduct and withhold upon the payment of the compensation any tax imposed against the compensation by the city. Amounts withheld shall be paid to the city in accordance with § 110.03.

(B) Every employer required to deduct and withhold tax under this section shall, for the quarter ending after January 1 and for each quarter ending thereafter, on or before the end of the month following the close of each quarter, make a return and report to the city, and pay to the city, the tax required to be withheld under this section, unless the employer is permitted or required to report within a reasonable time after some other period as determined by the city.

(C) Every employer who fails to withhold or pay to the city any sums required by this chapter to be withheld and paid shall be personally and individually liable to the city for any sum or sums withheld or required to be withheld in accordance with the provisions of this section.

(D) The city shall have a lien upon all the property of any employer who fails to withhold or pay over to the city sums required to be withheld under this section. If the employer withholds, but fails to pay the amounts withheld to the city, the lien shall commence as of the date the amounts withheld were required to be paid to the city. If the employer fails to withhold, the lien shall commence at the time the liability of the employer is assessed by the city.

(E) Every employer required to deduct and withhold tax under this section shall annually on or before February 28 of each year complete and file on a form furnished or approved by the city a reconciliation of the occupational license tax withheld where compensation is paid or payable to employees. Either copies of federal forms W-2 and W-3, transmittal of wage and tax statements, or a detailed employee listing with the required equivalent information, as determined by the city, shall be submitted.

(F) Every employer shall furnish each employee a statement on or before January 31 of each year showing the amount of compensation and occupational license tax deducted by the employer from the compensation paid to the employee for payment to the city during the preceding calendar year.

(G) An employer shall be liable for the payment of the tax required to be deducted and withheld under this section.

(H) The president, vice president, secretary, treasurer or any other person holding an equivalent corporate office of any business entity subject to this chapter shall be personally and individually liable, both jointly and severally, for any tax required to be withheld from compensation paid to one or more employees of any business entity, and neither the corporate dissolution or withdrawal of the business entity from the city, nor the cessation of holding any corporate office, shall discharge that liability of any person; provided that the personal and individual liability shall apply to each or every person holding the corporate office at the time the tax becomes or became obligated. No person shall be personally and individually liable under this subsection who had no authority to collect, truthfully account for, or pay over any tax imposed by this chapter at the time that the taxes imposed by this chapter become or became due.

(I) Every employee receiving compensation in the city subject to the tax imposed under § 110.03 shall be personally liable for the tax notwithstanding the provisions of divisions (G) and (H). In all cases where the employer does not withhold the tax levied under this chapter from the employee, such employee or employees shall be responsible for filing with the city each quarter in the same manner as if they were the employer. If an employer fails to or is not required to withhold, report, or pay the License Fee it shall become the duty of the employee to file with the city. The payment required to be made by an employee, can be made quarterly, for the periods ending March 31, June 30, September 30 and December 31 of each year, or at any time the employee wishes to make an estimated payment for the year in which wages are earned. All license fees must be received by February 28 for the preceding calendar year, together with a copy of the employee's W-2 form. Employers that do not withhold, license fee must annually during the month of January of each year, make a return to the city, in which is set forth the name and social security number of each employee of the employer during the preceding calendar year, giving the amount of salaries, wages, commissions or other compensation earned during such preceding year by each such employee. This list shall include all

current full time employees, part time employees, temporary employees, and terminated employees whether it be voluntary or involuntary.
(Ord. 0807, passed 7-15-08)

Statutory reference:

Deductions and withholdings, see KRS 67.780

Employer requirements, see KRS 67.783

Liability, see KRS 67.785

§ 110.06 RETURNS REQUIRED.

(A) All business entity returns for the preceding taxable year shall be made by April 15 of each year, except returns made on the basis of a fiscal year, which shall be made by the fifteenth day of the fourth month following the close of the fiscal year. Blank forms for returns shall be supplied by the city.

(B) Every business entity shall submit a copy of its federal income tax return and all supporting statements and schedules at the time of filing its occupational license tax return with the city. Whenever, in the opinion of the city, it is necessary to examine the federal income tax return of any business entity in order to audit the return, the city may compel the business entity to produce for inspection a copy of any statements and schedules in support thereof that have not been previously filed. The city may also require copies of reports of adjustments made by the federal government.

(C) Every business entity subject to an occupational license tax governed by the provisions of this chapter shall keep records, render under oath statements, make returns, and comply with rules as the city from time to time may prescribe. Whenever the city deems it necessary, the city may require a business entity, by notice served to the business entity, to make a return, render statements under oath, or keep records, as the city deems sufficient to determine the tax liability the business entity.

(D) The city may require, for the purpose of ascertaining the correctness of any return or for the purposes of making an estimate of the taxable income of any business entity, the attendance of a representative of the business entity or of any other person having knowledge in the premises.

(E) The full amount of the unpaid tax payable by any business entity, as appears from the face of the return, shall be paid to the city at the time prescribed for filing the occupational license tax return, determined without regard to any extension of time for filing the return.

(F) It shall be the responsibility of persons who make Federal Form 1099 "non-employee compensation" payments to natural persons other than employees for services performed within the city, to maintain records of such payments and to report such payments to the city. Said payments must be reported on by remitting Federal Form 1099 by February 28 of the year following the close of the calendar year in which the non-employee compensation was paid. If a business entity or person is not required to remit Federal Form 1099 to the IRS, including but not limited to payments less than \$600, they are still liable to remit the equivalent information to the county or city. The information required to be reported by said licensee shall include:

(1) Payer's name, address, social security and/or Federal identification number.

(2) Recipient's name and address.

(3) Recipient's social security and/or Federal identification number.

(4) Amount of non employee compensation paid in the calendar year.

(5) Amount of non employee compensation earned in the city for the calendar year.

(Ord. 0807, passed 7-15-08)

Statutory reference:

Representative of the business to the city, see KRS 67.760

Returns for businesses, see KRS 67.768

Unpaid taxes, see KRS 67.773

§ 110.07 EXTENSIONS.

(A) The city may grant any business entity an extension of not more than six months, unless a longer extension has been granted by the Internal Revenue Service or is agreed to by the city and the business entity, for filing its return, if the business entity, on or before the date prescribed for payment of the occupational license tax, requests the extension and pays the amount properly estimated as its tax.

(B) If the time for filing a return is extended, the business entity shall pay, as part of the tax, an amount equal to 12% per annum simple interest on the tax shown due on the return, but not been previously paid, from the time the tax was due until the return is actually filed and the tax paid to the city. A fraction of a month is counted as an entire month.

(C) Quarterly estimated payments.

(1) Every business entity, other than a sole proprietorship, subject to a net profits or occupational license tax levied by the city shall make quarterly estimated tax payments on or before the fifteenth day of the fourth, sixth, ninth and twelfth month of each taxable year if the tax liability for the taxable year exceeds \$5,000.

(2) The quarterly estimated tax payments required under division (1) shall be based on the lesser of:

(a) Twenty-two and one-half percent (22.5%) of the current taxable year tax liability;

(b) Twenty-five percent (25%) of the preceding full year taxable year tax liability; or

(c) Twenty-five percent (25%) of the average tax liability for the three preceding full year taxable years' tax liabilities if the tax liability for any of the three preceding full taxable years exceeded \$20,000.

(3) Any business entity that fails to submit the minimum quarterly payment required under division (2) by the due date for the quarterly payment shall pay an amount equal to 12% per annum simple interest on the amount of the quarterly payment required under division (2) from the earlier of:

(a) The due date for the quarterly payment until the time when the aggregate quarterly payments submitted for the taxable year equal the minimum aggregate payments due under division (2); or

(b) The due date of the annual return. A fraction of a month is counted as an entire month.

(4) The provisions of this section shall not apply to any business entity's first full or partial taxable year of doing business in the county or city or any first taxable year in which a business entity's tax liability exceeds \$5,000.

(5) At the election of the business entity, any installment of the estimated tax may be paid prior to the date prescribed for its payment.

(Ord. 0807, passed 7-15-08)

Statutory reference:

Extensions, see KRS 67.770

Quarterly estimated payments, see KRS 67.755

§ 110.08 REFUNDS.

(A) Where there has been an overpayment of tax under § 110.05, a refund or credit shall be made to the employer only to the extent that the amount of the overpayment was not deducted and withheld under § 110.05 by the employer;

(B) Unless written application for refund or credit is received by the city from the employer within two years from the date the overpayment was made, no refund or credit shall be allowed;

(C) An employee who has compensation attributable to activities performed outside the city, based on time spent outside the city, whose employer has withheld and remitted to this city, the occupational license tax on the compensation attributable to activities performed outside the city, may file for a refund within two years of the date prescribed by law for the filing of a return. The employee shall provide a schedule and computation sufficient to verify the refund claim and the city may confirm with the employer the percentage of time spent outside the city and the amount of compensation attributable to activities performed outside the city prior to approval of the refund. (Ord. 0807, passed 7-15-08)

Statutory reference:

Refunds, see KRS 67.788

§ 110.09 FEDERAL AUDIT PROVISIONS.

(A) As soon as practicable after each return is received; the city may examine and audit the return. If the amount of tax computed by the city is greater than the amount returned by the business entity, the additional tax shall be assessed and a notice of assessment mailed to the business entity by the city within five years from the date the return was filed, except as otherwise provided in this section.

(1) In the case of a failure to file a return or of a fraudulent return the additional tax may be assessed at any time.

(2) In the case of a return where a business entity understates net profit, or omits an amount properly includable in net profits, or both, which understatement or omission, or both, is in excess of 25% of the amount of net profit stated in the return, the additional tax may be assessed at any time within six years after the return was filed.

(3) In the case of an assessment of additional tax relating directly to adjustments resulting from a final determination of a

federal audit, the additional tax may be assessed before the expiration of the times provided in this section, or six months from the date the city receives the final determination of the federal audit from the business entity, whichever is later.

(4) The times provided in this section may be extended by agreement between the business entity and the city. For the purposes of this subsection, a return filed before the last day prescribed by law for filing the return shall be considered as filed on the last day. Any extension wanted for filing the return shall also be considered as extending the last day prescribed by law for filing the return.

(B) Every business entity shall submit a copy of the final determination of the federal audit within 30 days of the conclusion of the federal audit.

(C) The city may initiate a civil action for the collection of any additional tax within the times prescribed in division (A) of this section.

(Ord. 0807, passed 7-15-08)

Statutory reference:

Federal audit provisions, see KRS 67.775

§ 110.10 ADMINISTRATIVE PROVISIONS.

(A) No suit shall be maintained in any court to restrain or delay the collection or payment of the tax levied by this chapter.

(B) Any tax collected pursuant to the provisions of this chapter may be refunded or credited within two years of the date prescribed by law for the filing of a return or the date the money was paid to the city, whichever is the later, except that:

(1) In any case where the assessment period contained in § 110.09 has been extended by an agreement between the business entity and the city, the limitation contained in this subsection shall be extended accordingly.

(2) If the claim for refund or credit relates directly to adjustments resulting from a federal audit, the business entity shall file a claim for refund or credit within the time provided for in this subsection or six months from the conclusion of the federal audit, whichever is later.

(3) For the purposes of this subsection and division (C) of this section, a return filed before the last day prescribed by law for filing the return shall be considered as filed on the last day.

(C) The authority to refund or credit overpayments of taxes collected pursuant to this chapter is vested exclusively in the city. (Ord. 0807, passed 7-15-08)

Statutory reference:

Administrative provisions, see KRS 67.778

§ 110.11 INFORMATION TO REMAIN CONFIDENTIAL.

(A) No present or former employee of the city shall intentionally and without authorization inspect or divulge any information acquired by him or her of the affairs of any person, or information regarding the tax schedules, returns, or reports required to be filed with the city or other proper officer, or any information produced by a hearing or investigation, insofar as the information may have to do with the affairs of the person's business. This prohibition does not extend to information required in prosecutions for making false reports or returns for taxation, or any other infraction of the tax laws, or in any way made a matter of public record, nor does it preclude furnishing any taxpayer or the taxpayer's properly authorized agent with information respecting his or her own return. Further, this prohibition does not preclude any employee of the city from testifying in any court, or from introducing as evidence returns or reports filed with the city, in an action for violation of a the city tax laws or in any action challenging the city laws.

(B) The city reserves the right to disclose to the Commissioner of Revenue of the Commonwealth of Kentucky or his or her duly authorized agent all such information and rights to inspect any of the books and records of the city if the 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 Kentucky Department of Revenue and maintains the privileged character of the information so furnished. Provided, further, that the city may publish statistics based on such information in such a manner as not to reveal data respecting net profits or compensation of any person or business entity.

(C) In addition, the city is empowered to execute similar reciprocity agreements as described in division (B) with any other taxing entity, should there be a need for exchange of information in order to effect diligent enforcement of this chapter. (Ord. 0807, passed 7-15-08)

Statutory reference:

Confidentiality, see KRS 67.790

§ 110.12 USE OF OCCUPATIONAL LICENSE TAX.

The taxes collected hereunder are for the general operation of the city and all monies collected hereunder shall be paid into the general fund.

(Ord. 0807, passed 7-15-08)

§ 110.99 PENALTY.

(A) A business entity subject to tax on net profits may be subject to a penalty equal to 5% of the tax due for each calendar month or fraction thereof if the business entity:

(1) Fails to file any return or report on or before the due date prescribed for filing or as extended by the city; or

(2) Fails to pay the tax computed on the return or report on or before the due date prescribed for payment;

(3) The total penalty levied pursuant to this subsection shall not exceed 25% of the total tax due; however, the penalty shall not be less than \$25.

(B) Every employer who fails to file a return or pay the tax on or before the date prescribed under § 110.05 may be subject to a penalty in an amount equal to 5% of the tax due for each calendar month or fraction thereof. The total penalty levied pursuant to this subsection shall not exceed 25% of the total tax due; however, the penalty shall not be less than \$25.

(C) In addition to the penalties prescribed in this section, any business entity or employer shall pay, as part of the tax, 1% per month or fraction thereof for a total of 12% per annum simple interest on the tax shown due, but not previously paid, from the time the tax was due until the tax is paid to the city. A fraction of a month is counted as an entire month.

(D) Every tax imposed by this chapter, and all increases, interest, and penalties thereon, shall become, from the time the tax is due and payable, a personal debt of the taxpayer to the city.

(E) The city may enforce the collection of the occupational tax due under § 110.03 and any fees, penalties, and interest as provided in divisions (A) through (D) by civil action in a court of appropriate jurisdiction. To the extent authorized by law, the city shall be entitled to recover all court costs and reasonable attorney fees incurred by it in enforcing any provision of this chapter.

(F) In addition to the penalties prescribed in this section, any person, business entity or employer who willfully fails to make a return, willfully makes a false return, or who willfully fails to pay taxes owing or collected, with the intent to evade payment of the tax or amount collected, or any part thereof shall be guilty of a Class A misdemeanor.

(G) Any person who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with, any matter arising under this chapter of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not the falsity or fraud is with the knowledge or consent of the person authorized or required to present the return, affidavit, claim, or document, shall be guilty of a Class A misdemeanor.

(H) A return for the purpose of this section shall mean and include any return, declaration, or form prescribed by the city and required to be filed with the city by the provisions of this chapter, or by the rules of the city or by written request for information to the business entity by the city.

(I) Any person violating the provisions of § 110.11 by intentionally inspecting confidential taxpayer information without authorization, shall be fined not more than \$500 or imprisoned for not longer than six months, or both.

(J) Any person violating the provisions of § 110.11 by divulging confidential taxpayer information shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.
(Ord. 0807, passed 7-15-08)

Statutory reference:

Penalties, see KRS 67.790

CHAPTER 111: PEDDLERS, ITINERANT MERCHANTS, AND SOLICITORS

Section

- 111.01 Definitions
- 111.02 License requirement
- 111.03 Application procedure
- 111.04 Standards for issuance
- 111.05 Revocation procedure
- 111.06 Standards for revocation
- 111.07 Appeal procedure
- 111.08 Exhibition of identification

- 111.99 Penalty

§ 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 Chapter 110.

(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/Treasurer. 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 in

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 that the applicant:

(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 will constitute valid reasons for disapproval of an application.

§ 111.05 REVOCATION PROCEDURE.

Any license or permit granted under this chapter may be revoked by the City Clerk/Treasurer 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 City Commission. The appeal shall be taken by filing with the City Commission, 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 City Commission 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 City Commission 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/Treasurer 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

§ 111.99 PENALTY.

Whoever violates any provision of this chapter shall be guilty of a misdemeanor and shall be fined not more than five hundred dollars (\$500.00). Each day's violation shall constitute a separate offense.

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 the City Commission, in the penal sum of \$1,000. 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) (1) 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. Every pawnbroker in a city or in the unincorporated area of any county shall by 11:00 a.m. each day, make available to the chief of police of the city, the chief law enforcement officer of the county, or to the Department of Kentucky State Police, a true and correct written report of all goods received by him or her, whether by pawn or purchase, during the twenty-four (24) hours preceding each report. The report shall describe the goods as accurately as practicable.

(2) The chief of police of the city, the chief law enforcement officer of the county, or the Department of Kentucky State Police shall furnish blanks for the reports required by subsection (1) of this section. (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 60 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 property was 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 be, upon conviction, guilty of a misdemeanor and fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00), 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 fined not less than twenty dollars (\$20.00) nor more than one hundred dollars (\$100.00).

(KRS 226.990(3))

CHAPTER 113: INSURANCE PREMIUM TAX

Section

- 113.01 Imposition of license fee
- 113.02 Amount of fee
- 113.03 Due date; interest
- 113.04 Use of fee

§ 113.01 IMPOSITION OF LICENSE FEE.

There is hereby imposed on each insurance company a fee for the privilege of engaging in the business of insurance within the corporate limits of the city, beginning July 1, 1993, and thereafter on a quarterly basis.

§ 113.02 AMOUNT OF FEE.

The fee imposed on each insurance company shall be eight percent (.08) of all premiums received by such company within the preceding calendar quarter on all risks located within the corporate limits of the city on classes of business which such company is authorized to transact, less all premiums returned to policyholders. The provision of this section shall not include premiums received for insuring employers against liability for personal injury to their employees or death caused thereby under the provisions of the worker's compensation act.

§ 113.03 DUE DATE; INTEREST.

The fee imposed by this ordinance shall begin July 1, 1993, and is due on the first day of each quarter thereafter for insurance business transacted during the preceding calendar quarter. Fees which are not paid by due date of each quarter are subject to a delinquent penalty charge of one percent (.01) per month and an interest charge of one percent (.01) per month on delinquent fees and penalty charges.

§ 113.04 USE OF FEE.

(A) (1) Revenue collected from Insurance Premium Tax shall be deposited into the general fund as it is collected.

(2) Revenue collected from the Insurance Premium Tax shall be appropriated in the same manner as all other city revenues through the use of an annual budget.

(B) Each year after the fire truck payment is made, any surplus funds may be transferred to the city's general fund to pay outstanding legal fees the city has incurred or other emergency expenses for the fire department. This action must be approved each year by the City Commission.

(Am. Ord. 214-93, passed 10-4-93; Am. Ord. 4-2003, passed 3-3-03)

INSURANCE PREMIUM TAX

CHAPTER 114: FINANCIAL INSTITUTION FRANCHISE AND LOCAL DEPOSIT TAX

Section

- 114.01 Imposition of franchise and local deposit tax
- 114.02 Amount of tax
- 114.03 Use of tax

- 114.99 Penalty

§ 114.01 IMPOSITION OF FRANCHISE AND LOCAL DEPOSIT TAX.

All financial institutions, as defined in KRS Chapter 136, located within the corporate limits of the city shall pay a franchise tax for the 1996 tax year and all subsequent years at the rate of 0.025% on all deposits, as defined in KRS Chapter 136, maintained by the financial institutions.

(Ord. 234-96, passed 10-7-96)

§ 114.02 AMOUNT OF TAX.

(A) For transition purposes, the 1996 tax year will be treated differently in terms of collection of taxes than for all subsequent years. For the 1996 tax year, the following timetable is hereby established:

(1) The city will issue tax bills to financial institutions no later than May 1, 1997.

(2) Payment of taxes shall be due with a two percent (2%) discount by May 31, 1997, or without the discount by June 30, 1997.

(B) For all tax years subsequent to the 1996 tax year, the following timetable is hereby established:

(1) The city will issue tax bills to financial institutions no later than December 1 of each year.

(2) Payment of the tax shall be due with a two percent (2%) discount by December 31 of each year, or without the discount by January 31 of each year.

(Ord. 234-96, passed 10-7-96)

§ 114.03 USE OF TAX.

All monies collected pursuant to this chapter shall be paid into the General Fund of the city to be used for the payment of proper expenditures as determined by the City Commission.

(Ord. 234-96, passed 10-7-96)

§ 114.99 PENALTY.

(A) The city shall have a lien for taxes upon any and all property

subject to the tax imposed by this chapter, which lien shall be superior to all encumbrances prior or subsequent.

(B) All taxes due in accordance with this chapter which are not paid before June 30, 1997, for tax year 1996, or which are not paid before January 31 for all subsequent years, shall be deemed delinquent and shall be subject to a penalty of ten percent (10%) and shall bear interest at the rate of ten percent (10%) per annum.
(Ord. 234-96, passed 10-7-96)

CHAPTER 115: ALCOHOLIC BEVERAGE CONTROL ORDINANCE

Section

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- 115.003 Definitions
- 115.004 Application

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- 115.021 Certain special licenses defined
- 115.022 Expiration of license; proration of fees
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GENERAL PROVISIONS

§ 115.001 TITLE.

This chapter shall be known as the "Alcoholic Beverage Control Ordinance" of the City of Park City, Kentucky (hereinafter referred to as "the city").
(Ord. 1604, passed 11-23-16)

§ 115.002 PURPOSE.

The purpose of this chapter is to establish uniform regulations and requirements for the licensing and regulation of alcoholic beverage manufacture and sales pursuant to authorization under KRS Ch. 241 to 244.

(Ord. 1604, passed 11-23-16)

§ 115.003 DEFINITIONS.

The definitions of the words used throughout this chapter, unless the context requires otherwise, shall have the same meaning as those set out in the alcoholic beverage control laws of the Commonwealth of Kentucky (KRS Ch. 241 through 244), and all amendments and supplements thereto.

(Ord. 1604, passed 11-23-16)

§ 115.004 APPLICATION.

(A) This chapter shall be construed to apply to the manufacture and traffic in both malt beverages and distilled spirits and wine where the context permits such application. Nothing in this chapter shall excuse or relieve the licensee, or the owner, proprietor, employee, agent or person in charge of any licensed premises where alcoholic beverages are sold from the restrictions, requirements and penalties of any other ordinance of the city, or of any statutes of the state relating to violations pertaining to alcoholic beverages.

(B) The provisions of the Alcoholic Beverage Control Law of the Commonwealth of Kentucky (KRS Ch. 241 to 244), and all amendments and supplements thereto, are adopted so far as applicable to this chapter, except as otherwise lawfully provided herein.

(Ord. 1604, passed 11-23-16)

LICENSE REQUIREMENTS

§ 115.020 CITY LICENSES.

(A) For the privilege of causing, permitting and engaging in the actions, business, and transactions authorized thereby in regard to traffic in alcoholic beverages in the city and pursuant to the authority of KRS 243.070, there is hereby established a corresponding city license for each of the state licenses described in KRS 243.070. The fee for each city license shall be as set out in the schedule set forth below. In the event KRS 243.070 shall hereafter be amended to authorize additional city licenses, the fee for each city license shall be the maximum fee provided in the statute as amended.

- (1) Distiller's License, per annum \$500
- (2) Rectifier's License
 - (a) Class A, per annum \$3,000
 - (b) Class B (craft rectifier), per annum \$960
- (3) Wholesaler's License, per annum \$3,000
- (4) Quota Retail Package License, per annum \$1,000
- (5) Quota Retail Drink License, per annum \$1,000

- (6) Special Temporary License, per event \$166
- (7) Non-quota Type 1 Retail Drink License, per annum
(includes distilled spirits, wine and malt
beverages) \$2,000
- (8) Non-quota Type 2 Retail Drink License, per annum
(includes distilled spirits, wine and malt
beverages) \$1,000
- (9) Non-quota Type 3 Retail Drink License, per annum
(includes distilled spirits, wine and malt
beverages) \$300
- (10) Special Temporary Alcohol Auction License, per event \$200
- (11) Special Sunday Retail Drink License,
per annum \$300
- (12) Extended Hours Supplement License, per annum . . . \$2,000
- (13) Caterer's License, per annum \$800
- (14) Bottling House or Bottling House Storage License,
per annum \$2,000
- (15) Brewer's License, per annum \$500
- (16) Microbrewery License, per annum \$500
- (17) Malt Beverage Distributor's License, per annum . . . \$200
- (18) Non-quota Retail Malt Beverage Package License,
per annum \$200
- (19) Non-quota Type 4 Retail Malt Beverage Drink
License, per annum \$200
- (20) Malt Beverage Brew-on-Premises License, per annum . \$100
- (21) Limited Restaurant License, per annum (includes
distilled spirits, wine and malt beverages) . . . \$1,200
- (22) Limited Golf Course License, per annum (includes
distilled spirits, wine and malt beverages) . . . \$1,200

(B) The fee for each of the first five (5) supplemental bar licenses shall be the same as the fee for the primary drink license. There shall be no charge for each supplemental license issued in excess of five (5) to the same licensee at the same premises.

(C) The holder of a Nonquota Retail Malt Beverage Package License may obtain a Nonquota Type 4 Malt Beverage Drink License for a fee of fifty dollars (\$50). The holder of a Nonquota Type 4 Malt Beverage Drink License may obtain a Nonquota Retail Malt Beverage Package License for a fee of fifty dollars (\$50).
(Ord. 1604, passed 11-23-16)

§ 115.021 CERTAIN SPECIAL LICENSES DEFINED.

(A) Limited Restaurant License. A Limited Restaurant License may be issued pursuant to KRS Ch. 243, if the restaurant meets the

definition of a "limited restaurant" as set forth in KRS 241.010(36). It is a facility where the usual and customary business is the serving of meals to consumers, which has a bona fide kitchen facility, which receives at least seventy percent (70%) of its gross income from the sale of food, and which maintains seating capacity of either one hundred (100) or fifty (50) persons for dining. If the limited restaurant only maintains seating capacity for fifty (50) persons, it shall not have an open bar and all alcoholic beverages shall be sold in conjunction with the sale of a meal. Distilled spirits, wine, and malt beverages shall be deemed to be purchased in conjunction with a meal if the distilled spirits, wine and malt beverages are served after the meal is ordered and no more than one-half hour after the meal is completed.

(B) Limited Golf Course License. A Limited Golf Course License may be issued pursuant to KRS Chapter 243 if an establishment is a golf course with nine or eighteen (18) holes that meets United States Golf Association criteria as a regulation golf course. A Limited Golf Course License shall authorize the licensee to purchase, receive, possess and sell distilled spirits, wine and malt beverages at retail, by the drink for consumption on the licensed premises.

(C) Non-quota Type 1 Retail Drink License. A Non-quota Retail Drink License may be issued to and in the following as defined by KRS to the following: a convention center or a convention hotel complex; a horse racetrack; an automobile racetrack; a railroad system; a commercial airlines system or charter flight system; a qualified historic site; and a state park.

(D) Non-quota Type 2 Retail Drink License. A Non-quota Retail Drink License may be issued pursuant to and as defined by KRS to the following:

(1) A hotel that contains at least fifty (50) sleeping units, contains minimum dining seating for at least fifty (50) persons, and that maintains fifty percent (50%) of its gross food and drinks sales are from the sale of food;

(2) A restaurant that contains minimum dining seating for at least fifty (50) persons, and that maintains fifty percent (50%) of its gross food and drinks sales are from the sale of food;

(3) An airport; or

(4) A riverboat.

(E) Non-quota Type 3 Retail Drink License. A Non-quota 3 Retail Drink License may be issued pursuant to and defined by KRS to the following:

(1) A private club in existence for longer than one year prior to the license application and that excludes the general public;

(2) A dining car;

(3) A distiller; and

(4) A bed and breakfast.

(F) Non-quota Type 4 Retail Malt Beverage Drink License.

(1) A Non-quota Type 4 Retail Malt Beverage Drink License may be issued pursuant to and as defined in KRS to the following:

- (a) A holder of a quota retail drink license;
- (b) A holder of a microbrewery license;
- (c) A holder of a small farm winery license; and

(d) Any other business wishing to sell malt beverages by the drink for consumption on the premises only.

(2) A Non-quota Retail Malt Beverage Drink License shall not be issued to any premises from which gasoline and lubricating oil are sold, or from which the servicing and repair of motor vehicles is conducted, unless there is maintained in inventory for sale on the premises at retail not less than five thousand dollars (\$5,000) of food, groceries and related products valued at cost.

(G) Special Temporary License. A Special Temporary License may be issued only as set forth in KRS 243.260 and 804 KAR 4:250. This license may be issued to any regularly organized fair, exposition, racing association, organized civic or community-sponsored event, or charitable event as defined by applicable law. This license shall authorize the licensee to exercise the privileges of a Quota Retail Drink Licensee and a Non-quota Type 4 Malt Beverage Drink Licensee at designated premises for a specified and limited time, which shall not exceed thirty (30) days and which shall expire when the qualifying event ends. All restrictions and prohibitions applying to a distilled spirits and wine Quota Retail Drink License or a Non-quota Retail Malt Beverage Drink License shall apply also to a Special Temporary Licensee as described in this section.
(Ord. 1604, passed 11-23-16)

§ 115.022 EXPIRATION OF LICENSE; PRORATION OF FEES.

All city licenses, except temporary licenses, shall begin on May 1 of any year and shall expire on April 30 of the following year as set forth in KRS 243.090 and 804 KAR 4:390. Any licenses issued after May 1 of any year shall be assessed a fee based on the pro rata portion of the remainder of the license period; however, the cost of any license shall not be less than one-half ($\frac{1}{2}$) the amount of the full fee for an annual license of that type.
(Ord. 1604, passed 11-23-16)

§ 115.023 PAYMENT OF LICENSE FEES; DELINQUENCY.

No licensee shall enter into or begin operating any business for which a license is required by this chapter until the license fee has been paid in full. The fee for renewal of any license shall be paid with the renewal application. Failure to pay any license fee within ten (10) days after it becomes due shall result in a penalty equal to ten percent (10%) of the license fee. Any licensee failing to pay the fees, including penalties, within ten (10) days after such fees are due may be subject to revocation of the license and to other penalties as provided in this chapter.
(Ord. 1604, passed 11-23-16) Penalty, see § 115.999

§ 115.024 REFUND OF FEES.

(A) Should any licensee under this chapter be prohibited from conducting the licensed business for the full period covered by the

license because of any changes that may hereafter be made in the laws of the state with reference to alcoholic beverages or other cause outside licensee's control, then the city shall refund to licensee the proportionate part of the license fee for the period during which licensee is prevented from carrying on the business if the licensee provides sufficient proof to the City ABC Administrator that the period of inactivity was not the fault of the licensee or the result of a revocation, suspension or other wrongdoing by licensee, or an agent or employee of the licensee.

(B) In the event a violation of this chapter occurs that results in the suspension or revocation of the license, the city shall not be required to refund any portion of the license fee.
(Ord. 1604, passed 11-23-16)

§ 115.025 REGULATORY LICENSE FEE.

(A) Pursuant to KRS 243.075, there is hereby imposed a regulatory license fee on the gross receipts of sale of alcoholic beverages of each licensee who has a local license issued by the City ABC Administrator. The city's regulatory license fee shall be five percent (5%) of gross sales of all alcoholic beverages sold by the drink. In the case of retail sales of package distilled spirits and wine, the regulatory license fee shall be five percent (5%) of gross sales. The regulatory license fee shall be five percent (5%) on gross retail sales of package malt beverages. These regulatory license fees may be addressed and modified each fiscal year when the city adopts its annual budget. The annual rate for the regulatory license fee shall be reasonably estimated to ensure full reimbursement to the city for the cost of any additional policing, regulatory or administrative expense related to the sale of alcoholic beverages in the city. Should the city not address the regulatory license fee in any given budget, then the regulatory license fee shall remain at the level at which it was last fixed in this chapter until such time as the City Council shall adjust the fee.

(B) Payment of the regulatory license fee shall be remitted to the City ABC Administrator, who shall transmit all fees to the City Clerk, or his or her designee, for deposit into the appropriate designated account. The city may use these fees as permitted by law, including but not limited to, any cost of additional policing, regulatory or administrative expenses related to the sale of alcoholic beverages in the city. The regulatory license fee shall be in addition to any other fees or licenses permitted by law, except that a credit against a regulatory license fee in the city shall be allowed in an amount equal to any license fee paid by the licensee, and shall be based on paperwork required by the local and/or state ABC Administrator, which may include, but is not limited to, tax returns and financial statements. The paperwork and payment will be due according to the schedule set forth by the Mayor, or his or her designee, which may be set at, but is not limited to, time periods consisting of a monthly or quarterly billing by the local ABC office and/or the city.

(C) Failure to pay the remittance within ten (10) days of the due date constitutes a violation and shall subject a licensee to suspension or revocation.

(D) Penalty for failure to file a return and pay remittance by the due date is five percent (5%) of the regulatory fee for each ninety (90) days or fraction thereof. The total late filing penalty shall not

exceed twenty-five percent (25%) of the regulatory fee; provided, however, that in no case shall the penalty be less than ten dollars (\$10).

(E) Interest at the rate of eight percent (8%) per annum will apply to any late payments.
(Ord. 1604, passed 11-23-16)

§ 115.026 DISPOSITION OF FEES AND ANY OTHER TYPE OF PAYMENT TO THE CITY.

The City ABC Administrator shall transmit all fees and any other types of payment made to the city, upon collection, to the City Clerk, or his or her designee, for deposit into the appropriate designated account.
(Ord. 1604, passed 11-23-16)

CITY ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR

§ 115.040 ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR.

(A) Pursuant to KRS 241.160 and KRS 241.170, there is hereby created the office of the City Alcoholic Beverage Control Administrator.

(B) The City Commission shall appoint the City Alcoholic Beverage Administrator pursuant to KRS 241.170.

(C) The City Alcoholic Beverage Administrator may from time to time appoint additional personnel, such as Alcoholic Beverage Control investigator(s), as is necessary to assist him or her in the administration of this chapter, so long as the additional personnel has been approved by the Mayor in writing and in advance.

(D) The functions of the City ABC Administrator shall be the same with respect to the city licenses and regulations as the functions of the Alcoholic Beverage Control Board of the Commonwealth of Kentucky (hereinafter referred to as "the ABC Board") with respect to state licenses and regulations.

(E) To prevent potential conflicts of interests, no person shall be a City ABC Administrator, an investigator, or an employee of the city, under the supervision of the City ABC Administrator, who would be disqualified to be a member of the ABC Board under state law set forth in KRS 241.100.

(F) The City ABC Administrator shall have authority delegated by the City Commission, and as authorized under KRS Ch. 241 through 244. The City ABC Administrator, and his or her investigators, may inspect any premises where alcoholic beverages are manufactured, sold, stored or otherwise trafficked in, without first obtaining a search warrant.

(G) The City ABC administrator, and his or her investigators, shall have available at all reasonable times for their inspection all books and records required to be maintained by licensees under KRS 244.150. The City ABC Administrator shall receive copies of all reports submitted by the licensee to the ABC Board.

(H) Before entering upon his or her duties, the City ABC Administrator shall take the oath as prescribed in Section 228 of the

Constitution, and shall execute a bond with a good corporate surety in the penal sum of not less than one thousand dollars (\$1,000). Any employee delegated or assigned to the ABC Administrator may also be asked to execute a similar bond in such penal sum as the city deems necessary, unless that person is already covered under the city's active bonds as required under KRS in regards to officials and employees of the city.
(Ord. 1604, passed 11-23-16)

§ 115.041 APPEALS.

(A) Appeals from the orders of the City ABC Administrator may be taken to the state ABC Board by filing with the Board within thirty (30) days a certified copy of the orders of the City ABC Administrator. The Board shall hear matters at issue as upon an original proceeding. Appeals from orders of the City ABC Administrator shall be governed by KRS Chapter 13B.

(B) When any decision of the City ABC Administrator shall have been appealed, or when a protest has been lodged against an application for any license within the city, and the ABC Board shall have made a decision regarding the appeal or protested application, the City ABC Administrator, upon receipt of notice of finality of the decision, shall enter orders and take action as required by the final order of the ABC Board. As provided by law, and as used herein, no order of the ABC Board is final until all appeals or appeal times shall have been exhausted. A "FINAL ORDER" of the ABC Board is the order entered by the Board, unless an appeal is taken from the Board's order, in which case the "FINAL ORDER" is the order entered by the Board upon direction from the reviewing court of last resort in its final order.
(Ord. 1604, passed 11-23-16)

APPLICATION AND MAINTENANCE OF LICENSE

§ 115.050 ADVERTISEMENT.

Before an application for a license shall be considered, the applicant must publish a notice of its intent to apply for an alcoholic beverage license in a newspaper meeting the requirements of KRS Chapter 424, including the following.

(A) The advertisement shall state the name and address of the applicant. It shall state the members of the partnership if the applicant is a partnership, and membership of the LLC if the applicant is an LLC, as well as the name of the business and its address. If the applicant is a corporation, the advertisement shall state the names and addresses of the principal officers and directors of the corporation, as well as the name and address of the corporation itself. All advertisements shall state the location of the premises for which the licenses sought, and the type of license for which application is made.

(B) The applicant shall attach to the application a newspaper clipping of the advertisement and proof of the publication as provided in KRS 424.170.
(Ord. 1604, passed 11-23-16)

§ 115.051 APPLICATION FEE.

A nonrefundable application fee of fifty dollars (\$50) shall be paid with the filing of the application for a city license. If the

license is granted, the application fee shall be credited against the initial license fee.

(Ord. 1604, passed 11-23-16)

§ 115.052 FORM OF APPLICATION.

(A) All licenses granted under this chapter shall be approved by the City ABC Administrator. Applications for the issuance of new licenses and for renewals of existing licenses shall be in writing, and upon the forms provided by the state ABC Board and/or the city, both of which may be amended and supplemented from time to time by each respective agency.

(B) The application shall be verified and shall set forth in detail such information concerning the applicant and the premises for which the license is sought, as required by the Kentucky Revised Statutes, the state ABC Board, and the city, including as follows:

(1) Name and address;

(2) Nature of interest;

(3) Whether or not a citizen of the United States;

(4) Date of birth;

(5) Date residence was established in the state, if a resident of the state;

(6) Whether or not he or she has any interest in any other licensee or LLC, corporation, partnership or other business organization holding a license under this chapter;

(7) Extent of stock or company ownership; and

(8) Whether or not he or she has any interest in any licensee or LLC, corporation, partnership or other business organization holding a license in any other state or province.

(C) Each application shall be accompanied by a certified check, cashier's check, or money order for the amount of the license fee, less the fifty-dollar (\$50) application fee.

(D) In addition to the above specified information, the applicant shall file with the application responses to any additional questions as may be posed or prescribed by the City ABC Administrator. The City Commission has adopted a statement of guidelines and priorities for the issuance of licenses within this chapter to determine the extent to which applications may further, or impede, the objectives of those guidelines. Therefore, in addition to the information contained in the application, the City ABC Administrator may require such other information as the Administrator may, in his or her discretion, deem desirable, reasonable or appropriate to the consideration of the application.

(Ord. 1604, passed 11-23-16) Penalty, see § 115.999

§ 115.053 OTHER CONDITIONS.

In addition to any other inquiries, conditions or considerations required or permitted by law:

(A) The City ABC Administrator shall not grant any alcoholic beverage license or approve a renewal of a license until the applicant and his or her place of business shall have been approved by the City Fire Chief, City Code Enforcement Official, local health department representative, and any and all other inspections required by the Kentucky Building Code or other applicable law;

(B) All applicants shall voluntarily submit to a criminal background check and shall sign a waiver allowing the release of this information to the City ABC Administrator; and

(C) No license to sell alcoholic or malt beverages may be granted or renewed to any person who is delinquent in the payment of any property taxes, both real and personal, any other taxes due to the city, fees of any type, or charges due to any department of the city at the time of issuing the license. Nor may any license be granted or renewed to sell upon any premises or property, owned and occupied by the licensee upon which there are any of the above delinquent payments due and owing to the city. Further, if a licensee becomes delinquent in the payment of any of the above at any time during the license period, the license to sell alcoholic or malt beverages may be subject to revocation or suspension.

(D) No person, whether an applicant for license or a licensee, shall in any manner attempt to bribe, threaten, unduly influence or intimidate the City ABC Administrator, or any member of the city's staff, or any state ABC Administrator or staff, in any matter in which an application or proposed application for license, or procedure for revocation or suspension, is pending before such officer. This provision is not intended to stifle expressions of opinion; however, it is intended to make clear that the ABC Administrators are public officials charged with the administration and enforcement of the law, both local and state. Any person applying for a license, or contesting the revocation or suspension of a license, who engages in attempted bribes, threats, attempted undue influence or intimidation of a city or state ABC Administrator or staff shall be disqualified from receiving or retaining a license, in addition to other penalties as provided by law. The procedures for appeals shall apply to disqualifications, revocations or suspensions under this chapter. Nothing in this chapter shall be interpreted to prohibit monetary settlements in lieu of revocation or suspension of a license after a final order or revocation or suspension, where the ordinance and applicable statutes allow for such payments in settlement.
(Ord. 1604, passed 11-23-16)

§ 115.054 FORM OF LICENSE.

All city licenses shall be in such form as may be provided by the ABC Administrator, but at the least shall contain:

(A) The name and address of the licensee;

(B) The number of the license;

(C) The type of license;

(D) A description by street and number, or otherwise, of the licensed premises;

(E) The name and address of the owner of the building in which the licensed premises are located;

(F) The expiration date of the license; and

(G) A statement in substance that the license shall not be a property or vested right, and that it may be revoked at any time pursuant to law.

(Ord. 1604, passed 11-23-16)

§ 115.055 CHANGE OF INFORMATION.

(A) If after a license to individuals or to a sole proprietor has been issued, there is a change in any fact required to be set forth in the application, a verified amendment, in writing, giving notice of the change shall be filed with the City ABC Administrator with ten (10) days of the change.

(B) Since a number of licenses issued by the city are in the name of corporations or other business organizations, it is necessary that ownership changes in such organizations be reported to the City ABC Administrator. The City ABC Administrator can, therefore, investigate the person to whom the ownership or management is transferred in order to ascertain whether that person is precluded by statute from holding an interest in an alcoholic beverage license.

(C) As used with regard to a partnership, corporation, LLC or other business organization herein, the word "CHANGE" is construed to include any change in managers, partners or LLC members, directors or officers of the corporation, or change in ownership or stock whereby any person secures ten percent (10%) of the outstanding ownership or stock. Transfer of more than ten percent (10%) of the total ownership or stock shall require a new license.

(D) The following information shall be required concerning any new manager, partner or LLC member, new director, officer or person securing any interest in alcoholic beverage license:

(1) Name and address;

(2) Nature of interest;

(3) Whether or not a citizen of the United States;

(4) Date of birth;

(5) Date residence was established in the state, if a resident of the state (If a city resident, indicate when residence was established);

(6) Whether or not he or she has any interest in any other licensee or in any LLC, corporation, partnership or other business organization holding a license under this act;

(7) Extent of stock or company ownership; and

(8) Whether or not he or she has any interest in any licensee or in any LLC, corporation, partnership or other business organization holding a license in any other state or province.

(E) This information shall be filed with the City ABC Administrator as a verified amendment of the application pursuant to which the license was granted. Filing shall be made within ten (10) days of any change of required information.

(Ord. 1604, passed 11-23-16)

§ 115.056 RENEWAL OF LICENSE.

(A) Every year, except in the case of the temporary licenses, each licensee shall renew its license. All renewal licenses must be on file with the City ABC Administrator no less than thirty (30) days prior to the expiration of the license for the preceding license period or the same shall be canceled, except where the licensee is unable to continue in business at the same premises licensed during the preceding license period as a result of construction, act of God, casualty, death, the acquisition or threatened acquisition of the premises by any federal, state, city or other governmental agency or private organization possessing power of eminent domain, whether the acquisition is voluntary or involuntary, or loss of lease through the failure of a landlord to renew an existing lease; provided that the licensee shall file a written verified statement no less than twenty (20) days from the expiration date of the license, setting forth these facts. The City ABC Administrator is hereby authorized to extend the time for filing of a renewal of the license for a reasonable length of time within the sound discretion of the City ABC Administrator; provided, however, the licensee shall pay a license fee from the expiration date of the former license or licenses. The license fee shall not be payable until application is made for the transfer of the license to a new location.

(B) The renewal by the City ABC Administrator of the license shall not be construed to be a waiver or acceptance of any violation that occurred prior to the renewal, and shall not prevent subsequent proceedings against the licensee.
(Ord. 1604, passed 11-23-16)

§ 115.057 LOST OR DESTROYED LICENSE.

When a license shall be lost or destroyed without fault on the part of the licensee, or his or her agent or employee, a duplicate in lieu of the original license shall be issued by the City ABC Administrator, after the Administrator shall have been satisfied as to the facts; provided, however, that the applicant for the duplicate license shall pay a fee of ten dollars (\$10) for the duplicate license.
(Ord. 1604, passed 11-23-16)

§ 115.058 REVOCATION OR SUSPENSION.

(A) Any license may be revoked or suspended by the City ABC Administrator if the licensee shall have violated any of other provisions of KRS Chapters 241 through 244, or any rule or regulation of the ABC Board, or of the Kentucky Department of Revenue, relating to the regulation of the manufacture, sale and transportation or taxation of alcoholic beverages, or if the licensee shall have violated or shall violate any act of Congress or any rule or regulation of any federal board, agency or commission, or this chapter now, heretofore or hereafter in effect, relating to the regulation of the manufacture, sale and transportation or taxation of intoxicating liquors, or any rules or regulations of the city heretofore in existence or authorized by the terms of KRS Chapters 241 through 244 to be created, irrespective of whether the licensee knew of or permitted the violation, or whether the violation was committed in disobedience of his or her instructions. Any such license may be revoked or suspended for any cause that the City ABC Administrator, in the exercise of his or her sound discretion, deems sufficient.

(B) A license may be revoked for any of the reasons for which the City ABC Administrator would have been required to refuse a license if the facts had been known.

(C) In addition to the foregoing stated causes, any license may be revoked or suspended for the following causes:

(1) Conviction of the licensee, or his or her agent or employee, for selling any illegal beverages on the licensed premises;

(2) Making any false, material statements in an application for a license;

(3) If within a period of two (2) consecutive years, any licensee, or any clerk, servant, agent or employee of the licensee, shall have been convicted of two (2) violations of the terms and provisions of KRS Chapters 241 through 244, or any act heretofore or hereafter in effect relating to the regulation of the manufacture, sale and transportation of alcoholic beverages, or if within that period, any licensee, or any clerk, servant, agent or employee of the licensee, shall have twice been convicted of any felony or of any misdemeanor directly or indirectly attributable to the use of alcoholic beverages, or of one (1) such felony and one (1) such misdemeanor;

(4) Willful and deliberate failure or default of a licensee to pay an excise tax or any part thereof, or any penalties imposed by or under the provisions of any statutes, this chapter, or acts of Congress relative to taxation, or for a violation of any rules or regulations of the Kentucky Department of Revenue made in pursuance thereof;

(5) Setting up, conducting, operating or keeping, on the licensed premises, any gambling game, device, machine or contrivance, or lottery or gift enterprise, or handbook or facility for betting or transmitting bets on horse races; or permitting to be set up, conducted, operated, kept or engaged in, on the licensed premises, any such game, device, machine, contrivance, lottery, gift enterprise, handbook or facility.
(Ord. 1604, passed 11-23-16)

§ 115.059 PROCEEDINGS FOR REVOCATION OR SUSPENSION OF LICENSE.

(A) Upon the verified complaint of any person, or on the initiative of any law enforcement officer, or of the City ABC Administrator, the City ABC Administrator may institute proceedings to revoke or suspend any license granted under this chapter. A license may be revoked or suspended only after the licensee shall have been given written notice, by certified or registered mail, of the proposed revocation, including notice of the reasons for the proposed action. The licensee shall be given opportunity to be heard in opposition to the proposed revocation or suspension. The notice of proposed action shall advise the licensee of the date, time and place of the hearing. Notice shall be sufficient if mailed to the licensee at the address shown in the last application for a license, or in the last statement supplemental to or in amendment of the application, whether or not the mailing is receipted for or claimed.

(B) The specific procedures to be followed in hearings on actions for revocation or suspension shall be those set out in the Kentucky Administrative Procedure Act (KAR Chapter 13B).

(C) A decision of the City ABC Administrator revoking or suspending a license may be appealed as provided in KRS 243.550.

(D) Within three (3) days after any order of revocation or suspension of a license becomes final, notice of revocation shall be

given to the licensee and to the owner of the licensed premises. A notice mailed to the licensee and to the owner of the licensed premises at the address shown in the last application for a license, or in the last statement supplemental to the application, shall be deemed sufficient compliance with this section. The licensee shall at once surrender his or her license to the City ABC Administrator. If the revoked or suspended license is not forthwith surrendered by the licensee, the County Sheriff, at the request of the City ABC Administrator, shall immediately cause one of his or her officers to take physical possession of the license and return it to the City ABC Administrator.

(E) When a license has been revoked or suspended, the former licensee may, with prior approval of the City ABC Administrator, dispose of and transfer his or her stock of alcoholic beverages to an appropriate entity.

(F) Appeal from the decision of the City ABC Administrator revoking or suspending a license shall be to the ABC Board. The timely filing of an appeal shall stay further proceedings for revocation.

(G) If a license is revoked or suspended by an order of the City ABC Administrator, and the decision is not appealed, the licensee shall at once suspend all operations authorized under his or her license. Upon the entry of a final order of the ABC Board sustaining or ordering revocation or suspension on appeal, the licensee shall at once suspend all operations authorized under this license.
(Ord. 1604, passed 11-23-16)

§ 115.060 TRANSFER OR ASSIGNMENT.

No license issued under this chapter shall be transferred or assigned, either as to licensee or location, except with prior approval of the City ABC Administrator, and not then until a payment of one hundred dollars (\$100) shall be made to the City ABC Administrator.
(Ord. 1604, passed 11-23-16)

§ 115.061 REFUSAL OF LICENSE; GUIDELINES FOR APPROVAL OF QUOTA LICENSES.

(A) The City ABC Administrator may refuse to issue a license for any of the following reasons:

(1) Causes for refusal to issue or renew a license and for suspension or revocation of a city license shall be the same as provided for state licenses according to KRS 243.450, 243.490 and 243.500, as well as violation of any city ordinance regarding alcoholic beverage licensing, sales or the administration thereof.

(2) If the applicant has done any act for which a revocation of license would be authorized under local, state or federal law; or

(3) If the applicant has made any false material statement in his or her application.

(B) An applicant who has been refused a license by the City ABC Administrator may appeal the refusal to the ABC Board pursuant to KRS 241.200.
(Ord. 1604, passed 11-23-16)

§ 115.062 REVIEW OF LICENSE; BOOKS, RECORDS AND REPORTS.

(A) Applicants to whom a license is issued pursuant to this chapter shall provide periodic information demonstrating compliance with the conditions of any license, such as, but not limited to, the continuing requirement that a minimum percentage of the applicant's business income is earned from the sale of food. This documentation shall be provided on a schedule to be coordinated with the applicant's quarterly regulatory fee filings. The city shall provide the form schedule to the licensee. The licensee's acceptance of a license to manufacture or traffic in alcoholic beverages shall constitute consent to the filing of the quarterly report. In the case of a caterer filing, the quarterly report shall identify each catered event by type of event, the date and the address of the event, and shall provide a per-event breakdown of sales and the ratio of food sales to alcohol sales during the reporting period. This requirement for filing of reports notwithstanding, the city may at any time come upon the premises of any licensee and examine the books and records to determine whether the licensee is in compliance with all parts of this chapter. In the event the conditions of any license requirement are not met during any particular quarter, the City ABC Administrator shall have discretion in determining whether revocation is appropriate, or whether the licensee may be allowed a reasonable period of time to reach compliance. If a good faith effort is demonstrated by the licensee, the City ABC Administrator may apply an accounting period of at least one (1) year in determining whether or not the food sale percentage requirement has been met.

(B) Every licensee under this chapter shall keep and maintain upon the licensed premises, adequate books and records of all transactions involved in the sale of alcoholic beverages in the same manner required by the rules and regulations of the ABC Board. The books and records shall be available at all reasonable times for inspection by the City ABC Administrator, and by any city employees who may assist the City ABC Administrator in his or her review.

(C) For the purpose of assisting the City ABC Administrator in enforcement of this chapter, every licensee required to report to the ABC Board under KRS 243.850 shall provide a copy of the report to the City ABC Administrator. Copies of any and all reports and correspondence to the ABC Board required by statute shall be furnished to the City ABC Administrator.
(Ord. 1604, passed 11-23-16)

§ 115.063 DORMANCY.

(A) It is necessary that a licensee actually conduct the business authorized by the license or else the license will be declared dormant and become null and void after ninety (90) days. Such is the intent of this section. Realizing that a licensee, like other business, may have his or her business interrupted by situations not under his or her control, various exceptions to the dormancy rule have been included in this section.

(B) Any license under which no business is transacted during a period of ninety (90) days shall be deemed inactive and, unless the conditions set forth in division (C) below are proved to the satisfaction of the City ABC Administrator, the license shall be surrendered to the City ABC Administrator. If the license is not voluntarily surrendered, it shall be revoked by the City ABC Administrator.

(C) The provisions of division (B) above shall not apply to any licensee who is unable to continue in business at the premises for which a license is issued due to construction, an act of God, casualty, death, the acquisition of the premises by any federal, state, city or other governmental agency under power of eminent domain, whether the acquisition is voluntary or involuntary, or loss of lease through the failure of a landlord to renew an existing lease. Prior to the expiration of ninety (90) days of inactivity, the licensee shall furnish to the City ABC Administrator with a verified statement, setting forth the fact that the licensee is unable to continue in business, for any of the specific reasons set forth herein. The City ABC Administrator may grant an extension of the dormancy, with the license continuing to remain in effect during the license period or until same is transferred to another premises, notwithstanding the fact that no business is transacted during that period; provided, however, no such license shall be considered valid unless business is conducted thereunder within twelve (12) months from the date of notice to the City ABC Administrator. The extension may not extend beyond the renewal date, but may be for such times as the City ABC Administrator deems appropriate in exercise of his or her sound discretion.
(Ord. 1604, passed 11-23-16)

HOURS FOR SALE AND DELIVERY

§ 115.070 HOURS FOR SALE AND DELIVERY.

(A) A licensee for distilled spirits, wine and/or malt beverages shall be permitted to sell or dispense distilled spirits, wine and/or malt beverages between the hours of 6:00 a.m. until 12:00 a.m. (midnight), Monday through Saturday.

(B) A licensee for distilled spirits, wine and/or malt beverages shall be permitted to sell or dispense distilled spirits, wine and/or malt beverages on Sunday after the hour of 12:00 p.m. (noon) to 12:00 a.m. (midnight). Licensees must obtain a Sunday retail drink license in order to sell distilled spirits or wine by the drink on Sunday.

(C) A licensee may sell and dispense distilled spirits, wine and/or malt beverages on New Year's Eve until 2:00 a.m. on January 1, regardless of the day of the week on which New Year's Eve occurs; provided, however, that the appropriate licenses have been obtained from both the city and the state ABC Board.

(D) There is no Election Day prohibition on the sale or dispensing of distilled spirits, wine and/or malt beverages.
(Ord. 1604, passed 11-23-16) Penalty, see § 115.999

CONDITIONS, PROHIBITIONS AND RESTRICTIONS

§ 115.080 GAMBLING.

No gambling or game of chance, unless otherwise authorized by the state, shall be permitted in any form on the licensed premises. Dice, slot machines, quarter pushers, prize redemption machines with programmable payouts, or any device of chance are prohibited and shall not be kept on the premises.
(Ord. 1604, passed 11-23-16) Penalty, see § 115.999

§ 115.081 RADIO RECEIVING APPARATUS.

It shall be unlawful for any licensee licensed under this chapter to have or maintain any radio receiving apparatus on the premises, which is intentionally adjusted so as to receive police messages broadcast from any law enforcement agency in Glasgow or Barren County as they are now, or may hereafter be, operated. In addition to other penalties provided for the violation of this section, the Chief of Police or the City ABC Administrator, or his or her designated investigator, shall have the authority to confiscate any and all such radio receiving apparatus.

(Ord. 1604, passed 11-23-16) Penalty, see § 115.999

§ 115.082 SECURITY.

The licensee shall be responsible for maintaining security on his or her premises, including providing adequate outside lighting to permit customers to utilize the parking area, and to promote the safety, health and welfare of the general public utilizing the licensed premises. Security standards are further necessary to discourage unlawful activity in and around the licensed premises.

(Ord. 1604, passed 11-23-16) Penalty, see § 115.999

§ 115.083 PRIZES AND PREMIUMS PROHIBITED.

It shall be unlawful for a licensee to give away or offer to give away anything of tangible value as a premium or prize, or for any other purpose in direct connection with the sale of malt beverages, unless permitted by KRS 244.500.

(Ord. 1604, passed 11-23-16) Penalty, see § 115.999

§ 115.084 TREATING PROHIBITED.

It shall be unlawful for the licensee under this chapter to give away any alcoholic beverage in any quantity for free or for less than a full monetary consideration, unless the licensee holds a sampling license or its license type permits limited free samples (i.e., small farm winery, microbrewery, brewer's), or products are sampled at an educational event authorized by 804 KAR 1:110 and 804 KAR 11:030.

(Ord. 1604, passed 11-23-16) Penalty, see § 115.999

§ 115.085 DRUNKENNESS.

No licensee or agent or employee of the licensee shall permit any person to become drunk or intoxicated on the premises. Nor shall any licensee sell alcoholic beverages to any person who is actually or apparently under the influence of alcoholic beverages, or known to the seller or server to be a habitual drunkard, or any person known to the seller or server to have been convicted of drunkenness as many as three (3) times within the most recent twelve (12) month period. No licensee shall permit any person who is actually or apparently under the influence of alcoholic beverages to remain on the licensed premises. As used herein, whether a person is actually or apparently under the influence of alcoholic beverages shall be determined by the licensee or server with specific reference to the principles and guidelines established in mandatory alcohol server training as to the signs of alcohol intoxication.

(Ord. 1604, passed 11-23-16) Penalty, see § 115.999

Cross-reference:

Mandatory responsible beverage service training, see § 115.140

§ 115.086 UNDERAGE SALES.

The licensee shall not sell or dispense alcoholic beverages to any person who is under twenty-one (21) years of age.
(Ord. 1604, passed 11-23-16) Penalty, see § 115.999

§ 115.087 SIGN REQUIREMENTS; NOTICE TO PERSONS UNDER THE AGE OF TWENTY-ONE (21).

Per state law, the licensee shall display at all times in a prominent place a sign, at least 8" x 11" in size, in thirty (30) point or larger type font, which states as follows:

Persons under the age of twenty-one (21) are subject to a fine of up to one hundred dollars (\$100) if they:

(A) Enter licensed premises to buy, or have served to them, alcoholic beverages;

(B) Possess, purchase or attempt to purchase, or get another to purchase alcoholic beverages; or

(C) Misrepresent their age for the purpose of purchasing or obtaining alcoholic beverages.
(Ord. 1604, passed 11-23-16) Penalty, see § 115.999

§ 115.088 LICENSE TO BE DISPLAYED.

(A) Pursuant to the requirements set forth in KRS 243.895, the licensee, before commencing any business for which a license has been issued, shall post and display the license at all times, in a conspicuous place in the room or principal room where the business is carried on, so that all persons visiting the place may readily see the license. The licensee shall not at any time post the license on premises other than the licensed premises, or upon premises where traffic in alcoholic beverages is being carried on by any person other than the licensee, or knowingly deface, destroy or alter the license in any respect.

(B) The licensee shall post, in a prominent place easily seen by patrons, a printed sign at least 11" x 14" in size, with letters at least one (1) inch high, supplied by the Department of Alcoholic Beverage Control, and with gender-neutral language supplied by the Kentucky Cabinet for Health and Family Services, which shall warn that drinking alcoholic beverages prior to conception or during pregnancy can cause birth defects. A person who violates this section shall be subject to a fine of not less than ten dollars (\$10), nor more than fifty dollars (\$50).
(Ord. 1604, passed 11-23-16) Penalty, see § 115.999

§ 115.089 LEGAL TRANSACTIONS FOR WHOLESALERS, DISTRIBUTORS AND RETAIL.

No wholesaler or distributor shall sell any alcoholic beverages to any person in the city for any consideration except under cash terms of the wholesaler or distributor at or before the time of delivery. A wholesaler is also permitted to extend credit for thirty (30) days to a retailer for the purchase of distilled spirits and wine. No retail licensee shall sell to a consumer for any consideration except for cash or case equivalent at time of purchase.
(Ord. 1604, passed 11-23-16) Penalty, see § 115.999

§ 115.090 EMPLOYMENT RESTRICTIONS.

No licensee shall knowingly employ in connection with his or her business any person who:

(A) Has been convicted of any felony within the last two (2) years unless permitted by KRS 244.090(2);

(B) Has been twice convicted of any misdemeanor or offense directly or indirectly attributable to the use of intoxicating liquors within the last two (2) years unless permitted by KRS 244.090(2);

(C) Is under the age of twenty (20) years who will be serving alcoholic beverages or who will be having any contact whatsoever with the sale of alcohol, as defined under state statute, unless that person is exempt or permitted by KRS 244.090 or KRS 244.087; and

(D) Within two (2) years prior to the date of his or her employment, has had any city license under this chapter revoked for cause.

(Ord. 1604, passed 11-23-16) Penalty, see § 115.999

§ 115.091 HAPPY HOUR RESTRICTIONS.

Licensees shall not offer reduced drink specials (e.g., two-for-one, happy hours) after the hour of 11:00 p.m. until closing. (Ord. 1604, passed 11-23-16) Penalty, see § 115.999

§ 115.092 LAVATORY FACILITIES REQUIRED.

All retail beer and retail drink licensees shall be required to provide indoor or outdoor lavatory facilities for their customers where such beverages are consumed on the premises. (Ord. 1604, passed 11-23-16) Penalty, see § 115.999

§ 115.093 NUDITY AND ADULT ENTERTAINMENT ACTIVITIES PROHIBITED.

No licensee shall offer or permit nudity, adult entertainment activities, including nude or nearly nude dancing, adult motion picture, television, slide or stage shows, cabarets or sexual entertainment centers on any licensed premises. No licensee shall permit explicit sexual activity, whether actual or simulated, upon any licensed premises. No licensee shall sponsor or permit wet t-shirt or wet-clothing contests, lingerie fashion shows, mud wrestling, jello wrestling or similar activities on any licensed premises. Nor shall a licensee allow dancing with touching for compensation (including but not limited to, wages, tips or gratuities), or any other service, display or contest requiring physical contact between patrons and/or between patrons and employees on any licensed premises. No licensee shall sponsor, offer or permit drinking contests, all-you-can-drink specials or free drinks on any licensed premise in the city. (Ord. 1604, passed 11-23-16) Penalty, see § 115.999

§ 115.094 DRIVE-THROUGH OUTLETS PROHIBITED.

No license shall be issued for any premises to operate a vehicle "drive-through" outlet for the sale of alcoholic beverages; nor shall any person or licensee operate or permit such a vehicle drive-through outlet. This prohibition shall not apply to a drive-up window at any premises licensed for retail package liquor, wine or malt beverages,

including retail beer, where the primary sales area is arranged for and utilized by persons entering the premises on foot and manually carrying out the products purchased therein.

(Ord. 1604, passed 11-23-16) Penalty, see § 115.999

§ 115.095 CAUSE FOR REVOCATION.

Violation of this and any other subchapter shall subject the licensee to penalties provided for in this chapter and shall be cause for revocation or suspension of city licenses.

(Ord. 1604, passed 11-23-16) Penalty, see § 115.999

§ 115.096 RETAIL PREMISES NOT TO BE DISORDERLY PER KRS 244.120.

(A) A retail licensee, a patron or the licensee's agents, servants or employees shall not cause, suffer or permit the licensed premises to be disorderly.

(B) Acts that constitute disorderly premises consist of causing, suffering or permitting patrons, the licensee, or the licensee's servants, agents or employees to cause public inconvenience, annoyance or alarm, or to create a risk through:

(1) Engaging in fighting or in violent, tumultuous or threatening behavior;

(2) Making unreasonable noise;

(3) Refusing to obey an official order to disperse issued to maintain public safety in dangerous proximity to a fire, hazard or other emergency;

(4) Creating a hazardous or physically offensive condition by any act that serves no legitimate purpose;

(5) Creating a public nuisance that is further defined by KRS 241.010(47);

(6) Engaging in criminal activity that would constitute a capital offense, felony or misdemeanor; or

(7) Failing to maintain the minimum health, fire, safety or sanitary standards established by the state or a local government, or by state administrative regulations, for the licensed premises.
(Ord. 1604, passed 11-23-16) Penalty, see § 115.999

MINORS

§ 115.110 MINORS.

(A) Except as specifically authorized under KRS Chapter 241 through 244, no person under the age of twenty-one (21) may possess alcoholic beverages or enter onto any licensed premises for the purpose of acquiring alcoholic beverages.

(B) As provided in KRS 244.085, no person under the age of twenty-one (21), except in the company of a parent or guardian, may enter any premises licensed for the package sale of alcoholic beverages. For purposes of this prohibition, "PREMISES" specifically encompasses the entire lot upon which a licensed establishment is

situated, including any drive-up window. The prohibition contained in this division (B) shall not apply to premises where the usual and customary business of the establishment is a gas station, convenience store, grocery store, drugstore or similar establishment.

(C) No person shall knowingly permit, aid, assist, induce, cause or otherwise encourage any minor to be in possession of, use or consume alcoholic beverages. All licenses, as set out in this chapter, shall require proof of age of all persons attempting to purchase or consume alcoholic beverages on the licensee's premises.

(D) No person being the owner or occupant or otherwise in possession or control of any property located within the city shall knowingly allow any minor to remain on that property while in possession of, using or consuming alcoholic beverages.

(E) It shall be a defense to any prosecution under this section if the person charged, upon discovery of minor individuals, manifests a proper effort to enlist the aid of and cooperate with law enforcement personnel in stopping the minor individuals' possession, consumption or use of alcoholic beverages, or that the minor individuals' possession of alcoholic beverages was exempted by KRS 244.087.
(Ord. 1604, passed 11-23-16) Penalty, see § 115.999

CONSUMPTION ON PREMISES PROHIBITED

§ 115.120 CONSUMPTION AT PACKAGE STORES PROHIBITED.

(A) No licensee of a package store, whether trafficking in distilled spirits, wine or malt beverages, shall permit consumption of alcoholic beverages on the premises unless it also holds the appropriate drink license. The licensee shall post a prominent notice on the premises stating that consumption of alcoholic beverages on the premises is prohibited.

(B) This restriction regarding on premises consumption shall not prohibit sampling as allowed for microbreweries and wineries under the provisions of KRS Chapter 243, or where sampling is permitted for a retail distilled spirits and wine licensee under the provisions of KRS 244.050, or beer tastings as permitted in 804 KAR 11:030.
(Ord. 1604, passed 11-23-16) Penalty, see § 115.999

§ 115.121 HABITUAL CONGREGATING.

(A) Definitions. In addition to the definitions contained in KRS Chapters 241 through 244, as used in this subchapter, the following terms are defined as follows.

"HABITUAL." Consistent, that is, by frequent practice or use, but not necessarily constant or exclusive.

"PACKAGE LIQUOR STORE." A retail establishment selling distilled spirits, wine and malt beverages in package containers pursuant to licenses issued for those purposes.

"PUBLIC NUISANCE." Any activity that endangers or interferes with the general use and enjoyment of neighboring property, passers-by or the health, safety and welfare of the public.

"VACANT PROPERTY." A vacant lot on which no building or other structure exists, or property on which any structure is unoccupied or unused, or which otherwise reflects abandonment by the owner or person with the right of occupancy.

(B) Licensed premises. No person or entity operating a package liquor store, whether trafficking in distilled spirits, wine or malt beverages, including retail package beer licensees, shall knowingly allow or permit habitual congregating of persons on the unenclosed portion of the licensed premises so as to constitute a public nuisance.

(C) Vacant property. No person or entity being the owner or otherwise in possession or control of any vacant property shall knowingly allow or permit habitual congregating of persons on the unenclosed portion of that property so as to constitute a public nuisance.

(D) Defense to prosecution. It shall be a defense to any prosecution under this subchapter, if a licensed vendor or property owner shall permit the city to post and maintain a legible, painted or printed sign in at least two (2) separate, prominent places in that area, in letters of not less than three (3) inches in height, stating that congregating of persons is prohibited and that violators shall be prosecuted for trespass pursuant to KRS 511.080.
(Ord. 1604, passed 11-23-16) Penalty, see § 115.999

MALT BEVERAGE KEG REGISTRATION

§ 115.130 KEG DEFINED.

As used in this subchapter, a "KEG" is defined as a container designed and capable of holding six or more gallons of malt beverage.
(Ord. 1604, passed 11-23-16)

§ 115.131 MALT BEVERAGE KEG IDENTIFICATION TAG.

All retail licensees (hereinafter referred to as "licensee") operating within the city who sell malt beverages in kegs for consumption off the premises of the licensee shall attach a numbered identification tag or other device, as provided by the city, to each keg at the time of sale, and shall require the purchaser to complete and sign a keg registration form for the keg, stating the following:

(A) The purchaser is of legal age to purchase, possess and use the malt beverage;

(B) The purchaser is not purchasing the keg for resale and will not allow any person under the age of twenty-one (21) to consume the malt beverage;

(C) The purchaser will not remove or obliterate the identification tag, or allow it to be removed or obliterated;

(D) The purchaser will state the property address where the keg will be consumed and physically located; and

(E) The purchaser is aware of his or her duty to maintain a copy of the keg registration form visible and readily accessible from the location of the keg.

(Ord. 1604, passed 11-23-16) Penalty, see § 115.999

§ 115.132 KEG REGISTRATION.

(A) The licensee shall obtain the name, address and telephone number of the purchaser, and shall require the purchaser to produce a valid driver's license number and, if that is not available, to produce at least one (1) other valid form of identification.

(B) The licensee shall retain copies of the keg registration forms for a period of one (1) year, and shall make the keg registration form available for inspection by state and local alcoholic beverage control officers and other enforcement officers.

(C) The keg registration form shall be forwarded to the city within five (5) working days in all situations when the keg is not returned or is returned with the identification tag removed or obliterated.

(D) The city is authorized to develop appropriate rules and regulations and to develop and make available forms for the identification tags and keg registration forms.

(E) All licensees that sell or offer for sale kegs shall post on the licensed premises a notice provided by the city concerning the provisions of this subchapter.
(Ord. 1604, passed 11-23-16) Penalty, see § 115.999

§ 115.133 UNLAWFUL SALES.

It shall be unlawful for any licensee to sell or offer for sale kegs without the identification tags attached and the keg registration form completed. It shall also be unlawful for any person to remove or to obliterate the identification tag, or to fail to have the declaration form visible and readily accessible from the location of the keg. The penalties for violation of this section shall be the penalties as set out in this chapter. In addition, licensees violating this section shall be subject to appropriate alcoholic beverage control administrative remedies.
(Ord. 1604, passed 11-23-16) Penalty, see § 115.999

MANDATORY RESPONSIBLE BEVERAGE SERVICE TRAINING§ 115.140 MANDATORY RESPONSIBLE BEVERAGE SERVICE TRAINING.

(A) All persons employed in the selling and/or serving of alcoholic beverages shall participate in and complete the Kentucky S.T.A.R. Program, or such other certified and approved server training course provided by the Kentucky Department of Alcoholic Beverage Control that is at least equivalent to the requirements of the S.T.A.R. Program.

(B) All persons required to complete training under division (A) above shall complete that training within thirty (30) days of the date on which the person first becomes subject to the training requirement. When a new business is licensed to serve alcoholic beverages, all employees must be trained prior to the opening of the business.

(C) Each licensee shall be responsible for compliance with the training requirements and shall maintain for inspection by the City ABC Administrator a record or file on each employee that shall contain the pertinent training information. Each premise licensed hereunder must at all times when alcoholic beverages are being served have at least one (1) person currently certified in responsible beverage service training on duty as described herein.

(D) All persons completing the training required by this section shall be re-certified not less than once every three (3) years thereafter.
(Ord. 1604, passed 11-23-16) Penalty, see § 115.999

SIGNS AND ADVERTISING

§ 115.150 SIGNS AND ADVERTISING.

(A) All signage shall be in compliance with any and all other existing rules, regulations and ordinances of the city, including but not limited to, the Planning and Zoning Ordinance as currently enacted, and/or as may be amended in the future. If the provisions of this chapter relating to signage and advertising conflict in any way with any other existing rules, regulations and ordinances, then the most restrictive provisions shall take precedence.

(B) No flashing lights shall be used to illuminate the exterior of any premises licensed under this chapter.

(C) Any advertising by any licensee under this chapter shall be in compliance with KRS 244.130 and regulations promulgated thereunder.

(D) No licensee shall publish or display advertising that is false or misleading. Nor shall any licensee publish or display advertising that implies that consumption of alcoholic beverages is fashionable or the accepted course of behavior, or advertising that contains any statement, picture or illustration implying that the consumption of alcoholic beverages enhances athletic prowess, whether or not any known athlete is depicted or referred to. Nor shall any licensee publish or display advertising that encourages intoxication by referring to the intoxicating effects of alcohol (or use terms such as "high test", "high proof" or "extra strong") or by depicting activities that tend to encourage excessive consumption.

(E) No licensee shall erect or allow to be erected any banner that displays any particular brand of alcoholic beverage on the outside of the building or on the property.

(F) Any off-premises signage advertising the sale of alcoholic beverages is prohibited. It shall be unlawful to attach signage advertising alcoholic beverages to the exterior of the building or the exterior premises of the business. This prohibition shall include the use of outdoor umbrellas or other outdoor or patio fixtures that feature the name or logo of an alcoholic beverage or a manufacturer of alcoholic beverages.

(G) Signage that refers directly or indirectly to alcoholic beverages will be limited to one (1) sign, not over two (2) square feet in size, that must be displayed from the inside of the window or interior of the business. No additional signs, banners, posters or other type of display advertising that refers either directly or indirectly to alcoholic beverages shall be displayed on, nor shall it be visible from the exterior of any premises licensed for the sale of alcoholic beverages, except that reference to such may be included in the name of the business. This restriction shall not prevent any licensee from placing in the windows of the licensed premises business cards, not larger than two and one-half (2½) inches in size, setting forth the price at which the licensee offers alcoholic beverages for sale.

(H) It shall be unlawful for a licensee under this chapter to distribute or cause to be distributed any handbills, circulars or cards as a medium of advertising alcoholic beverages.

(I) No licensee shall advertise alcoholic beverages on any municipally owned property or at any municipally sponsored event unless the licensee is also the municipality.
(Ord. 1604, passed 11-23-16) Penalty, see § 115.999

PATIO AND OUTDOOR SALES

§ 115.160 PATIO AND OUTDOOR SALES REGULATIONS.

(A) Patio and outdoor sales of alcoholic beverages shall be permitted only on premises licensed for sales of alcoholic beverages by the drink.

(B) No licensee shall offer alcoholic beverages for sale in a patio or outdoor area of the licensee's premises, except in a clearly defined patio or outdoor area that is enclosed by a fence or other screening, not less than four (4) feet in height. All outdoor areas and screening shall be subject to the approval of the City ABC Administrator. An exception to this restriction may be granted for seasonal and temporary sidewalk cafés, upon application to and authorization from the ABC City Administrator. The permission to operate a sidewalk café shall be governed by the provisions of this subchapter, and shall be subject to the regulation of local zoning authorities as well as code enforcement and public safety officers.

(C) No licensee shall offer patio or outdoor sales of alcoholic beverages unless the patio or outdoor area and fencing or screening area shall have been approved in advance by the ABC administrator.

(D) Unless exempted by the following provisions of this chapter, and by permission of the City ABC Administrator, patio areas must comply with the screening requirements of this chapter. Sidewalk café seating areas must comply with this chapter and with local zoning laws and other public safety requirements noted in this chapter, or in other local ordinances, statutes or regulations.
(Ord. 1604, passed 11-23-16) Penalty, see § 115.999

§ 115.161 SIDEWALK CAFÉS PERMITTED IN THE CITY'S DOWNTOWN BUSINESS AREA.

(A) Licensees in the downtown business district/area may request an exception from the provision requiring outdoor screening of patio areas, in order to permit seasonal and temporary sidewalk cafés that serve food and alcoholic beverages as an adjunct to the primary and adjacent licensed premises. In the case of permitted sidewalk cafés, they shall be deemed part of the licensed premises. A sidewalk café permit is deemed seasonal and temporary in that the licensee with a sidewalk permit shall not place tables and seating on public sidewalks on a continuous basis from November 1 through February 28; however, tables and seating may be placed intermittently during this period if appropriate weather occurs.

(B) Any food establishment that operates a restaurant and is licensed under this chapter and the provisions of the state ABC code, may, upon application to the local ABC Administrator, ask permission to expand the operation of that restaurant onto a part, and only that part, of the public sidewalk that immediately adjoins the licensed

premises (hereinafter referred to as "sidewalk café"). Licensees who do not serve food shall not be eligible to apply for a sidewalk café permit. A sidewalk café permit shall be valid for not more than twelve (12) months at a time, but may be renewed upon the submission of a new application.

(C) The local ABC Administrator may issue the permit if he or she finds that:

(1) The applicant is licensed under this chapter and the ABC Code for the Commonwealth of Kentucky;

(2) The applicant is in compliance with all conditions and restrictions of the license;

(3) The applicant has all necessary building and use permits, including certification of the Zoning Administrator that the sidewalk café is permitted at the premises location, and a kitchen license issued by the County Health Department; and

(4) The issuance of the permit would not result in any significant adverse land use impacts.
(Ord. 1604, passed 11-23-16) Penalty, see § 115.999

§ 115.162 CONDITIONS FOR A SIDEWALK CAFÉ PERMIT.

The issuance of a permit shall be subject to the following conditions and restrictions; provided, however, that the ABC Administrator may, without adverse hearing procedures, impose additional reasonable restrictions or withdraw approval upon the operation of any sidewalk café, where necessary in the judgment of the ABC Administrator to protect the public health, safety or welfare or to prevent a nuisance from developing or continuing.

(A) Specifically, the permit may be revoked by the ABC Administrator if the conditions listed below are violated or upon the violation of a federal, state or city law. The permit will also be revoked if the food establishment has two (2) or more violations of the nuisance ordinance found in Chapter 92 of this code of ordinances. If the permit is revoked, the owner of the food establishment shall not be eligible to reapply until one (1) year has passed from the date of the permit revocation.

(B) No sidewalk café shall be permitted in any portion of the public sidewalk where normal pedestrian traffic flow is obstructed. A minimum clearance width of thirty-six (36) inches must be maintained on the public sidewalk at all times. The sidewalk café shall not be permitted in any manner to obstruct the entrance/exit to the restaurant.

(C) No tables, chairs or any other furnishings, except plant tubs, shall be placed in the area used for the sidewalk café during any period when the sidewalk café is not open and being operated. They shall be removed at the end of each business day at the hour specified in the permit. Umbrellas, tables, chairs and other portable appurtenances shall be confined to the area shown on the approved permit. While the sidewalk café is in operation, all tables and chairs shall be kept in a clean, sanitary condition.

(D) The use of a portion of the public sidewalk as a sidewalk café shall not be an exclusive use. All public improvements, including but not limited to, trees, light poles, traffic signals, pull boxes or manholes, or any public-initiated maintenance procedures, shall at all times take precedence over the use of the public sidewalk.

(E) In addition to all other requirements of law, the licensee shall take reasonable steps to insure that alcoholic beverages are consumed only by patrons of the establishment who are of age, and not by passers-by or persons who are not of age or who are obviously or apparently intoxicated.

(F) No disposable cups or drinking vessels may be used, and the licensee shall not permit any alcoholic beverages to be taken off premises by patrons, customers or guests.

(G) No amplified sound shall be used within a sidewalk café. At no time shall any music originating from any part of the premises create a nuisance.

(H) Dancing shall not be permitted or allowed in the sidewalk café.

(I) The licensee must at all times comply with all federal, state and local laws regarding the sale, service and consumption of alcohol and the operation of the premises.

(J) The permit for the sidewalk café may not be assigned or transferred.

(Ord. 1604, passed 11-23-16) Penalty, see § 115.999

§ 115.163 OTHER REQUIREMENTS APPLICABLE TO SIDEWALK CAFÉS.

No sidewalk café permit shall be effective unless the licensee has filed with the local ABC Administrator evidence of insurance, insuring the licensee against liability imposed by law arising out of the ownership, maintenance or operation of the sidewalk café, in an amount to be established by the local ABC Administrator. The city shall be named an additional insured in the policy required. The insurance policy shall further provide expressly that it may not be canceled except upon ten (10) days' (or more) written notice filed with the ABC Administrator.

(Ord. 1604, passed 11-23-16) Penalty, see § 115.999

IMPLEMENTATION OF CHAPTER PROVISIONS

§ 115.170 IMPLEMENTATION OF CHANGES IN CHAPTER PROVISIONS.

From time to time, the City Commission may by resolution or municipal order promulgate such rules and regulations, and/or amendments thereto, and may publish and utilize such forms and other documents as in its discretion may be necessary for the proper implementation of this chapter.

(Ord. 1604, passed 11-23-16)

ENFORCEMENT

§ 115.998 ENFORCEMENT.

The County Sheriff's Department and the City ABC Administrator, and his or her investigator(s), are hereby authorized to enforce this chapter in full.

(Ord. 1604, passed 11-23-16)

§ 115.999 PENALTY.

(A) In addition to any criminal prosecution instituted in Barren District Court against an alleged violator, the City ABC Administrator may assess the fines and penalties authorized in KRS 243.480, including the per diem assessments for ongoing violations. Should the fines or penalties assessed by the state change under KRS 243.480, the fines or penalties under this chapter shall be adjusted accordingly to mirror the fines and penalties imposed by state law. Payment of all fines shall be remitted to the City ABC Administrator, who shall then transmit the fines to the City Clerk for deposit in the appropriate designated account.

(B) Any person, firm or corporation who violates any of the provisions of this chapter, for which no other penalty is hereby provided, shall, for the first offense, be fined not less than one hundred dollars (\$100) nor more than two hundred dollars (\$200), or imprisoned in the county jail for not more than six months, or both; and for the second and each subsequent violation, he or she shall be fined not less than two hundred dollars (\$200) nor more than five hundred dollars (\$500), or imprisoned in the county jail for not more than six (6) months, or both. The penalties provided for in this division shall be in addition to the revocation or suspension of the offender's license. If the offender is a corporation, LLC, joint stock company, association or other business organization, or a fiduciary, the principal officer or officers responsible for the violation may be imprisoned.
(Ord. 1604, passed 11-23-16)

