

TITLE XI: BUSINESS REGULATIONS

Chapter

- 110. OCCUPATIONAL LICENSE TAX
- 111. GARAGE SALES
- 112. ADVERTISING
- 113. ALCOHOLIC BEVERAGES
- 114. INSURANCE PREMIUM TAX
- 115. PAWNBROKERS
- 116. PEDDLERS, ITINERANT MERCHANTS, AND SOLICITORS
- 117. PRECIOUS METALS DEALERS
- 118. TRANSIENT ROOM TAX
- 119. RESTAURANT TAX
- 120. SEXUALLY-ORIENTED BUSINESSES
- 121. BANK FRANCHISE AND LOCAL DEPOSIT TAX
- 122. PLACES OF ENTERTAINMENT

CHAPTER 110: OCCUPATIONAL LICENSE TAX

Section

General Provisions

- 110.01 Definitions
- 110.02 Application required
- 110.03 Occupational License Tax payment required
- 110.04 Apportionment
- 110.05 Employers to withhold
- 110.06 Returns required
- 110.07 Transient occupational license fee
- 110.08 Extensions
- 110.09 Refunds
- 110.10 Federal audit provisions
- 110.11 Administrative provisions
- 110.12 Information to remain confidential
- 110.13 Vendor lists
- 110.14 Use of occupational license tax

Oak Grove Village Development Area

- 110.25 Definitions
- 110.26 Imposition of occupational license fee
- 110.27 Credit
- 110.28 Persons employed within the local development area
- 110.29 Compliance with the statute
- 110.30 Special fund

- 110.99 Penalty

GENERAL PROVISIONS

§ 110.01 DEFINITIONS.

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

"BUSINESS ENTITY." Each separate corporation, limited liability company, business development corporation, partnership, limited partnership, registered limited liability partnership, sole proprietorship, association, joint stock company, receivership, trust, professional service organization, or other legal entity through which business is conducted.

"BUSINESS." Any enterprise, activity, trade, occupation, profession or undertaking of any nature conducted for gain or profit. "BUSINESS" shall not include the usual activities of board of trade, chambers of commerce, trade associations, or unions, or other associations performing services usually performed by trade

associations or unions. "BUSINESS" shall not include funds, foundations, corporations, or associations organized and operated for the exclusive and sole purpose of religious, charitable, scientific, literary, educational, civic or fraternal purposes, where no part of the earnings, incomes or receipts of such unit, group, or association, inures to the benefit of any private shareholder or other person.

"CATEGORIES." Classification into which businesses shall be placed. These definitions are intended to be relative guidelines to be followed by the City Clerk/Financial Director who will make the determination as to the categorization of applicants. Categories shall include but not be limited to examples given in the definitions:

(1) "WHOLESALE TRADE." Business that primarily engages in selling merchandise to: auto dealers, tobacco dealers, retailers, industrial, commercial, institutional or professional business users or to other wholesalers; or acting as agents or brokers and buying merchandise for or selling merchandise to such individual or companies. Also, included are professional service corporations.

(2) "RETAIL." All retail business shall be taxed at the same rate:

(a) Service: Businesses providing services or entertainment, to the public, including eating and drinking places, hotels and motels, finance and real estate services, motion pictures, amusement, recreational services, health, educational and social services, museums, galleries, security services.

(b) Trade: Businesses engaging in selling goods or merchandise to the general public for personal or household consumption or sale of such goods, such as furniture, groceries, clothing, drug store, and hardware.

(3) "PROFESSIONAL." Businesses that are a recognized profession including all activities requiring licensing by the Commonwealth of Kentucky, shall fall under this category. Examples shall include but not be limited to: Accountant, architects, artists (galleries, and such), attorneys, advertising, professional bondsmen, (civil or criminal cases), barbers, beauticians, real estate (agencies, developers, brokerages), insurance agencies, investment brokerages (counseling, representation, financial brokers, and the like), consultants (engineering, management, planning, government, public relations, tax, financial and others), contractors and builders, engineers and surveyors (as defined by state law), photographers, physicians (surgeons, dentists, psychiatrists, psychologists), medical related fields (chiropractor, optometrists, osteopaths, nurses, labs, and the like), and any other activity that requires state certification.

"CITY." The City of Oak Grove, Kentucky.

"CITY CLERK." The appointed City Clerk of the City of Oak Grove and may also be referred to as "Tax Officer".

"COMPENSATION." Wages, salaries, commissions, or any other form of remuneration paid or payable by an employer for services performed by an employee, which are required to be reported for federal income tax purposes and adjusted as follows:

(1) Include any amounts contributed by an employee to any retirement, profit sharing, or deferred compensation plan, which are

OCCUPATIONAL LICENSE TAX

4B

deferred for federal income tax purposes under a salary reduction agreement or similar arrangement, including but not limited to salary reduction arrangements under Section 401(a), 401(k), 402(e), 403(b), 408, 414(h), or 457 of the Internal Revenue Code; and

(2) Include any amounts contributed by an employee to any welfare benefit, fringe benefit, or other benefit plan made by salary reduction or to their payment method which permits employees to elect to reduce federal taxable compensation under the Internal Revenue Code, including but not limited to Sections 125 and 132 of the Internal Revenue Code.

"CONCLUSION OF THE FEDERAL AUDIT." The date that the adjustments made by the Internal Revenue Service to gross net income as reported on the business entity's federal income tax return become final and unappealable.

"EMPLOYEE." Any person who renders services to another person or any business entity for compensation, including an officer of a corporation and any officer, employee, or elected official of the United States, a state, or any political subdivision of a state, or any agency of instrumentality of any one or more of the above. A person classified as an independent contractor under the Internal Revenue Code shall not be considered an employee.

"EMPLOYER." The person for whom an individual performs or performed any service, of whatever nature, as the employee of such person, except that;

(1) If the person for whom the individual performs or performed the service does not have control of the payment of the wages for such services, the term "employer" means the person having control of the payment of such wages, and

(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.

"EVENT." A publicized, organized occasion, such as a celebration, festival, benefit, contest or game. An event is a distinct happening, customarily of short duration, dedicated to a specific purpose. As defined herein, an event is limited to one occasion per year of no more than 14 consecutive days.

"FINAL DETERMINATION OF THE FEDERAL AUDIT." The revenue agent's report or other documents reflecting the final and unappealable adjustments made by the Internal Revenue Service.

"FINANCIAL DIRECTOR." The Financial Officer for the City of Oak Grove, Kentucky and may also be referred to as "Tax Officer".

"FISCAL YEAR." An accounting period of 12 months ending on the last day of any month other than December.

"GROSS RECEIPTS." All revenues or proceeds derived from the sale, lease, or rental of goods or services, or property by a business entity reduced by the following:

- (1) Sales and excise taxes paid; and
- (2) Returns and allowances.

"INTERNAL REVENUE CODE." The Internal Revenue Code in effect on December 31, 2006, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 2004, that would otherwise terminate.

"LICENSE FEE." License tax and the two terms shall be interchangeable as used in this chapter.

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

"LOCAL BUSINESS." Any business that either:

- (1) Owns their business site in the city; or
- (2) Has a valid lease for their business site from the property owner or manager that is for a period over six (6) uninterrupted months; or
- (3) Involves regular or routine visits to an established customer base within the city. The business site as used above must be a permanent building which is properly zoned for business use.

"OPEN TO THE PUBLIC." Any retail, wholesale, or service business which maintains an office or storefront with the city.

"PERSON." Every natural person, whether a resident or nonresident 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 city of the first to fifth class with the authority to levy gross receipts, or occupational license taxes.

"TAXABLE GROSS RECEIPTS." In case of a business entity having payroll or sales revenues both within and without the city means gross receipts as defined in this section, and is apportioned under § 110.04 of this chapter.

"TAXABLE GROSS RECEIPTS." In case of a business entity having payroll or sales revenues only within the city means gross receipts as defined in this section.

"TAXABLE YEAR." The calendar year or fiscal year ending during the calendar year, upon the basis of which gross receipts is computed.

"TEMPORARILY." Not of a permanent nature or stay and not involving regular or routine visits to an established customer base within the city.

"TRANSIENT BUSINESS." Any person who passes through the city temporarily for the purpose of conducting a business which involves the buying, selling, or exchanging of goods or services. The activity of a transient business must not involve regular or routine visits to an established customer base within the city.

(Ord. 2008-02, passed 3-18-08; Am. Ord. 2008-05, passed 4-30-08)

§ 110.02 APPLICATION REQUIRED.

(A) Every person and business entity engaged in any business in the City of Oak Grove shall be required to apply for and obtain an occupational license from the City of Oak Grove before the commencement of business or in the event of a change of business status. An initial occupational fee of \$100 shall be made at the time of application. The occupational fee will not be prorated. Licensees are required to notify the city of any changes in address, the cessation of business, or any other changes that render the information supplied to the city in the license application inaccurate. In the event the change of name involves the obtaining of a new Federal Identification Number (FIN), then a new license registration fee is required.

(B) Any person and business entity, who by advertising or otherwise, profess to be doing business within the city shall be presumed to be doing business within the city, and as such, will be subject to the provisions of this chapter.

(C) Any person doing business in the City of Oak Grove that does not meet the definition of a local business may be required to post a

cash bond in the amount of \$500 with the city at time of registration. This bond will be held until the city deems all Gross Receipts License Fees Returns and Employee Withholding requirements have been met. The city may call on this bond at any time if any fees due the city become delinquent after giving the entity an opportunity to pay the outstanding fees. This type of business shall also be required to pay Employees Withholding Fees on a monthly basis.

(Ord. 2008-02, passed 3-18-08; Am. Ord. 2008-05, passed 4-30-08) Penalty, see § 110.99

§ 110.03 OCCUPATIONAL LICENSE TAX PAYMENT REQUIRED.

(A) Except as provided in subsection (B) 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.

(1) The occupational license tax shall be 1.5% of 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;

(2) The occupational license tax shall be measured by the gross receipts from business conducted in the city by a resident or nonresident business entity as follows:

Wholesale	.06% or .0006
Retail	.15% or .0015
Professional	.38% or .0038

(3) The minimum payment for an occupational license is \$100.

(4) All gross profit returns will be based on the business calendar year end or fiscal year end; and due as provided in § 110.06(A), "by the fifteenth day of the fourth month following the close of the fiscal year".

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

(1) Any bank, trust company, combined bank and trust company, or trust, banking and title insurance company organized and doing business in this state, any savings and loan association whether state or federally chartered;

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

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

(4) Public Service Corporations that pay an ad valorem tax property valued and assessed by Kentucky Department of Revenue pursuant to the provisions of KRS 136.120. Licensees whose businesses are predominantly nonpublic service who are also engaged in public service activity are required to pay a license fee on their gross receipts derived from the non-public service activities apportioned to the city;

(5) Persons or business entities that have been issued a license under KRS Chapter 243 to engage in manufacturing or trafficking in alcoholic beverages are required to file a return, but may exclude the portion of their gross receipts derived from the manufacturing or trafficking in alcoholic beverages;

(6) Life insurance companies incorporated under the laws of and doing business in the Commonwealth of Kentucky;

(7) Any domestic servants employed in private homes. For purposes of this section a "domestic servant" shall be defined as an individual employed in a private home to drive his or her employer as a chauffeur or employed on the grounds or in the home of his or her employer to cook, clean, wash, garden or transport or otherwise care for the person, home, grounds and/or vehicles of the employer. License fees are required for individuals who are employed by a cleaning service, personal nursing service, chauffeuring service or other service entity which offer the service of its employees to the public;

(8) Persons who conduct yard, garage, patio or similar sales events lasting three or fewer days and are not repeated within a thirty (30) day time frame.

(C) The following business activities are specifically subject to this chapter:

(1) The operation of warehouses, apartments, hotels, motels, hotel buildings, office building, and similar structures.

(2) Income or rentals of real estate located within the city.

(3) A trust estate engaged in any enterprise, activity or business, which produces income specifically including the rental of real estate located within the city. Income from investments, interest and dividends from investments and dividends from investment activities of a trust estate are exempt.

(4) An independent contractor engaged in business. An independent contractor is a person, who while performing services for another, is not under the direction and control of such person as to the results to be accomplished.

(5) Property owners, corporations, or any type of partnership receiving rental income from commercial real property. The fact the business owners, partners or corporations are also the property owners does not negate the fact the rental of commercial property is a separate business in terms of this chapter.

(6) Event sponsors where any of the vendors are from the private sector of the business community and profits adhere to any individual shareholder, individual, or private business. Licenses are not required for charitable, religious or government vendors where no profits adhere to an individual shareholder, individual or private business concern. This section does not apply to parades.

(7) Any business engaged in buying, selling or dealing in securities, stocks, or bonds with the general public.
(Ord. 2008-02, passed 3-18-08; Am. Ord. 2008-05, passed 4-30-08)
Penalty, see § 110.99

§ 110.04 APPORTIONMENT.

(A) Except as provided in subsection (D) of this section, gross receipts shall be apportioned as follows:

(1) For business entities with both payroll and sales revenue in more than one city, by multiplying the gross receipts by a fraction, the numerator of which is the payroll factor, described in subsection (B) of this section. Plus the sales factor, described in subsection (C) of this section, and the denominator of which is two (2); and

(2) For business entities with sales revenue in more than one (1) city, by multiplying the gross receipts by the sales factor as set forth in subsection (C) of this section.

(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 sale, 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 purchaser is the United States government;

(c) Sales revenues, other than revenues 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;

(d) Sales revenue from the sale, lease, or rental of real property is allocated to the city 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 gross receipts.

(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.

(F) 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.

(G) 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.

(H) 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 method of accounting required for federal income tax purposes. (Ord. 2008-02, passed 3-18-08; Am. Ord. 2008-05, passed 4-30-08) Penalty, see § 110.99

§ 110.05 EMPLOYERS TO WITHHOLD.

(A) Every employer making payment of compensation to an employee shall deduct and withhold from the compensation an occupational license tax calculated under § 110.03.

(B) Each employer shall deduct from the compensation due any employee the amount of the license tax measured by the compensation due each employee under this section beginning on January 1 of each year:

(1) The payments to be made on account of such deductions shall be made to the City Financial Director, on a form acceptable to the city, on or before the last day of every month following the first full month of employment.

(2) Employers whose monthly payments are less than \$100 may file returns quarterly for the periods ending March 31, June 30, September 30 and December 31 with returns due thirty days after the end of each quarter.

(3) Employers on quarterly filing whose quarterly payment is more than \$300 will revert to monthly payments beginning with the next monthly payment due and will remain on monthly filings for all subsequent periods or until written justification is furnished to the City Financial Director to obtain approval to return to quarterly filing.

(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 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 section shall be personally and individually liable, both jointly and severally, for any tax required to be withheld from compensation paid or payable to one or more employees of the 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; provided that the personal and individual liability shall apply to each and 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 unless such person had authority to collect, truthfully account for, or pay the tax imposed by this chapter at the time that the taxes imposed by this chapter become or became due.

(I) Notwithstanding subsections (A) and (B) of this section, every employee receiving compensation in the city subject to the tax imposed under § 110.03 shall be personally liable for any amount due.

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.

(Am. Ord. 2008-02, passed 3-18-08; Am. Ord. 2008-02, passed 3-18-08; Am. Ord. 2008-05, passed 4-30-08)

§ 110.06 RETURNS REQUIRED.

(A) All business entity gross profit 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. Forms for returns shall be supplied by the city.

(B) In compliance with KRS 67.768 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) Any parent corporation operating a subsidiary within the city must make a one-time initial election to submit their Occupational License Return based upon the consolidated federal tax return or the activities of the subsidiary only. Once the initial election is made, the same method of reporting must be used each year.

(D) 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 of the business entity.

(E) 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.

(F) 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.

(Ord. 2008-02, passed 3-18-08; Am. Ord. 2008-05, passed 4-30-08)

§ 110.07 TRANSIENT OCCUPATIONAL LICENSE FEE.

(A) Businesses subject to this section are transient businesses as defined herein, which shall include, but not be limited to peddlers, hucksters, solicitors, salespersons, photographers, circuses, carnivals, amusement companies, and other similar persons.

(B) Any person which regularly services, delivers, buys, or sells goods and services to retail, wholesale, or other permanent businesses in the city, shall not constitute a transient business, but rather shall be subject to the provisions and requirements of § 110.03(C) of this chapter.

(C) Those subject to subsection (G)(1), (2) and (3) shall be exempt from the provisions of subsection (H) of this section.

(D) It shall be unlawful for any transient business or representative of a transient business to engage in any activity in the city without first obtaining a license to do so as provided in this chapter and having otherwise complied with the terms and provisions of this section.

(E) A person desiring to engage in transient business within the city shall first make application in writing to the City Tax Officer on forms provided by the city before the applicant shall be authorized to do business. Such application shall state the name, permanent address, and telephone number of the business; the name address, telephone number, any other personal identification data of every business representative to be engaged in activity in the city and the type or nature of goods or services provided.

(F) The Tax Officer upon receipt of a completed application and payment of license fee shall within three days issue a license to the representative of the transient business. The licensee and/or the representative shall have his or her license in his or her immediate possession at all times when engaging in business in the city and shall display it upon request to a city official.

(G) The following types of transient business require a special form of license and fees:

(1) A person or business engaging in the business of promoting, operating, or otherwise conducting a flea market, an antique mall, or consignment shop shall pay a yearly license fee of \$100 which shall authorize the activity of individual booths, or spaces in these

businesses. The annual fee shall be for the period of July 1 to June 30 of the following year. A new application for a period of less than twelve months shall not be prorated.

(2) A local produce and vegetable market shall be authorized to operate on parking lots of local malls provided the vegetables and produce are grown locally in West Kentucky. A license fee of \$100 will be charged.

(3) Any event sponsor is required to purchase an event license prior to the event. Such license shall be \$100 for each event which shall license all temporary booths, spaces and vendors not otherwise excluded in said event. Event licenses shall not apply to carnivals or circuses, which must obtain licenses under § 110.07(H) of this chapter.

(H) A transient business shall pay to the city a daily fee of \$10 if there are three or less employees with a minimum of \$125 covering a period of four consecutive days. The daily fee shall be \$60 if there are four or more employees with a minimum fee of \$200 covering a period of four consecutive days.

(I) Failure to purchase the license required by this section of this chapter prior to engaging in business in the city shall, in addition, to the penalties set forth in this chapter, be subject to a late charge not to exceed one-half of the calculated fee due. Any person whose license has been lost or stolen or destroyed may apply to the tax office for a duplicate license. The fee for issuance of a duplicate license shall be \$10. Licenses may be renewed upon expiration in accordance with subsections (F) and (G) of this section of this chapter.

(J) It shall be unlawful for any transient business or representative to exhibit or expose any goods for sale, purchase or exchange or place any bulletin boards, bicycle stands or any signs in or on any right-of-way, sidewalk, pavements, parks, playgrounds, or any other property owned, maintained, possessed or operated by the city without written permission from city tax officer. Any "sidewalk sales" must be authorized by the City Clerk or City Tax Officer.

(Ord. 2008-02, passed 3-18-08; Am. Ord. 2008-05, passed 4-30-08)
Penalty, see § 110.99

§ 110.08 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 shall pay, as part of the tax, an amount equal to twelve percent (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.

(Ord. 2008-02, passed 3-18-08; Am. Ord. 2008-05, passed 4-30-08)

§ 110.09 REFUNDS.

(A) Where there has been an overpayment of tax under § 110.05 of this chapter, a refund shall be made to the employer to the extent of overpayment only if a written application for refund is received by the city from the employer within two years from the date the overpayment was made.

(B) 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. 2008-02, passed 3-18-08; Am. Ord. 2008-05, passed 4-30-08)

§ 110.10 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 subsection:

(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 gross receipts, or omits an amount properly includable in gross receipts, or both, which understatement or omission, or both, is in excess of 25% of the amount of gross receipts stated in the return, the additional tax may be assessed at any time within six (6) 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 subsection, or six months from the date the city receives the final determination of the federal audit from the business entity, whichever is later.

The times provided in this subsection 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 granted 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. 2008-02, passed 3-18-08; Am. Ord. 2008-05, passed 4-30-08)
Penalty, see § 110.99

§ 110.11 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 within two (2) years of the date prescribed by law for 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 § 110.08 of this chapter 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 relates directly to adjustments resulting from a federal audit, the business entity shall file a claim for refund within the time provided for in this subsection or six months from the conclusion of the federal audit, whichever is later.

(C) For the purposes of this subsection and division (A) 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.

(D) The authority to refund overpayments of taxes collected pursuant to this chapter is vested exclusively in the city.

(Ord. 2008-02, passed 3-18-08; Am. Ord. 2008-05, passed 4-30-08)
Penalty, see § 110.99

§ 110.12 INFORMATION TO REMAIN CONFIDENTIAL.

(A) No present or former employee of the City of Oak Grove 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 tax district 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 tax district from testifying in any court, or from introducing as evidence returns or reports filed with the tax district, in an action for violation of a tax district tax laws or in any action challenging a tax district tax 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 the reciprocal right to obtain information from the files and records of the Kentucky Revenue Cabinet 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 gross receipts or compensation of any person or business entity.

(C) In addition, the city is empowered to execute similar reciprocal agreements as described in division (B) of this section with any other taxing entity, should there be a need for exchange of information in order to effect diligent enforcement of this chapter. (Ord. 2008-02, passed 3-18-08; Am. Ord. 2008-05, passed 4-30-08) Penalty, see § 110.99

§ 110.13 VENDOR LISTS.

Each business shall, no later than 60 days following the enactment of this chapter provide to the city a comprehensive list of all vendors with whom it conducts business within the city. Thereafter, this list shall be updated when the business furnishes its tax return to the city; as required by § 110.07 herein. (Ord. 2008-02, passed 3-18-08; Am. Ord. 2008-05, passed 4-30-08) Penalty, see § 110.99

§ 110.14 USE OF OCCUPATIONAL LICENSE TAX.

All money derived from the license taxes under the provisions of this chapter shall be paid to the city and placed to the credit of the city's general revenue fund.

(Ord. 2008-02, passed 3-18-08; Am. Ord. 2008-05, passed 4-30-08)

OAK GROVE VILLAGE DEVELOPMENT AREA

§ 110.25 DEFINITIONS.

For purposes of this subchapter, capitalized terms shall have the same meaning as set forth in KRS 65.7045, unless otherwise defined.

"ACT." Kentucky Revised Statutes 65.7041 to 65.7083.

"OAK GROVE VILLAGE DEVELOPMENT AREA." A contiguous geographical area, located within the geographical limits of the city, which was created by Ordinance No. 2011-07 and expanded by Ordinance 2011-16, both pursuant to the Act, and in which one or more projects are proposed to be located, to be known as the Oak Grove Village Development Area which includes Tract 1 (being the original Development Area described in Ordinance No. 2011-07) and Tract II (being the expanded portion of the Development Area provided for in Ordinance No. 2011-16).

(Ord. 2012-03, passed 3-6-12)

§ 110.26 IMPOSITION OF OCCUPATIONAL LICENSE FEE.

There is hereby imposed, as a condition of employment, upon each person employed within the Oak Grove Village Development Area an occupational license fee, in an amount equal to 2% of gross wages of each person.

(Ord. 2012-03, passed 3-6-12)

§ 110.27 CREDIT.

Each person against whom an assessment of the occupational license fee is imposed shall be entitled to a credit against any local occupational taxes levied by the city, Christian County, Kentucky, or a combination thereof. To illustrate, at the present time the city has a 1.5% local occupational tax which would operate as a credit so that only .5% of the person's wages or salary would be payable under this occupational license fee.

(Ord. 2012-03, passed 3-6-12)

§ 110.28 PERSONS EMPLOYED WITHIN THE LOCAL DEVELOPMENT AREA.

The occupational license fee authorized by this subchapter shall be imposed only against persons whose jobs are newly created as a result of a project within Oak Grove Village Development Area. A job is

not newly created if it occurs due to the relocation of a job from another location within the Commonwealth of Kentucky.

(Ord. 2012-03, passed 3-6-12)

\$ 110.29 COMPLIANCE WITH THE STATUTE.

The imposition of an occupational license fee shall be in compliance with and pursuant to the Act, specifically KRS 65.7056, the terms and provisions of which Section are incorporated herein by reference thereto.

(Ord. 2012-03, passed 3-6-12)

\$ 110.30 SPECIAL FUND.

The occupational license fee collected in Tract I of the Oak Grove Village Development Area shall be deposited into the Oak Grove Village Development Area Tax Increment Fund Tract I, established by Ordinance Nos. 2011-07 and 2011-16 and shall be managed and pledged in accordance with Ordinance Nos. 2011-07 and 2011-16 solely for projects located in Tract I and the occupational license fee collected in Tract II of the Oak Grove Village Development Area shall be deposited in the Oak Grove Village Development Area Tax Increment Fund Tract II established by Ordinance No. 2011-16 and shall be managed and pledged in accordance with Ordinance No. 2011-16 solely for projects located in Tract II. As illustrated in § 116.27, the actual amount of the occupational license fee at the present time would be .5% of the wages and salaries of persons employed in the Oak Grove Village Development Area, so only .5% of such wages or salaries will be paid into the Special Fund described in this section. The basic 1.5% city occupational tax on such wages or salaries will continue to be paid to the city and will be subject to the separate TIF pledge of 80% to the TIF for the Oak Grove Village Development Area with the remaining 20% going to the city's General Fund all as provided in the local participation agreement relating to such development area.

(Ord. 2012-03, passed 3-6-12)

\$ 110.99 PENALTY.

(A) A business entity subject to tax on gross receipts 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.

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 time prescribed under § 110.06 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 penalties prescribed in this section, any business entity or employer shall pay, as part of the tax, an amount equal to 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 subsections (A), (B), (C), and (D) of this section 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 business entity or employer who willfully fails to make a return or

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 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 § 110.12 by intentionally inspecting confidential taxpayer information without authorization shall be fined not more than \$500 nor imprisoned for not longer than six months, or both.

(J) Any person violating the provisions of § 110.12 by divulging confidential taxpayer information shall be fined not more than \$1,000 nor imprisoned for not more than one year, or both.

(Ord. 2008-02, passed 3-18-08; Am. Ord. 2008-05, passed 4-30-08)

CHAPTER 111: GARAGE SALES

Section

- 111.01 Definitions
- 111.02 Permit required; conditions; posting of permit
- 111.03 Signage
- 111.04 Compliance required

- 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:

"ADDRESS." The number or other designation assigned to a housing structure. Shall not include designations assigned to individual residential units within structures containing more than one housing unit.

"GARAGE SALE." A sale from a residence or residential property of personal property. A yard, patio, rummage or driveway sale is included within the definition of "GARAGE SALE." The term "GARAGE SALE" does not include the mere incidental sale of one or two items of personal property when such sale is not part of a general sale of a number of items of personal property.

"MERCHANDISE OFFERED FOR SALE." The personal belongings of the person(s) so offering, excluding items bought solely for the purpose of resale. For purposes of this chapter, it shall be presumed that items purchased within six months of the date of application for permit shall have purchased item(s) for the sole purpose of resale.

"PERSON." Any individual or groups of individuals residing in a residential dwelling unit.

(Ord. 2009-02, passed 4-21-09; Am. Ord. 2009-08, passed 8-4-09)

§ 111.02 PERMIT REQUIRED; CONDITIONS; POSTING OF PERMIT.

(A) It shall be unlawful for any person to conduct, operate, or permit to be operated in the city any yard sale, sidewalk sale, rummage sale or garage sale for any purpose unless a permit has been first obtained from the City Clerk/Treasurer/Tax Collector. All permits shall be granted for two days only, unless otherwise specifically stated therein. Any person to whom a permit has been issued under this section that abuses any condition set out in the permit or violates any limitations set forth therein shall subject the permit to immediate revocation.

(B) The permit required by this chapter shall be prominently displayed at the location of the sale.

(C) It is expressly declared to be a purpose of this chapter to limit yard sales, garage sales, or any type of rummage sales to four sales per year, per premises.

(D) No person(s) conducting a yard sale shall place merchandise offered for sale within, upon or over any public right-of-way.
(Ord. 2009-02, passed 4-21-09; Am. Ord. 2009-08, passed 8-4-09)
Penalty, see § 111.99

§ 111.03 SIGNAGE.

One sign of not more than four square feet shall be permitted to be displayed on the property of the residence where a garage sale is being conducted pursuant to a permit issued under this chapter. Such signs shall be displayed only during the times of the sales as delineated on the permit. Any additional signs will only be displayed on private property only with the express consent of that property owner, in an amount no greater than one sign per property, and will be of a size of not more than four square feet. In no case shall the sign be placed on the public right-of-way. No sign shall be displayed for a period longer than 24 hours following the conclusion of the yard sale.
(Ord. 2009-02, passed 4-21-09; Am. Ord. 2009-08, passed 8-4-09)
Penalty, see § 111.99

§ 111.04 COMPLIANCE REQUIRED.

(A) The conduct of general retail sales or commercial activities in residential areas is, except as is otherwise expressly authorized under this chapter, prohibited. Garage sales are permitted only insofar as they are conducted consistent with the limitations set forth herein.

(B) Garage sales shall be conducted in compliance with all laws, ordinances, rules, and regulations not in conflict herewith; however, no occupational license shall be required.
(Ord. 2009-02, passed 4-21-09; Am. Ord. 2009-08, passed 8-4-09)
Penalty, see § 111.99

§ 111.99 PENALTY.

(A) Any person who conducts or aids in conducting any garage sale not in accordance with the provisions of this chapter shall be held in violation of this code of ordinances and shall be guilty of violation and may be fined not less than \$25.00 per occurrence. Each day that a violation continues or exists shall constitute a separate offense.

(B) All enforcement of this chapter shall be handled by the Code Enforcement Officer. Any violations shall be submitted to the Code Enforcement Board. The Code Enforcement Officer is authorized to remove any signs that remain displayed for a period longer than 24 hours following the conclusion of the subject yard sale.

(Ord. 2009-02, passed 4-21-09; Am. Ord. 2009-02, passed 8-4-09)

[Text continues on Page 39]

CHAPTER 113: ALCOHOLIC BEVERAGES

Section

- 113.01 Definitions
- 113.02 Incorporation of state law; compliance required
- 113.03 Scope of coverage
- 113.04 Licenses; fees
- 113.05 Proration; refunds prohibited
- 113.06 Times when sales permitted
- 113.07 Deposit of fees, fines to general funds
- 113.08 Alcoholic Beverage Control Administrators established
- 113.09 ABC Administrator to enforce
- 113.10 Functions; duties and powers
- 113.11 Police power; ABC Administrator or Deputy ABC Administrator to have
- 113.12 Right of inspection
- 113.13 All licenses required
- 113.14 Assignments and transfers
- 113.15 Location of business restricted
- 113.16 Application; contents
- 113.17 Approval or denial of application
- 113.18 License renewal
- 113.19 Causes for refusal to issue or renew license; suspension or revocation of license
- 113.20 Payment of fees
- 113.21 Posting of licenses; public record
- 113.22 Confiscation authorized if violations occur
- 113.23 Regulatory license fee imposed
- 113.24 Mandatory training
- 113.25 Adequate recordkeeping required
- 113.99 Penalty

§ 113.01 DEFINITIONS.

As used in this chapter and in KRS Chapters 242 and 243, unless the context requires otherwise:

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

"ALCOHOLIC BEVERAGE." Every liquid or solid, whether patented or not, containing alcohol in an amount in excess of more than 1% of alcohol by volume, which is fit for beverage purposes. It includes every spurious or imitation liquor sold as, or under any name commonly used for, alcoholic beverages, whether containing any alcohol or not. It does not include the following products:

(1) Medicinal preparations manufactured in accordance with formulas prescribed by the United States Pharmacopoeia, National Formulary, or the American Institute of Homeopathy;

- (2) Patented, patent, and proprietary medicines;
- (3) Toilet, medicinal, and antiseptic preparations and solutions;
- (4) Flavoring extracts and syrups;
- (5) Denatured alcohol or denatured rum;
- (6) Vinegar and preserved sweet cider;
- (7) Wine for sacramental purposes; and
- (8) Alcohol unfit for beverage purposes that is to be sold for legitimate external use.

"BOARD." The State Alcoholic Beverage Control Board created by KRS 241.030.

"BOTTLE." Any container which is used for holding alcoholic beverages for the use and sale of alcoholic beverages at retail.

"BREWER." Any person who manufactures malt beverages or owns, occupies, carries on, works, or conducts any brewery, either alone or through an agent.

"BREWERY." Any place or premises where malt beverages are manufactured for sale, and includes all offices, granaries, mash rooms, cooling rooms, vaults, yards, and storerooms connected with the premises; or where any part of the process of the manufacture of malt beverages is carried on; or where any apparatus connected with manufacture is kept or used; or where any of the products of brewing or fermentation are stored or kept.

"BUILDING CONTAINING LICENSED PREMISES." The licensed premises themselves and includes the land, tract of land, or parking lot in which the premises are contained, and any part of any building connected by direct access or by an entrance which is under the ownership or control of the licensee by lease holdings or ownership.

"CHARITABLE ORGANIZATION." A nonprofit entity recognized as exempt from Federal taxation under section 501(c) of the Internal Revenue Code (26 U.S.C. § 501(c)) or any organization having been established and continuously operating within the Commonwealth of Kentucky for charitable purposes for three years and which expends at least 60% of its gross revenue exclusively for religious, educational, literary, civic, fraternal, or patriotic purposes.

"CITY ADMINISTRATOR." City Alcoholic Beverage Control Administrator.

"CONVENTION CENTER." Any facility which, in its usual and customary business, provides seating for a minimum of 1,000 people and offers convention facilities and related services for seminars, training and educational purposes, trade association meetings, conventions, or civic and community events or for plays, theatrical productions, or cultural exhibitions.

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

"DEPARTMENT." The Department of Alcoholic Beverage Control.

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

"HOTEL." A hotel, motel, or inn for accommodation of the traveling public, designed primarily to serve transient patrons.

"LIMITED RESTAURANT."

(1) 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 70% of its gross income from the sale of food, which maintains a minimum seating capacity of 100 persons for dining, and which is located in a wet or moist territory under KRS 242.1244(2); or

(2) 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 70% of its gross income from the sale of food, which maintains a minimum seating capacity of 50 persons for dining, which has no open bar, which requires alcoholic beverages be sold in conjunction with the sale of a meal, and which is located in a wet or moist territory under KRS 242.1244.

"MALT BEVERAGE." Any fermented undistilled alcoholic beverage of any name or description, manufactured from malt wholly or in part, or from any substitute for malt.

"PREMISES." The land and building in and upon which any business regulated by alcoholic beverage statutes is operated or carried on. "PREMISES" shall not include as a single unit two or more separate businesses of one owner on the same lot or track of land, in the same or in different buildings if physical or permanent separation of the premises is maintained, excluding employee access by keyed entry and emergency exits equipped with crash bars, and each has a separate public entrance accessible directly from the sidewalk or parking lot.

Any licensee holding an alcoholic beverage license on July 15, 1998 shall not, by reason of this subsection, be ineligible to continue to hold his or her license or obtain a renewal, of the license.

"PRIVATE CLUB." A nonprofit social, fraternal, military, or political organization, club or entity maintaining or operating a club room, club rooms, or premises from which the general public is excluded.

"PUBLIC NUISANCE." A condition that endangers safety or health, is offensive to the senses, or obstructs the free use of property so as to interfere with the comfortable enjoyment of life or property by a community or neighborhood or by any considerable number of persons.

"RESTAURANT." A public facility where the usual and customary business is the serving of meals to consumers, that has a bona fide kitchen facility, and that receives at least 50% of its food and beverage receipts from the sale of food.

"SALE." Any transfer, exchange, or barter for consideration, and includes all sales made by any person, whether principal, proprietor, agent, servant or employee, of any alcoholic beverage.

"SERVICE BAR." A bar, counter, shelving, or similar structure used for storing or stocking supplies of alcoholic beverages that is a workstation where employees prepare alcoholic beverage drinks to be delivered to customers away from the service bar. A "SERVICE BAR" shall be located in an area where the general public, guests or patrons are prohibited.

(Ord. 2013-08, passed 10-29-13)

§ 113.02 INCORPORATION OF STATE LAW; COMPLIANCE REQUIRED.

(A) The provisions of the State Alcoholic Beverage Control laws contained in KRS Chapters 241, 242, 243, 244, and 245 pertaining to licenses and regulations of the State Alcoholic Beverage Control Board, including definitions contained therein, as well as amendments and supplements thereto, are hereby adopted as part of the Alcoholic Beverage Control Law of the city, except as otherwise lawfully provided herein.

(B) No person shall sell, deal in, barter or exchange or possess for sale, or for the purpose of evading any law or ordinance, give away any alcoholic beverage in any quantity whatever, or cause the same to be done, without complying with all of the provisions of KRS Chapters 241, 242, 243, 244 and 245 and all statutes, regulations and ordinance applicable thereto.

(C) All prohibitions, restrictions and regulations pertaining to alcoholic beverages found in Kentucky Revised Statutes Chapters 241, 242, 243, 244 and 245 shall apply to alcoholic beverage use in the city.

(Ord. 2013-08, passed 10-29-13) Penalty, see § 113.99

§ 113.03 SCOPE OF COVERAGE.

(A) This chapter shall be construed to apply to the traffic in malt beverage, distilled spirits and wine where the context permits such applications.

(B) Nothing contained in this chapter shall excuse or relieve the owner, proprietor, employee or person in charge of any licensed premises in the city, where alcoholic beverages are sold, from the restrictions, requirements and penalties of any other ordinance or regulations of the city or of any statutes of the state relating to violations pertaining to alcoholic beverages.
(Ord. 2013-08, passed 10-29-13)

§ 113.04 LICENSES; FEES.

The city shall have the power and authority to issue the following kinds of licenses upon proper application and the payment of prescribed fee(s):

- | | |
|--|-------|
| (A) NQ-1 retail drink license, per annum
(combo license/Convention Center only) | \$800 |
| (B) NQ-2 restaurant and motel, per annum
(combo license) | \$210 |
| (C) NQ-3 special private club license, per annum
(combo license) | \$315 |
| (D) NQ-4 retail malt beverage drink license,
per annum (malt beverage only) | \$210 |
| (E) NQ retail malt beverage package license,
per annum | \$210 |
| (F) Quota retail package, per annum
(distilled spirits/wine) | \$630 |
| (G) Quota retail drink license, per annum
(distilled spirits/wine) | \$630 |
| (H) Special temporary license, per event
(combo License) | \$105 |
| (I) Special Sunday retail drink license, per annum | \$105 |
| (L) Supplemental bar license, per annum
(up to 5, no charge additional) | \$210 |
| (M) Malt beverage brew-on premises license, per annum | \$50 |
| (N) Malt beverage brewers license, per annum | \$250 |
- (Ord. 2013-08, passed 10-29-13)

§ 113.05 PRORATION; REFUNDS PROHIBITED.

(A) All licenses issued by the city, except special event or temporary licenses, shall be valid for a period of no more than a year.

(B) When any person applies for a new license authorized to be issued under KRS 243.020 to 243.670, he or she shall be charged, if the license is issued, the full fee for the respective license if six months or more remain before the license is due to be renewed and one-half the fee if less than six months remain before the license is due to be renewed. No abatement of license fees shall be permitted to any person who held a license of the same kind for the same premises in the preceding license period and who was actually doing business under the license during the last month of the preceding license period.

(C) The renewal by the city of the certificate or permit of any alcoholic beverage license shall not be construed to waive or condone any violation that occurred prior to the renewal and shall not prevent subsequent proceedings against the licensee. In the event any licensee shall cease doing business for any reason, no refund of the city license fee shall be granted to licensee.

(D) In the event the licensed organization is funded through local public tax dollars, local licensure fees will be waived.
(Ord. 2013-08, passed 10-29-13)

§ 113.06 TIMES WHEN SALES PERMITTED.

(A) A Licensee under this section may sell alcoholic beverages, or do any act authorized by the licensee's license with respect to the sale of alcoholic beverages only during the times hereinafter set out.

(B) Premises for which there has been granted a license for the sale of alcoholic beverages shall be permitted to remain open during the hours of 6:00 a.m. to 3:00 a.m.

(C) During the closing hours, the premises of any licensee for the sale of alcoholic beverages by the drink must be closed to and vacant of all customers and all persons except the licensee and his/her employees, who shall be allowed on the premises for business purposes only. Alcoholic beverages shall not be sold, given away, delivered or consumed by anyone in any room of the premises during the closing hours and no parties, private or public, shall be held on the premises. The premises shall not be loaned, rented or leased to anyone during closing hours for a party or for any other purposes.

(D) Any licensee for sales of alcoholic beverages who remains open for business at any time except the hours permitted under this section shall be deemed guilty of a misdemeanor and shall be punished in accordance with the provisions of this chapter and the license shall be subject to revocation or suspension within the discretion of the ABC Administrator.

(Ord. 2013-08, passed 10-29-13) Penalty, see § 113.99

§ 113.07 DEPOSIT OF FEES, FINES TO GENERAL FUNDS.

All monies derived from license fees or from fines as provided in this chapter shall be paid to the treasury of the city and become part of the general funds of the city.
(Ord. 2013-08, passed 10-29-13)

§ 113.08 ALCOHOLIC BEVERAGE CONTROL ADMINISTRATORS ESTABLISHED.

There is hereby established the office of Alcoholic Beverage Control ("ABC") Administrator and Deputy ABC Administrator as set out in this chapter.
(Ord. 2013-08, passed 10-29-13)

§ 113.09 ABC ADMINISTRATOR TO ENFORCE.

The ABC Administrator or Deputy ABC Administrator shall have the power and authority to promulgate such regulations as may be necessary to implement and/or administer this chapter.
(Ord. 2013-08, passed 10-29-13)

§ 113.10 FUNCTIONS; DUTIES AND POWERS.

(A) The functions of the ABC Administrator or Deputy ABC Administrator shall be the same with respect to the city license and regulations, as the function of the Kentucky Alcoholic Beverage Control Board ("Board") with respect to state licenses and regulations, except that no regulation of the ABC Administrator shall be less stringent than the statutes relating to alcoholic beverage control, or the regulations of the Board.

(B) The ABC Administrator or Deputy ABC Administrator shall have the same powers and duties with respect to suspension and revocation for cause of city licenses as the State Alcoholic Beverage Control Board has with respect to state licenses under KRS 241.060. The ABC Administrator or Deputy ABC Administrator, on his or her own initiative or on the complaint of any person, may institute proceedings to revoke or suspend any license issued under this chapter.
(Ord. 2013-08, passed 10-29-13)

§ 113.11 POLICE POWER; ABC ADMINISTRATOR OR DEPUTY ABC ADMINISTRATOR TO HAVE.

The ABC Administrator, Deputy ABC Administrator and his or her investigators, shall have full police powers of peace officers, and their jurisdiction shall be coextensive with the boundaries of the city. They may inspect any premises where alcoholic beverages are manufactured, sold, stored or otherwise trafficked in, without first obtaining a search warrant.
(Ord. 2013-08, passed 10-29-13)

§ 113.12 RIGHT OF INSPECTION.

The ABC Administrator or their designee shall have available at all reasonable times for his/her inspection, all books and records required to be maintained by licensees under KRS 244.150 and shall receive copies of all reports submitted by licensees to the State Alcoholic Beverage Control Board.
(Ord. 2013-08, passed 10-29-13)

§ 113.13 ALL LICENSES REQUIRED.

License fees in the amounts herein provided shall be charged for each location in which any person engages in any classification of business authorized under this chapter, and if more than one classification of business is conducted at any location, a license shall be charged for each of the privileges exercised.
(Ord. 2013-08, passed 10-29-13)

§ 113.14 ASSIGNMENTS AND TRANSFERS.

The assignment, transfer, pledge or hypothecation of city licenses shall be governed by the provisions of KRS 243.630 and 243.660.
(Ord. 2013-08, passed 10-29-13)

§ 113.15 LOCATION OF BUSINESS RESTRICTED.

Licenses under this chapter shall not authorize the conduct of business in any place other than that specifically described in the original, state application and license. Any additional building(s) or room(s) attached to licensed premises and requiring separate service bars shall require an additional city license.
(Ord. 2013-08, passed 10-29-13)

§ 113.16 APPLICATION; CONTENTS.

An applicant for a license under this chapter shall file with ABC Administrator or Deputy ABC Administrator a copy of his or her state license application containing the information required by KRS 243.380 and 243.390; as well as a city application. The city application shall include the consent of the applicant permitting the ABC Administrator or Deputy ABC Administrator to inspect and search the licensed premises at any reasonable time, to confiscate articles found on the premises in violation of any ordinance or statute, and to order an emergency temporary closure of the premises if the public health, welfare, safety and morals is threatened by one or more violations of any ordinance or statute involving disturbance of the peace or public disorder. The temporary closure shall remain in effect until review of the alleged violations by the ABC Administrator or Deputy ABC Administrator within 36 hours.
(Ord. 2013-08, passed 10-29-13)

§ 113.17 APPROVAL OR DENIAL OF APPLICATION.

(A) If upon review of the application, the ABC Administrator or Deputy ABC Administrator determines that the applicant has complied with all requirements of the Alcoholic Beverage Control Law, as well as all regulatory provisions of this chapter, that the location is one that can be approved, including but not limited to the requirements of KRS 243.220, that a license may be issued within the quota limits, and that there is no other cause for denial of the license, the ABC Administrator or Deputy ABC Administrator shall approve the application.

(B) If the ABC Administrator or Deputy ABC Administrator has reasonable grounds to believe that an applicant has violated any law, rule or regulation relating to alcoholic beverages, he may issue to the applicant a written order setting forth such violation(s) and requiring the applicant to show cause why the requested license should be issued. The ABC Administrator or Deputy ABC Administrator shall have the right to order, and the applicant shall have the right to request an evidentiary hearing to examine the violation set forth in the show cause order issued by the ABC Administrator or Deputy ABC Administrator. Any decision by the ABC Administrator or Deputy ABC Administrator on the application shall be subject to appeal as provided by law.

(Ord. 2013-08, passed 10-29-13)

§ 113.18 LICENSE RENEWAL.

All renewal of licenses and payment of the license fee must be on file with the ABC Administrator 30 days before the expiration of the licenses for the preceding license period or the license shall be canceled, except that the licensee may file a written, verified statement 30 days prior to the expiration date of the license, setting forth the facts justifying an extension. The ABC Administrator may then extend the time for filing of a renewal of the license for a reasonable length of time within the exercise of his/her sound discretion. The licensee shall pay the license fee from the expiration date of the former license or licenses and payment shall be refunded to the licensee in the event that the license or licenses are not renewed at or before the end of the extension period.

(Ord. 2013-08, passed 10-29-13)

§ 113.19 CAUSES FOR REFUSAL TO ISSUE OR RENEW LICENSE; SUSPENSION OR REVOCATION OF LICENSE.

(A) 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 of licenses.

(B) No license to sell alcoholic beverages shall be granted or renewed to any person who is delinquent in the payment of any taxes or fees due the city at the time of issuing the license; nor shall any license be granted or renewed to sell upon any premises or property, owned and occupied by the licensee upon which there are any delinquent taxes or fees due the city. If a licensee becomes delinquent in the payment of any taxes or any fees due the city at any time during the license period, the license to sell alcoholic or malt beverages shall be subject to revocation or suspension. The ABC Administrator may, in his/her discretion, approve a license to sell after receiving from the City Finance Director, a written statement to the effect that the applicant for the license has paid or has made satisfactory arrangements with the City Finance Director for taking care of the indebtedness represented by the unpaid and delinquent taxes or fees. This section shall apply only to taxes and fees, which are due and payable by the licensee.

(C) Appeals may be taken from decisions of the ABC Administrator to the State Alcoholic Beverage Control Board according to the provisions of KRS 241.200 and 243.550.
(Ord. 2013-08, passed 10-29-13)

§ 113.20 PAYMENT OF FEES.

Upon approval of the application by the ABC Administrator or Deputy ABC Administrator, the applicant shall pay the amount of the license fee(s) provided in this chapter.
(Ord. 2013-08, passed 10-29-13)

§ 113.21 POSTING OF LICENSES; PUBLIC RECORD.

Each city license in the same form prescribed by KRS 243.440 for state licenses shall be posted at the licensed premises in the same manner prescribed by KRS 243.620. An exact duplicate facsimile of each city license shall remain in the ABC Administrators or Deputy ABC Administrators office as part of the public record.
(Ord. 2013-08, passed 10-29-13)

§ 113.22 CONFISCATION AUTHORIZED IF VIOLATIONS OCCUR.

If any alcoholic beverages are found on the outside of the locked or closed-off department of any licensed premises at any hours during which the licensee is prohibited by the State Alcoholic Beverage Control Act or by this chapter from selling alcoholic or malt beverages, except as provided by statute, a prima facie presumption shall arise that such alcoholic or malt beverages were kept outside the locked or closed-off section for the purpose of sale in violation of this chapter and the State Alcoholic Beverage Control Act and shall be ground for revocation or suspension of the license. In addition to other penalties provided for the violation of this ordinance, the ABC Administrator is hereby authorized to confiscate the alcoholic or malt beverages.

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

(B) 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 for advertising alcoholic beverages.

(C) It shall be unlawful for any person, holding a license under this chapter to give away or offer to give away anything tangible of value as a premium or prize, or for any other purpose in connection with the sale of alcoholic beverages.

(D) Any advertising by any licensee under this chapter shall be in compliance with KRS 244.130 or any regulation promulgated pursuant to KRS 244.130.

(Ord. 2013-08, passed 10-29-13) Penalty, see § 113.99

§ 113.23 REGULATORY LICENSE FEE IMPOSED.

(A) A regulatory license fee is imposed on the gross receipts from retail sales of alcoholic beverages under each license issued for the purpose of insuring full reimbursement to the city for the cost of additional policing, regulatory, or administrative expenses related to the sale of alcoholic beverages in the city. The City Council shall adopt, at the budget adoption for the fiscal year, an annual rate for the regulatory license fee as shall be reasonably estimated to insure full, reimbursement to the city for the 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 taxes, fees, or licenses permitted by law, but a credit shall be allowed in an amount equal to the cost of the license under the provisions of this chapter.

(B) The regulatory license fee shall be 3% for the fiscal year, beginning and continuing thereafter until amended or repealed.

(C) Payment of such fee shall accompany tax returns approved for use by the City Finance Director and a majority of the City Council. The return shall be submitted to the City Finance Director by the thirtieth day of each month for the preceding month's sales. The fraction, represented by one divided by the number of months for which the city license was issued, of the fee required under the provisions of this chapter shall be deducted each month as a credit.
(Ord. 2013-08, passed 10-29-13)

§ 113.24 MANDATORY TRAINING.

(A) Any alcoholic beverage licensee's employee who is presently actively engaged in the sale of alcoholic beverages at retail will attend Server Training in Alcohol Regulations (STAR) as taught by trained State of Kentucky ABC instructors, or any other training as

accepted or provided by the local ABC Administrator. All subsequent employees of any alcoholic beverage licensee will attend training within 90 days of employment by the licensee.

(B) Any alcoholic beverage licensee that fails to provide Server Training in Alcohol Regulations (STAR) or any other training as accepted or provided by the local ABC Administrator for any or all of their employees who are presently actively engaged in the sale of alcoholic beverages at retail will be held in violation of this chapter which could result in suspension or revocation of their City of Oak Grove alcoholic beverage license.
(Ord. 2013-08, passed 10-29-13)

§ 113.25 ADEQUATE RECORDKEEPING REQUIRED.

Every licensee shall keep and maintain 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 State Alcoholic Beverage Control Board, or such rules and regulations as may be from time to time promulgated by the ABC Administrator and approved by a majority of the City Council. Where the sales of alcoholic beverages as they relate to other sales are determinative of the licensee's eligibility to retain a license, the licensee shall maintain adequate records to show that relationship. The books and records shall be available at all reasonable times for inspection by ABC Administrator, the City Finance Director, or any authorized representatives.
(Ord. 2013-08, passed 10-29-13)

§ 113.99 PENALTY.

(A) If the holder of any license shall fail to pay the regulatory license fee imposed by this section within ten days of the due date, an automatic penalty of \$50 shall be assessed for the first offense. An automatic penalty of \$100 shall be assessed on the second offense, and an automatic penalty of \$200 shall be assessed on the third offense. In addition to the monetary penalty, ABC Administrator shall hold a hearing for a second and third offense requiring the licensee to show cause why the license should not be suspended or revoked with full authority to do so upon appropriate findings. The calculation of the number of offenses for the purpose of invoking the above penalties shall be done on a 12 month basis, with the number of offenses being reduced to zero at the beginning of each new license period.

(B) Interest shall be assessed upon any past due payments at the rate of 12% per annum.
(Ord. 2013-08, passed 10-29-13)

[Next page is page 57]

CHAPTER 114: INSURANCE PREMIUM TAX

Section

- 114.01 Imposition of license fee
- 114.02 Amount of fee for companies issuing life insurance
- 114.03 Amount of fee for companies issuing policies other than life insurance
- 114.04 Due date; interest
- 114.05 Written breakdown of collections

§ 114.01 IMPOSITION OF LICENSE FEE.

There is hereby imposed on each insurance company a license fee for the privilege of engaging in the business of insurance within the corporate limits of the city, on a calendar-year basis.
(Ord. 1984-11, passed 9-11-84; Am. Ord. 2012-01, passed 2-7-12)

§ 114.02 AMOUNT OF FEE FOR COMPANIES ISSUING LIFE INSURANCE.

The license fee imposed upon each insurance company which issues life insurance policies on the lives of persons residing within the corporate limits of the city shall be 10% of the first year's premiums actually collected within each calendar quarter by reason of the issuance of such policies.
(Ord. 1984-11, passed 9-11-84; Am. Ord. 1994-10, passed 3-22-94; Am. Ord. 2012-01, passed 2-7-12)

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

The license fee imposed upon each insurance company which issues any insurance policy which is not a life insurance policy shall be 10% of the premiums actually collected within each calendar quarter by reason of the issuance of such policies on risks located within the corporate limits of the city on those classes of business which such company is authorized to transact, less all premiums returned to policyholders; however, any license fee or tax imposed upon premium receipts shall not include premiums received for insuring employers against liability for personal injuries to their employees, or death caused thereby, under the provisions of the Workers' Compensation Act and shall not include premiums received on policies of group health insurance provided for state employees under KRS 18A.225(2).
(Ord. 1984-11, passed 9-11-84; Am. Ord. 2012-01, passed 2-7-12)

§ 114.04 DUE DATE; INTEREST.

All license fees imposed by this chapter shall be due no later than 30 days after the end of each calendar quarter. License fees which are not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.183.
(Ord. 1984-11, passed 9-11-84; Am. Ord. 2012-01, passed 2-7-12)

§ 114.05 WRITTEN BREAKDOWN OF COLLECTIONS.

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

- (A) Casualty.
 - (B) Automobile.
 - (C) Inland marine.
 - (D) Fire and allied perils.
 - (E) Health.
 - (F) Life.
- (Ord. 1984-11, passed 9-11-84; Am. Ord. 2012-01, passed 2-7-12)

CHAPTER 115: PAWNBROKERS

Section

- 115.01 Definitions
- 115.02 Bond
- 115.03 Register to be kept; daily reports
- 115.04 Receipt to be given for each article; sale of article
- 115.05 Maximum interest, resale price
- 115.06 Receipt to be given for payment of loan
- 115.07 Prohibited activities
- 115.08 Enforcement

- 115.99 Penalty

§ 115.01 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) (Ord. 4-1979, passed 1-14-80)

§ 115.02 BOND.

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

(KRS 226.020)

§ 115.03 REGISTER TO BE KEPT; DAILY REPORTS.

(A) Every pawnbroker shall keep a register of all loans and purchases of all articles effected or made by him. The register shall show the dates of all loans or purchases, and the names of all persons who have left any property on deposit as collateral security or as a delivery or sale. Opposite the names and dates shall be written in plain hand a full description of all property purchased or received on deposit as collateral security, the time when the loan falls due, the amount of purchase money, the amount loaned, and the interest charged. The register shall at all times be open to the inspection of any police officer of the city when in the discharge of his official duty. (KRS 226.040)

(B) Every pawnbroker shall, by 11:00 a.m. each day, make available to the Chief of Police a true and correct written report of all goods received by him, whether by pawn or purchase, during the 24 hours preceding each report. The report shall describe the goods as accurately as practicable. The Chief of Police shall furnish blanks for these reports. (KRS 226.070) (Ord. 4-1979, passed 1-14-80) Penalty, see § 115.99

§ 115.04 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 § 115.03(A) to be kept in his register. He shall not make any charge for the ticket or receipt.

(B) A pawnbroker may sell any article pawned after the expiration of 90 days from the maturity of the loan. However, not less than ten days before making the sale, the pawnbroker shall give notice to the person by whom the article was pawned by mail addressed to the post office address of that person as shown on the pawnbroker's register, notifying such person that, unless he redeems the article within ten days from the date of mailing of the notice, the article will be sold. (KRS 226.050) Penalty, see § 115.99

§ 115.05 MAXIMUM INTEREST, RESALE PRICE.

Any pawnbroker as defined in § 115.01, 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 § 115.03, 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 § 115.99

§ 115.06 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 § 115.99

§ 115.07 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 § 115.99

§ 115.08 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)

§ 115.99 PENALTY.

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

(B) Any pawnbroker who violates any of the provisions of § 115.03(B) shall be guilty of a misdemeanor and shall be fined not less than \$20 nor more than \$100.
(KRS 226.990(3))

CHAPTER 116: PEDDLERS, ITINERANT MERCHANTS, AND SOLICITORS

Section

General Provisions

- 116.01 Definitions
- 116.02 License requirement
- 116.03 Application procedure
- 116.04 Standards for issuance
- 116.05 Revocation procedure
- 116.06 Standards for revocation
- 116.07 Appeal procedure
- 116.08 Provision for service of process
- 116.09 Exhibition of licenses and badges

Solicitation

- 116.20 Definitions
- 116.21 Criteria for permit application and approval
- 116.22 Fees
- 116.23 Prohibitions
- 116.24 Exemption
- 116.99 Penalty

GENERAL PROVISIONS

§ 116.01 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.

§ 116.02 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 from time to time by the legislative body.

(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 § 116.99

§ 116.03 APPLICATION PROCEDURE.

(A) All applicants for licenses required by this chapter shall file a written, sworn application with the City Clerk/Treasurer/Tax Collector. 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. Applications should be made on forms available in the office of the City Clerk/Treasurer/Tax Collector. The application shall state:

(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) All applications for peddler or solicitor licenses shall state, in addition to statements required by division (A):

(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) Two letters of recommendation from any person residing or doing business in the city certifying the applicant's good moral character and business responsibility; or, in lieu of such letters, other evidence which may be used by the City Clerk/Treasurer/Tax Collector to satisfy his duties under § 116.04;

(2) If required by the City Clerk/Treasurer/Tax Collector, copies of all printed advertising proposed to be used in connection with the applicant's business;

(3) 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 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.

(E) Upon receipt of the application, the City Clerk/Treasurer/Tax Collector shall cause a set of applicant's fingerprints to be taken and attached to the application; he shall also cause a picture of the applicant to be taken and to be attached to the application.

Penalty, see § 116.99

§ 116.04 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.

§ 116.05 REVOCATION PROCEDURE.

Any license or permit granted under this chapter may be revoked by the City Clerk/Treasurer/Tax Collector after notice and hearing, pursuant to the standards in § 116.06. 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.

§ 116.06 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.

§ 116.07 APPEAL PROCEDURE.

(A) Any person aggrieved by a decision under §§ 116.04 or 116.06 shall have the right to appeal to the legislative body. The appeal shall be taken by filing with the legislative body, within 14 days after notice of the decision has been mailed to such person's last known address, a written statement setting forth the grounds for appeal. The legislative body shall set the time and place for a

hearing, and notice for such hearing shall be given to such person in the same manner as provided in § 116.05.

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

§ 116.08 PROVISION FOR SERVICE OF PROCESS.

(A) Requirements of successful applicant.

(1) Upon receipt of notice of approval of his application, the applicant shall file with the City Clerk/Treasurer/Tax Collector an instrument appointing the City Clerk/Treasurer/Tax Collector as his true and lawful agent with full power and authority to acknowledge service of process for and on behalf of applicant in respect to any matter arising under this chapter.

(2) Forms for the required statement are available at the City Clerk/Treasurer/Tax Collector's office. Such form or instrument shall contain recitals to the effect that the applicant consents and agrees that service of any notice or process may be made upon this agent, and when so made shall be taken and held to be as valid as if personally served upon the applicant, according to the law of this or any other state, and waiving all claim or right of error by reason of such acknowledgment.

(B) Duty of City Clerk/Treasurer/Tax Collector. Immediately upon service of any process upon the City Clerk/Treasurer/Tax Collector under this chapter, the City Clerk/Treasurer/Tax Collector shall send, by registered mail, a copy of the process to the licensee at his last known address.

Penalty, see § 116.99

§ 116.09 EXHIBITION OF LICENSES AND BADGES.

(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/Tax Collector shall issue a badge to each peddler or solicitor licensed under this chapter. The badge shall contain the words "Licensed Peddler" or "Licensed Solicitor," the expiration date of the license, and the number of the license. The badge shall be worn conspicuously by the licensee during such time as he is engaged in the business licensed.

(C) Peddlers or solicitors shall exhibit their license at the request of any citizen.

Penalty, see § 116.99

SOLICITATION

§ 116.20 DEFINITIONS.

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

"ANTI-SOLICITATION PROPERTY." Any property in the city, which has been posted with signs of "No Solicitors" or "No Trespassing" or other words of similar import thereon.

"BONA FIDE." Made in good faith without fraud or deceit.

"CHARITABLE OR CIVIC ORGANIZATION." Any person determined by the Internal Revenue Service or the Kentucky Department of Revenue to be a tax-exempt organization; or a person or organization defined under KRS 367.650(2).

"CHARITABLE OR CIVIC PURPOSE." Any purpose or activity which holds itself out to be benevolent, educational, philanthropic, humane, patriotic, religious, eleemosynary or fraternal or to be established for a social welfare or advocacy, public health, environmental conservation, or civic purpose, or is designed to serve the welfare of society generally or any class or group to which society is morally obligated or a specific community or to preserve or improve the culture thereof or environment enjoyed thereby; or as may otherwise be defined under applicable federal or Kentucky statutes or revenue rulings of the Internal Revenue Service or the Kentucky Department of Revenue.

"SOLICITATION." The act of standing at or traveling on or near a crosswalk, highway, intersection or roadway and taking or attempting to take contributions, or making a sale of, or taking orders for the sale of, any personal property. This definition also includes a person standing in the median, crosswalk, highway, intersection, or roadway for the purpose of advertising a sale or service. Visits by sales representatives pursuant to invitation, or as part of a continuing business relationship, shall not be deemed as solicitation.

"SOLICITOR." Any person who engages in solicitation.
(Ord. 2012-16, passed 12-18-12)

§ 116.21 CRITERIA FOR PERMIT APPLICATION AND APPROVAL.

(A) Permits shall be issued only to charitable organizations with an association to Oak Grove, Christian County.

(B) All persons, organizations, partnerships, and the like, desiring to solicit on roadways within the incorporated limits of Oak Grove shall complete a permit application form at the Oak Grove Police Department. The permit application shall provide the following information:

(1) Name and address of the responsible person who will meet all requirements and be responsible for the persons soliciting and monies collected;

(2) Organization represented and acknowledgement by applicant that it is a bona fide charitable organization and that the funds collected will be used only for the purpose stated;

(3) The objective for the funds;

(4) Names of all participants;

(5) Photo identification that will be provided on solicitation site;

(6) Assurance that all participants will be provided with approved traffic safety vests. At any-time a participant in solicitation fails to properly wear a safety vest, the activity shall be ordered stopped immediately. All participants must sign a waiver that the city will not in any way be responsible for injuries, that all risk and responsibility of injury in on the participant(s);

(7) Evidence that the registrant has third-party liability insurance with single limit of no less than \$500,000 which insurance covers the activities of all of the registrants' officers, agents, employees, volunteers and contractors;

(8) Location, dates, and hours of the solicitation event;

(9) Application must be approved one week (seven days) prior to beginning the activity;

(10) The Police Chief or designee shall maintain a calendar schedule of solicitation activities in Oak Grove. The calendar shall be maintained to allow no more than one solicitation activity per organization, per calendar month. Solicitation events may be scheduled for any calendar month in the year. The calendar will run from January 1 to December 31 of each year. Dates for solicitation will be granted on a first request basis;

(11) It shall be the obligation of all organizations soliciting on a public roadway within the incorporated limits of Oak Grove to place a sign on the site to identify the organization and to have available a receipt to all individuals making a contribution. The need for a sign permit will be waived.

(12) The Chief of Police or his or her designee shall have the discretion to approve, reject and/or waive any permit criteria.
(Ord. 2012-16, passed 12-18-12)

§ 116.22 FEES.

Solicitation permits for weekday solicitation shall cost \$25 per day. Saturday solicitation permits shall cost \$50 per day. Sunday solicitation permits shall cost \$100 per day. Such fee(s) will be non-refundable.

(Ord. 2012-16, passed 12-18-12)

§ 116.23 PROHIBITIONS.

(A) It shall be unlawful for any person to engage in solicitation in the City of Oak Grove, Kentucky without first obtaining a solicitation permit. Permits shall be issued by the Police Chief or his or her designee, upon satisfactory completion of a solicitation registration form. Permits shall be issued for one day only, and may be renewed upon application and payment of applicable permit fee.

(B) No person under the age of 18 years of age shall participate in a solicitation event. All children under the age of 18 years of age are prohibited from the solicitation area.

(C) It shall be unlawful to solicit within 20 feet in any direction of an automated teller machine.

(D) It shall be unlawful for any person to knowingly make any false or misleading representation in the course of solicitation. False or misleading representation includes, but is not limited to, the following:

(1) Stating that the solicitor is from out of town and/or stranded when such is not true;

(2) Stating or suggesting falsely that the solicitor is either a current or former member of the armed services, or a current or former firefighter, police officer, law enforcement, sheriff, or constable;

(3) Wearing or displaying an indication of physical disability when the solicitor does not suffer the disability indicated;

(4) Stating the solicitor is homeless, when he or she is not; and

(5) Stating the donation is needed to meet a specific need that does not exist.

(E) It shall be unlawful for any person to solicit after sunset and before sunrise.

(F) The following manners of solicitation are expressly prohibited, at any time and any manner, because of the coercive nature of each:

(1) Soliciting in any manner that serves to block, obstruct or interfere with the orderly flow of either vehicles or pedestrians;

(2) Soliciting in any manner that intentionally causes vehicles or pedestrians to take evasive action to avoid physical contact;

(3) Soliciting in any manner that violates traffic regulations for vehicles or pedestrians; and

(4) Aggressive solicitation shall be unlawful and includes any of the following actions:

(a) Approaching or speaking to a person, or following a person before, during or after solicitation, if that conduct is intended or is likely to cause reasonable fear of bodily harm to oneself or to another, or damage to or loss of property or otherwise be intimidated into giving money or any other thing of value;

(b) Intentionally touching or causing physical contact with another person without that persons' consent in the course of solicitation;

(c) Directing violent or threatening gestures toward the subject of solicitation:

1. By blocking the path of the person solicited;

2. By following or walking behind, ahead of, or alongside the person solicited;

3. By using profane or abusive language, either during the solicitation or following refusal;

4. By accosting or forcing oneself upon the company of another;

5. By any statement, gestures or other communication that a reasonable person in the situation of the person solicited would perceive to be a threat; or

6. By soliciting in a group of two or more persons.

(Ord. 2012-16, passed 12-18-12) Penalty, see § 116.99

§ 116.24 EXEMPTION.

The provisions of this subchapter which require a solicitation permit shall not apply to any person or entity engaged in religious proselytizing, political speech, or distribution of handbills,

leaflets, or other printed advertisements and all such persons or entities shall be exempt from the requirements and penalties contained herein.

(Ord. 2012-16, passed 12-18-12)

§ 116.99 PENALTY.

(A) Whoever violates any provision of this chapter for which no other penalty is prescribed shall be guilty of a misdemeanor and shall be fined not more than \$500. Each day's violation shall constitute a separate offense.

(B) (1) Each violation of §§ 116.20 through 116.24 shall be a Class "B" Misdemeanor for which any person convicted thereof in a court of competent jurisdiction shall be sentenced to a period of incarceration in the county jail not to exceed 90 days and pay a criminal fine not to exceed the amount of \$250.

(2) Each separate violation of §§ 116.20 through 116.24 is hereby classified as a civil offense, for which:

(a) The maximum civil fine required by KRS 65.8808(2)(b) that may be imposed for each separate violation of §§ 116.20 through 116.24 is hereby established as \$100;

(b) The specific civil fine required by KRS 68.8808(2)(c) that shall be imposed for each separate offense and violation of §§ 116.20 through 116.24 if the person who has committed the violation and offense does not contest the citation is hereby established as \$50.

(c) Any law enforcement officer may, in lieu of immediately issuing a civil citation, give notice that the violation of §§ 116.20 through 116.24 shall be remedied within a specific period of time.

(3) Non-compliance with any section of §§ 116.20 through 116.24 shall be cause for the permit to be revoked, which can be appealed to the Oak Grove City Council.

(Am. Ord. 2012-16, passed 12-18-12)

CHAPTER 117: PRECIOUS METALS DEALERS

Section

- 117.01 Definitions
- 117.02 License required; application, fee
- 117.03 Record keeping
- 117.04 Retention period for items containing precious metals
- 117.05 Bond requirement
- 117.06 Transactions involving minors, stolen items

- 117.99 Penalty

§ 117.01 DEFINITIONS.

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

"PRECIOUS METALS." Gold, silver, or platinum, alone or in combination, including coins and precious stones.

"PRECIOUS METALS DEALERS." Any person, firm, or corporation engaged in the business of purchasing or acquiring secondhand any item containing any precious metal.

"WORKING DAYS." Any Monday through Friday of any week, excluding holidays recognized by the city.
(Ord. 1981-5, passed 9-14-81)

§ 117.02 LICENSE REQUIRED; APPLICATION, FEE.

(A) In addition to any other occupational license required by the city, each precious metals dealer must obtain a license from the city for the privilege of conducting the business of secondhand transactions in items containing precious metals.

(B) A precious metals dealer license shall be issued by the City Clerk/Treasurer/Tax Collector of the city, after receipt of a notice from the Police Department from the city that the prospective licensee has complied with application requirements of this chapter.

(C) A precious metals dealer license must be applied for at the Police Department. The application shall be on a standard form furnished by the Police Department and shall contain all information determined by that Department to be necessary for an evaluation of the applicant's eligibility for licensure.

(D) The Police Department shall, within ten working days of receipt of a completed application form, make a complete review of the accuracy of the information contained therein, including a criminal records check on any individual named therein. The following standards shall apply concerning issuance:

(1) No license shall be issued to or held by any person not of good moral character, nor shall a license be issued to any

corporation or partnership whose chief officers or members are persons not of good moral character.

(2) No dealer shall have been convicted of a felony involving moral turpitude.

(3) No dealer shall have been convicted of a criminal misdemeanor involving moral turpitude within the past two years.

(E) As required by KRS 335B.030, if the application is denied, the Police Department shall provide the applicant with such written notification, including a statement of the reasons of denial; that the aggrieved applicant has the right to a hearing before the City Council if written request for such a hearing is made within ten days after service of notice of denial; the earliest date the person may reapply for a license; and that evidence of rehabilitation may be considered upon reapplication.

(F) The cost of the precious metals dealer license shall be made under Schedule B of § 110.18, with a minimum of \$50 per year, which is not pro-ratable.
(Ord. 1981-5, passed 9-14-81)

§ 117.03 RECORD KEEPING.

(A) Each precious metals dealer shall keep a record, on such standard form as the Police Department shall furnish, of each transaction involving the secondhand purchase by such dealer of an item containing a precious metal. The form shall be prepared in ink, in duplicate; the original to be retained by the dealer, the duplicate to be filed by the dealer with the Police Department no later than 11:00 a.m. the next succeeding day after the purchase transaction.

(B) The following must be noted concerning the transaction:

(1) Date.

(2) Time.

(3) Disposition of the item, including name and address of purchaser.

(C) A record must be kept relating to the articles purchased containing a description of the item to include:

(1) Manufacturer's name.

(2) Serial number, if any.

(3) Any distinguishing marks.

(4) Pattern.

(5) Number of items.

(D) The following records must be kept relating to the seller:

(1) Name.

(2) Address.

(3) Date of Birth.

(4) Age.

(5) Hair Color.

(6) Race.

(7) Sex.

(8) Height.

(9) Weight.

(10) A legible right thumb print.

(11) Driver's license number and state.

(12) Social Security number.

(E) The method of identification of the seller shall include two identification cards, one with a picture and one corroborating, and the numbers from such cards shall be recorded.

(F) The Police Department will supply each precious metals dealer with the necessary equipment to obtain the required thumb print at the basic cost to the city for such equipment.

(G) There is specifically excepted from the terms of this chapter any transaction by a person engaged in business within the city, possessing a current business license from the city, who is either accepting returns for cash, credit, or replacement of any item for another item of greater value. In addition, the terms of this chapter shall not include any purchase by a retailer from a bona fide manufacturer, nor any banking institution licensed to do business in the Commonwealth of Kentucky.

(Ord. 1981-5, passed 9-14-81)

§ 117.04 RETENTION PERIOD FOR ITEMS CONTAINING PRECIOUS METALS.

It shall be the duty of each precious metals dealer to retain each and every item containing a precious metal purchased secondhand by him in the same state or condition in which it was received, at the place of business where purchased, for a period of not less than ten complete working days, which time period shall begin to run on the first working day following transfer of the duplicate record of

the transaction to the Police Department. During such ten days of retention period the article may not be resold, exchanged, altered, or otherwise disposed of.

(Ord. 1981-5, passed 9-14-81) Penalty, see § 117.99

§ 117.05 BOND REQUIREMENT.

(A) Before engaging in the business of purchasing secondhand items containing precious metals, a dealer shall post a bond with the City Clerk/Treasurer/Tax Collector in the amount of \$1,000 either with a surety company licensed to do business in the Commonwealth of Kentucky, or in cash.

(B) The bond required in this chapter shall be for a term of 30 days following the cessation of doing business in precious metals. Such bond shall inure to the benefit of the city.

(Ord. 1981-5, passed 9-14-81) Penalty, see § 117.99

§ 117.06 TRANSACTIONS INVOLVING MINORS, STOLEN ITEMS.

(A) No precious metals dealer shall transact any business involving a secondhand purchase of an item containing a precious metal from a minor (less than 18 years of age) unless such minor is accompanied by a parent or guardian.

(B) No precious metal dealer shall transact business involving a secondhand purchase of an item containing a precious metal which item the dealer knows or has reason to believe is stolen.

(Ord. 1981-5, passed 9-14-81) Penalty, see § 117.99

§ 117.99 PENALTY.

(A) Any person violating any of the provisions of this chapter shall, upon conviction thereof, be guilty of a misdemeanor and shall be fined not less than \$100, nor more than \$500, or imprisoned not more than 90 days, or both, for each offense.

(B) Upon conviction of any violation of the terms of this chapter, the city shall also be authorized to seek forfeiture of the bond provided for in this chapter, in a civil action.

(Ord. 1981-5, passed 9-14-81)

CHAPTER 118: TRANSIENT ROOM TAX

Section

- 118.01 Definitions
- 118.02 Imposition of tax
- 118.03 Payment of tax; report
- 118.04 Weekly tax payment by delinquent taxpayers
- 118.05 Penalty and interest on delinquent taxes
- 118.06 Authority to audit

- 118.99 Penalty

§ 118.01 DEFINITIONS.

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

"COMMISSION." The city Recreational, Tourist, and Convention Commission established in §§ 37.20 through 37.24.

"TAX." The transient room tax levied and imposed by this chapter as authorized by KRS 91A.390.

"TAXPAYER." Any person, firm, partnership, or corporation (including governmental entities and agencies) who are required by this chapter to collect and remit the tax or upon whom the tax is levied and imposed.

(Ord. 1986-4, passed 6-10-86; Am. Ord. 2007-04, passed 3-6-07; Am. Ord. 2007-15, passed 7-17-07; Am. Ord. 2009-04, passed 4-28-09)

§ 118.02 IMPOSITION OF TAX.

There is hereby imposed on and after the first day of, August, 2007 a transient room tax of 4% of the rent for every occupancy of suite, room, or rooms, charged by all persons, companies, corporations, or other like or similar persons, groups, or organizations doing business as motor courts, motels, hotels, inns, or like or similar accommodations businesses in the city. At the option of the taxpayer, the tax may be added to such rent. Whether or not the tax is added to such rent, it shall be the property of the city and the Commission from and after the time the rent is collected. The purpose for which this tax is imposed and levied is to provide funds for the lawful operations of the Commission.

(Ord. 1986-4, passed 6-10-86; Am. Ord. 1996-4, passed 4-18-96; Am. Ord. 2007-04, passed 3-6-07; Am. Ord. 2007-15, passed 7-17-07; Am. Ord. 2009-04, passed 4-28-09)

§ 118.03 PAYMENT OF TAX; REPORT.

(A) The tax shall be paid monthly by the taxpayers to the city's Recreational, Tourist and Convention Commission aka "Tourism Commission" on or before the thirtieth day of each month or, if such date is a Saturday, Sunday, or legal holiday, on or before the next succeeding day which is not a Saturday, Sunday, or legal holiday. Each monthly payment shall be the total of taxes due from the taxpayer based on rentals for the immediately preceding month. The remittance of the tax shall be accompanied by a report. The report shall contain such information as the Commission determines is necessary to insure proper enforcement of the tax, shall be in such form as prescribed by the Commission, and shall be signed and certified as correct by or on behalf of the taxpayer.

(B) The information contained in the report shall be confidential. However, the information contained in all reports received by the Commission may be set down separately in statistical form, which statistical compilation shall not be confidential so long as it contains no information by means of which it would be possible to determine the gross receipts or other business information for an individual taxpayer. Such statistical report may list the names of all taxpayers as a group, if there are more than three such taxpayers in the group.

(Ord. 1986-4, passed 6-10-86; Am. Ord. 1996-4, passed 4-18-96; Am. Ord. 2002-01, passed 1-15-02; Am. Ord. 2007-04, passed 3-6-07; Am. Ord. 2007-15, passed 7-17-07; Am. Ord. 2009-04, passed 4-28-09) Penalty, see § 118.99

§ 118.04 WEEKLY TAX PAYMENT BY DELINQUENT TAXPAYERS.

If a taxpayer fails to file the monthly report when due or to make the monthly remittance of the tax which is due, then the Commission in its discretion may require the taxpayer to make weekly reports and weekly remittance of the tax. Such taxpayer shall continue to make such weekly reports and weekly remittance of the tax until the Commission is reasonably satisfied that there will be no further delinquency in the filing of a monthly report and the monthly remittance of the tax. When weekly reports and remittances of the tax are required by the Commission, they shall be due on Thursday of each week for the immediately preceding week ending on and including Saturday.

(Ord. 1986-4, passed 6-10-86; Am. Ord. 2007-04, passed 3-6-07; Am. Ord. 2007-15, passed 7-17-07; Am. Ord. 2009-04, passed 4-28-09)

§ 118.05 PENALTY AND INTEREST ON DELINQUENT TAXES.

Any taxes which are not paid by the date they are due shall be subject to a penalty of 10% of the amount then due; and the total of such taxes and penalty shall bear interest at the rate of 12% per annum

from the first day of the month in which such taxes were due until paid or, in the case of the taxpayer required to make weekly tax remittances, from the first day of the week in which such taxes were due until paid.

(Ord. 1986-4, passed 6-10-86; Am. Ord. 2007-04, passed 3-6-07; Am. Ord. 2007-15, passed 7-17-07; Am. Ord. 2009-04, passed 4-28-09)

\$ 118.06 AUTHORITY TO AUDIT.

The Commission and/or Finance Director/Treasurer is authorized to examine the books, papers, and records of any facility subject to this chapter in order to determine the accuracy of any return made, or, if no return was made, to ascertain the amount of tax imposed by the terms of this chapter. Each facility subject to this chapter is hereby directed and required to give the Commission or its duly authorized agent the means, facilities, and opportunity for an examination and investigation as authorized.

(Ord. 2007-04, passed 3-6-07; Am. Ord. 2007-15, passed 7-17-07; Am. Ord. 2009-04, passed 4-28-09)

\$ 118.99 PENALTY.

(A) Any taxpayer who fails to timely file the report required by this chapter shall be subject to the same penalty as provided in KRS Ch. 500 et seq.

(B) The failure to make timely remittance and payment of the tax to the Tourism Commission is, and shall be considered to be, a theft by failure to make required disposition of property as prescribed by KRS 514.070.

(C) If said account remains unpaid 60 days after its due date, the Tourism Commission may seek enforcement and collection through Christian County's Court of proper jurisdiction, the City of Oak Grove Police Department, and/or the Code Enforcement Officer.

(D) Any owner, manager, corporate officer, director, or agent in charge of any facility subject to this chapter is deemed responsible for seeing that said monies are paid to the Commission. Sixty days delinquency on the part of any establishment charged with collecting and paying this tax shall be prima facie evidence of willful intent not to pay same.

(E) Upon conviction for willful intent not to pay said tax, any person mentioned in division (D) above, shall be guilty as defined in KRS Ch. 500 et seq. and upon conviction may be fined to the fullest extent as follows:

(1) Theft by failure to make required disposition of property received is a Class A misdemeanor unless the value of the property is:

(a) Five hundred dollars (\$500) or more but less than \$10,000, in which case it is a Class D felony; or

(b) Ten thousand dollars (\$10,000) or more, in which case it is a Class C felony.

(F) An authorized form for use in reporting the tax levied and remitted is attached hereto.

(Ord. 1986-4, passed 6-10-86; Am. Ord. 1996-4, passed 4-18-96; Am. Ord. 2007-04, passed 3-6-07; Am. Ord. 2007-15, passed 7-17-07; Am. Ord. 2009-04, passed 4-28-09; Am. Ord. 2013-06, passed 8-20-13)

CHAPTER 119: RESTAURANT TAX

Section

- 119.01 Definitions
- 119.02 Imposition of tax
- 119.03 Payment of tax
- 119.04 Weekly tax payment by delinquent taxpayers
- 119.05 Penalty and interest on delinquent taxes
- 119.06 Authority to audit

119.99 Penalty

§ 119.01 DEFINITIONS.

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

"COMMISSION." The city Recreational, Tourist, and Convention Commission established in §§ 37.20 through 37.24.

"TAX." The restaurant tax levied and imposed by this chapter as authorized by KRS 91A.400.

"TAXPAYER." Any person, firm, partnership, or corporation (including governmental entities and agencies) who are required by this chapter to collect and remit the tax or upon whom the tax is levied and imposed.

(Ord. 1994-25, passed 12-20-94; Am. Ord. 2001-26, passed 11-20-01; Am. Ord. 2007-03, passed 3-6-07; Am. Ord. 2007-16, passed 7-17-07; Am. Ord. 2009-05, passed 4-28-09; Am. Ord. 2013-07, passed 8-20-13)

§ 119.02 IMPOSITION OF TAX.

There is hereby imposed a restaurant tax of 3% of the food sales charged by all persons, companies, corporations, or other like or similar persons, groups, or organizations doing business as restaurants, cafes, fast food business or food vendors or like or similar businesses where food is prepared for human consumption in the city. At the option of the taxpayer, the tax may be added to the cost of the food sold. Whether or not the tax is added to food sold, it shall be the property of the city and the Commission from and after the time the food sale is collected. The purpose for which this tax is imposed and levied is to provide funds for the lawful operations of the Commission.

(Ord. 1994-25, passed 12-20-94; Am. Ord. 2001-26, passed 11-20-01; Am. Ord. 2007-03, passed 3-6-07; Am. Ord. 2007-16, passed 7-17-07; Am. Ord. 2009-05, passed 4-28-09; Am. Ord. 2013-07, passed 8-20-13)

§ 119.03 PAYMENT OF TAX.

(A) The tax shall be paid monthly by the taxpayers to the Recreational, Tourist and Convention Commission aka "Tourism

Commission" on or before the thirtieth day of each month for the previous month or, if such date is a Saturday, Sunday, or legal holiday, on or before the next succeeding day which is not a Saturday, Sunday, or legal holiday. Each monthly payment shall be the total of taxes due from the taxpayer based on food sales for the immediately preceding month. The remittance of the tax shall be accompanied by a report. The report shall contain such information as the Commission determines is necessary to insure proper enforcement of the tax, shall be in such form as prescribed by the Commission, and shall be signed and certified as correct by or on behalf of the taxpayer.

(B) The information contained in the report shall be confidential. However, the information contained in all reports received by the Commission may be set down separately in statistical form, which statistical compilation shall not be confidential so long as it contains no information by means of which it would be possible to determine the gross receipts or other business information for an individual taxpayer. Such statistical report may list the names of all taxpayers as a group, if there are more than three such taxpayers in the group.

(Ord. 1994-25, passed 12-20-94; Am. Ord. 2001-26, passed 11-20-01; Am. Ord. 2007-03, passed 3-6-07; Am. Ord. 2007-16, passed 7-17-07; Am. Ord. 2009-05, passed 4-28-09; Am. Ord. 2013-07, passed 8-20-13) Penalty, see § 119.99

§ 119.04 WEEKLY TAX PAYMENT BY DELINQUENT TAXPAYERS.

If a taxpayer fails to file the monthly report when due or to make the monthly remittance of the tax when due, then the Commission in its discretion may require the taxpayer to make weekly reports and weekly remittance of the tax. Such taxpayer shall continue to make weekly reports and weekly remittance of the tax until the Commission is reasonably satisfied that there will be no further delinquency in the filing of a monthly report and the quarterly remittance of the tax. When weekly reports and remittances of the tax are required by the Commission, they shall be due on Thursday of each week for the immediately preceding week ending on and including Saturday.

(Ord. 1994-25, passed 12-20-94; Am. Ord. 2001-26, passed 11-20-01; Am. Ord. 2007-03, passed 3-6-07; Am. Ord. 2007-16, passed 7-17-07; Am. Ord. 2009-05, passed 4-28-09; Am. Ord. 2013-07, passed 8-20-13)

§ 119.05 PENALTY AND INTEREST ON DELINQUENT TAXES.

Any taxes which are not paid by the date they are due shall be subject to a penalty of 10% of the amount then due; and the total of such taxes and penalty shall bear interest at the rate of 12% per annum from the first day of the month in which such taxes were due until paid (or, in the case of the taxpayer required to make weekly tax remittances, from the first day of the week in which such taxes were due until paid).

(Ord. 1994-25, passed 12-20-94; Am. Ord. 2001-26, passed 11-20-01; Am. Ord. 2007-03, passed 3-6-07; Am. Ord. 2007-16, passed 7-17-07; Am. Ord. 2009-05, passed 4-28-09; Am. Ord. 2013-07, passed 8-20-13)

§ 119.06 AUTHORITY TO AUDIT.

The Commission and/or Finance Director/Treasurer of the city is authorized to examine the books, papers, and records of any facility subject to this chapter in order to determine the accuracy of any return made, or, if not return was made, to ascertain the amount of tax imposed by the terms of this chapter. Each facility subject to this chapter is hereby directed and required to give the Commission or its duly authorized agent the means, facilities, and opportunity for an examination and investigation as authorized.

(Ord. 2007-03, passed 3-6-07; Am. Ord. 2007-16, passed 7-17-07; Am. Ord. 2009-05, passed 4-28-09)

§ 119.99 PENALTY.

(A) Any taxpayer who fails to timely file the report required by this chapter shall be subject to the same penalty as provided in KRS Ch. 500 et seq.

(B) The failure to make timely remittance and payment of the tax to the Tourism Commission is, and shall be considered to be, a theft by failure to make required disposition of property as proscribed by KRS 514.070.

(C) If said account remains unpaid 60 days after its due date, the city may seek enforcement an collection through Christian County's Court of proper jurisdiction, the City of Oak Grove Police Department and/or the Code Enforcement Officer.

(D) Any owner, manager, corporate officer, director, or agent in charge of any facility subject to this chapter is deemed responsible for seeing that said monies are paid to the Commission. Sixty days delinquency on the part of any establishment charged with collecting and paying this tax shall be prima facie evidence of willful intent not to pay same.

(E) Upon conviction for willful intent not to pay said tax, any person mentioned in division (D) above, shall be guilty as defined in KRS Chapter 500 et seq. and upon conviction may be fined to the fullest extent of the statute as follows:

(1) Theft by failure to make required disposition of property received is a Class A misdemeanor unless the value of the property is:

(a) Five hundred dollars (\$500) or more but less than \$10,000, in which case it is a Class D felony; or

(b) Ten thousand dollars (\$10,000) or more, in which case it is a Class C felony.

(F) An authorized form for use in reporting the tax levied and remitted is attached hereto.

(Ord. 1994-25, passed 12-20-94; Am. Ord. 2001-26, passed 11-20-01; Am. Ord. 2007-03, passed 3-6-07; Am. Ord. 2007-16, passed 7-17-07; Am. Ord. 2009-04, passed 4-28-09; Am. Ord. 2013-07, passed 8-20-13)

CHAPTER 120: SEXUALLY-ORIENTED BUSINESSES

Section

General Provisions

- 120.01 Purpose and intent
- 120.02 Definitions
- 120.03 Effects on other laws

License

- 120.15 License required
- 120.16 Application
- 120.17 Issuance of license
- 120.18 Fees
- 120.19 Posting of license
- 120.20 Inspections
- 120.21 Expiration and renewal of license
- 120.22 Suspension
- 120.23 Revocation
- 120.24 Hearing; revocation, license denial, suspension; appeal
- 120.25 Transfer of license

Additional Applicable Regulations

- 120.35 Minors
- 120.36 Visibility from outside premises
- 120.37 Alteration of interior
- 120.38 Occupation of management stations
- 120.39 Furnishings restricted
- 120.40 Display of sexually explicit material to minors
- 120.41 Location

Enforcement

- 120.50 Criminal penalties
- 120.51 Civil remedies

Cross-reference:

Advertising devices displaying nude or nearly nude persons prohibited, see § 112.03

GENERAL PROVISIONS

§ 120.01 PURPOSE AND INTENT.

It is the purpose of this chapter to regulate sexually oriented businesses in order to protect and promote the health, safety and welfare by preventing the decline of residential and business neighborhoods and further by preventing the growth of criminal activity found to be associated with the unrestricted operation of certain sexually oriented businesses. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction

on the content of any protected speech, including sexually-oriented materials. Similarly, it is not the intent nor effect of this chapter to restrict or deny access by adults to sexually-oriented materials protected by the First Amendment, or to deny lawful access by the distributors and exhibitors of sexually-oriented entertainment to their intended market.

(Ord. 1996-5, passed 7-19-96)

§ 120.02 DEFINITIONS.

In this chapter:

"ADULT VIDEO ARCADE." Any commercial establishment to which the public is permitted or invited wherein coin-operated or slug operated or electronically, electrically, or mechanically controlled still or motion pictures, projectors, or other image-producing devices, to include computer and electronic games, are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

"ADULT BOOKSTORE or ADULT VIDEO STORE." A commercial establishment which as one of its principal business purposes offers for sale or rental for any form of consideration any one or more of the following:

(1) Books, magazines, periodicals, or other printed matter, or discs, cassettes, photographs, films, motion pictures, video cassettes or video representations, slides or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas."

(2) Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities." Not included in this definition are pharmaceutical supplies normally found in a pharmacy.

"ADULT CABARET." A commercial establishment which regularly features:

(1) Persons who appear in a state of nudity or partial nudity; or

(2) Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities;" or

(3) Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

"ADULT LINGERIE STORE/MODELING STUDIO." A commercial establishment where live models exhibit lingerie intended for an adult audience.

"ADULT LOUNGE." An adult cabaret which is permitted or licensed pursuant to the Alcoholic Beverage Code where alcoholic beverages may be served, sold or consumed.

"ADULT MOTEL." A hotel, motel, or similar commercial establishment which offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmission, films, motion pictures, video cassettes, slides, discs or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas," and/or has a sign visible from the public right-of-way which advertises the availability of this adult type of entertainment.

"ADULT MOVIE THEATER or ADULT VIDEO THEATER." A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, discs or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "special anatomical activities" are regularly shown to groups of six (6) or more people.

"ADULT THEATER." A theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity, or live performances which are characterized by the exposure of "specified anatomical areas" or "specified sexual activities."

"BUILDING OFFICIAL." Any individual appointed by or designated by the City of Oak Grove through either appointment or contract to enforce the zoning ordinance for the City of Oak Grove and/or enforce the Kentucky Building Codes for the State of Kentucky.

"CHURCH or REGULAR PLACE OF WORSHIP." Any structure used principally as a place wherein persons regularly assemble for religious worship including, but not limited to, sanctuaries, chapels, cathedrals, churches, synagogues, and on-site buildings adjacent thereto, such as parsonages, convents, fellowship halls, Sunday Schools and rectories.

"CITY CLERK." The individual lawfully acting as the City Clerk of the City of Oak Grove pursuant to the City Charter, or his or her designated representative.

"CONTROLLED SUBSTANCE." As used in this chapter, the term "CONTROLLED SUBSTANCE" means any substance defined as a controlled substance by the Kentucky Controlled Substance Act, as then amended.

"DAY CARE." A facility which provides care and/or supervision for adults or children on a day to day basis.

"DRESSING ROOM." An enclosed area designed to allow a single person to try on items of apparel for the purpose of determining suitability.

"ESCORT." A person who accompanies an individual for social purposes for any consideration.

"ESCORT AGENCY." A person or commercial enterprise which for a fee, tip, or other consideration offers to furnish, or advertises to furnish, escorts as one of its primary business purposes.

"ESTABLISHMENT." Any of the following:

(1) The opening or commencement of any sexually oriented business as a new business;

(2) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;

(3) The addition of any sexually oriented business to any other existing sexually oriented business; or

(4) The relocation of any sexually oriented business.

"GAMBLING." As used in this chapter, the term "GAMBLING" shall have the meaning set forth at KRS 528.010, as then amended.

"INTENDED OPERATOR." The person principally in charge of the day to day operation of the establishment.

"KNOWINGLY." As used in this chapter, the term "KNOWINGLY" shall have the meaning set forth at KRS 119.205, as then amended.

"LICENSEE." A person in whose name a license to operate a sexually oriented business has been issued pursuant to the terms of this chapter.

"MODELING/NUDE MODELING STUDIO." A commercial establishment where a person who appears in a state of nudity or displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration.

"NUDITY/PARTIAL NUDITY." Appearing in a state of dress which displays one or more "specified anatomical areas."

"OPERATES OR CAUSES TO BE OPERATED." To cause to function or to put or keep in operation. A person may be found to be operating or causing to be operated a sexually oriented business whether or not that person is an owner, part owner or license holder of the establishment. A person who, while on the premises of sexually oriented business, does any one or more of the following shall be deemed to be operating or conducting such a business:

(1) Operates a cash register, cash drawer, or other depository where checks, cash funds or records of credit card or other credit transactions generated in connection with the activities of the business are kept; or

(2) Displays or takes orders from many customers for any merchandise, goods, entertainment or other service offered in connection with the activities of the business; or

(3) Delivers or provides to any customer any merchandise, goods, entertainment or other services offered in connection with the activities of the business; or

(4) Acts as a door attendant to regulate entry of customers or other persons into the business premises; or

(5) Supervises or manages other persons in the performance of any of the foregoing activities.

"PERSON." An individual, proprietorship, partnership, corporation, association, or other legal entity.

"PRINCIPAL BUSINESS PURPOSE." For purposes of this chapter, a commercial establishment has a principle business purpose of selling or renting any sexually explicit material if such sales or rentals make up a minimum of 15% of that establishment's monthly gross receipts and/or inventory.

"RENT." The act of permitting space to be occupied for any form of consideration.

"RESIDENTIAL DISTRICT." Single-Family Residential District (R-1); Single-Family Residential District (R-1a); One and Two Family Residential District (R-2); Multi-Family Residential District (R-3); Zero Lot Line District (ZLL); Planned Unit Development District (PUD); Residential Mobile Home District (R-MH1); Residential Mobile Home District (R-MH2) as defined in the Oak Grove Zoning Ordinance, as amended.

"RESIDENTIAL USE." Single-Family Residential District (R-1); Single-Family Residential District (R-1a); One and Two Family Residential District (R-2); Multi-Family Residential District (R-3); Zero Lot Line District (ZLL); Planned Unit Development District (PUD); Residential Mobile Home District (R-MH1); Residential Mobile Home District (R-MH2) as defined in the Oak Grove Zoning Ordinance, as amended.

"RESTROOMS." Restrooms as used in this chapter shall be synonymous with toilet facilities, lavatory, and bathing facilities. No sexual oriented business activities shall be permitted in any such facilities.

"SEXUAL ENCOUNTER CENTER." A business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

(1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

(2) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or partial nudity.

"SEXUALLY ORIENTED BUSINESS."

(1) An adult bookstore, adult video arcade, adult bookstore or video store, adult cabaret, adult lingerie store/modeling studio, adult lounge, adult motel, adult movie theater, adult video theater, adult theater, escort agency, modeling studio, nude modeling studio, sexual encounter center, or other commercial enterprise the primary business of which is the offering of a service or the selling, renting or exhibiting of devices or any other items, intended to provide sexual stimulation or sexual gratification to the customer.

(2) The following are exempted from regulation under this chapter:

(a) A business operated by or employing a licensed psychologist, licensed physical therapist, licensed athletic trainer, licensed cosmetologist, licensed barber or any other state licensed/regulated professional engaged in performing functions authorized under the license held; or

(b) A business operated by or employing a licensed physician or licensed chiropractor engaged in practicing the healing arts.

"SPECIFIED ANATOMICAL AREAS." Specified anatomical areas are:

(1) Less than completely and opaquely covered:

(a) Human genitals;

(b) Human buttock or anus; or

(c) Female breasts below a point of immediately above the top of the areola;

(2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered; or

(3) Any combination of the above.

"SPECIFIED SEXUAL ACTIVITIES." Specified sexual activities are those activities which display:

(1) Human genitals in a state of sexual stimulation or arousal;

(2) Acts of human masturbation, sexual intercourse or sodomy;

(3) Fondling or other erotic touching of human genitals, public region, buttock or female breasts; or

(4) Any combination of the above.

"SUB-RENT." The act by one who has rented a room of permitting the room to be occupied for any form of consideration.

"TRANSFER OF OWNERSHIP OR CONTROL." Includes any of the following:

(1) The sale, lease, or sublease of the business;

(2) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or

(3) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for the transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

VIEWING ROOM. An area designed to permit one or more persons the opportunity to view or observe a dancer, model, or other performer in a "private" or semi-private environment.

(Ord. 1996-5, passed 7-19-96; Am. Ord. 2002-05, passed 2-19-02)

§ 120.03 EFFECTS ON OTHER LAWS.

(A) Nothing in this chapter is intended to legalize anything prohibited under any other federal or state law or city ordinance. Any sexually oriented business lawfully operating on the effective date of this chapter which is then in violation of § 120.16(B)(2), (3) or § 120.39 shall be deemed a non-conforming use, and such non-conforming use may be permitted to continue for a period not to exceed ninety (90) days unless sooner terminated for any reason, or voluntarily discontinued for a period of thirty (30) days or more.

(B) If remodeling is necessary to comply with the sections cited and accomplishing such remodeling within ninety (90) days poses a hardship, the owner of the sexually oriented business may apply to the City Clerk for an extension not to exceed an additional sixty (60) days.

(C) Such request will be in writing describing the hardship, the owners plan to effect compliance and time such changes will be completed.

(D) Nothing in this chapter is intended to relieve any sexually oriented business from fully complying with all applicable state laws regarding building and fire safety codes and county planning and zoning ordinances.

(Ord. 1996-5, passed 7-19-96; Am. Ord. 1997-12, passed 10-27-97)

LICENSE

§ 120.15 LICENSE REQUIRED.

A person commits an offense if he or she operates, owns, or causes to be operated, within the corporate limits of Oak Grove, a sexually oriented business without a valid license authorizing such operation. The licensee shall be responsible for complying with all generally applicable federal, state, and local laws and regulations. (Ord. 1996-5, passed 7-19-96; Am.Ord. 1997-12, passed 10-27-97)

§ 120.16 APPLICATION.

(A) An application for a license must be made on a form provided by the City Administrative Officer/City Clerk. The applications shall not be accepted until it is complete and contains:

(1) The name of the applicant and a statement as to whether the applicant is an individual, partnership, corporation or other specified legal entity;

(2) The name under which the business is to be operated and a description of the sexually oriented business to be conducted;

(3) The name, address, and telephone number of each owner and operator;

(4) The street address and legal description of the parcel of land on which the business is to be located, and the telephone number of the enterprise;

(5) A detailed description of the business activities to be conducted on the premises;

(6) A written declaration, sworn to under oath by the applicant or its duly authorized agent, that the information contained in the application is true and correct;

(7) If a person who wishes to operate a sexually oriented business is an individual, he/she must sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a twenty percent (20%) or greater interest in the business must sign the application for a license as applicant. Due to concerns regarding liability for defaulting on obligations of the city, control of organized crime, and being able to prohibit persons who could not otherwise acquire a license from acquiring one, the city finds it necessary to ascertain the identifies of the persons who have a significant ownership share of the sexually oriented business.

(8) A statement of gross receipts or sales known or anticipated from the sale or rental of sexually oriented products or materials.

(B) The application must be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of

total floor space occupied by the business. The sketch or diagram needs to be professionally prepared and must be oriented to U.S. 41A and drawn to a design based on a scale or drawing with marked dimensions on the interior of the premises. The applicant shall sign a notarized statement attached to the diagram stating that the proposed plan for the sexually oriented business complies with the requirements set forth in this chapter. The applicant may submit a remodeling plan to scale for modification of the current structure. If the plan is acceptable and the license is approved, the license shall not be effective until the modification is completed and a certificate of occupancy issued. The City Administrative Officer/City Clerk may waive the requirement that the diagram be submitted with renewal applications if the application certifies that the configuration of the premises has not been altered since the diagram on file with the original application was prepared.

(1) The diagram must show all interior walls and partitions, the locations of one or more manager stations and the locations of lighting fixtures. The diagram must clearly specify any areas in the premises to which members of the public will not be permitted access, and must designate the location where the license will be posted.

(2) Excepting only adult motels, the interior of the sexually oriented business premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding only restrooms. Restrooms may not contain video, photographic, monitoring or other surveillance equipment. The view required in this subsection must be by direct line of sight from the manager's station.

(3) It shall be an offense for any owner, operator, agent or employee to knowingly permit the view area specified in subsection (2) above to be obstructed by any doors, walls, merchandise, display racks or other materials at any time that any patron is present on the premises, or to allow a patron access to any area of the premises which has been designated in the application filed pursuant to subsection (1) of this section as an area in which patrons will not be permitted.

(4) It shall be an offense for any owner, operator, agent or employee to knowingly allow patrons access to any area that is not illuminated by overhead lighting fixtures to an intensity of at least one (1) foot-candle as measured at floor level. Such light intensity shall be maintained at all times during which the premises are open to the public.

(C) The fact that a person possesses a valid theater license, dance hall license, amusement device license, business license, certificate of occupancy, or other license or permit does not exempt him from the requirement of obtaining a sexually oriented business

license. Any person who owns or operates a sexually oriented business shall comply with the requirements and provisions of this chapter and all other applicable ordinances of the City of Oak Grove and laws of the State of Kentucky.

(Ord. 1996-5, passed 7-19-96; Am. Ord. 1997-12, passed 10-27-97)

§ 120.17 ISSUANCE OF LICENSE.

(A) The City Administrative Officer/City Clerk shall approve or disapprove the issuance of a license to an applicant within thirty (30) days following the date on which the complete application is filed with the city. Failure of the City Administrative Officer/City Clerk to disapprove an application by the end of the 30th day following the day on which the complete application is filed shall result in the administrative approval of such application, and the license shall promptly thereafter be issued.

(B) Approval must be granted unless one or more of the following is true:

(1) Any applicant is under 18 years of age.

(2) An applicant is overdue in payment of any taxes, fees, utilities, fines, court directed payments, assessments or interest to the City of Oak Grove, or penalties assessed against the applicant or imposed upon the applicant in relation to a sexually oriented business.

(3) An applicant has failed to provide information requesting on the application form or has supplied false or misleading information in the application process.

(4) An applicant has been convicted of a violation of a provision of this chapter within two (2) years immediately preceding the filing of the application. The fact that a conviction is being appealed shall have no effect.

(5) The premises to be used for the sexually oriented business have been disapproved by the County Health Department, Fire Department, or the Building Official.

(6) The license fee required by this chapter has not been paid.

(7) An applicant or the proposed establishment is in violation of or is not in compliance with any applicable section of this chapter.

(8) The proposed business is otherwise prohibited by law.
(Ord. 1996-5, passed 7-19-96; Am. Ord. 1997-12, passed 10-27-97)

§ 120.18 FEES.

(A) Every person who engages in operating an adult entertainment establishment as defined herein shall in lieu of the regular occupational license fee charged by the city pay an annual license tax of \$1,000 per year effective the fiscal year beginning July 1, 1996, which fee is due by July 31, 1996 and thereafter due on July 31 of the following year. Every person who engages in employment, contractually or otherwise, as an independent contractor in an adult entertainment establishment as defined herein, shall pay the regular occupational license fee charged by the city. Such licenses shall be valid upon issuance of same and shall not be transferable to any other person during the period of the license and said tax charged to offset the city's expenses in exercising its police and regulatory powers involving adult entertainment.

(B) The licensee fees shall be charged for each license application filed and shall be paid at the time the application and diagram are submitted for processing.

(C) In the event that an application is denied, the City Clerk shall send by hand delivery or certified U.S. mail a letter informing the applicant of the basis for the denial and shall refund the entire amount of \$1,000 to the applicant.

(Ord. 1996-5, passed 7-19-96; Am. Ord. 1997-12, passed 10-27-97; Am. Ord. 1998-07, passed 9-1-98)

§ 120.19 POSTING OF LICENSE.

It shall be unlawful for any person to own, operate, conduct, or cause to be operated or conducted a sexually oriented business within the territorial limits of the City of Oak Grove, Kentucky, unless the license required by this chapter is posted at or near the principal public entrance to the business in such a manner that it will be conspicuous to patrons who enter the premises.

(Ord. 1996-5, passed 7-19-96)

§ 120.20 INSPECTIONS.

(A) It shall be an offense for any person to interfere with a lawful inspection of the premises by a representative of any law enforcement agency, County Health Department, Fire Department, the Building Official or the City Administrative Officer/City Clerk at any time it is occupied or open for business. For purposes of this section, "interference" means intentionally acting to impede or prohibit a lawful inspection of the premises.

(B) By accepting a license to operate a sexually oriented business, the holder consents that a peace officer, fire marshal, building official or health inspector may enter the licensed premises at any time such premises are open for business to conduct an inspection or investigation for the purpose of evaluating compliance with this chapter.

(1) In conducting inspections as provided herein, officers shall limit their investigations to detecting violations of the

regulatory provisions of this chapter and the Kentucky Revised Statutes.

(2) This subsection does not in any way limit the authority of a officer to conduct any search authorized by a warrant, or pursuant to any exception to the warrant requirement.

(Ord. 1996-5, passed 7-19-96; Am. Ord. 1997-12, passed 10-27-97)

§ 120.21 EXPIRATION AND RENEWAL OF LICENSE.

(A) Each license shall expire one year from the date of issuance and may be renewed only by making application as provided in § 120.16. Applications for renewal should be made at least thirty (30) days before the expiration date, and when made less than thirty (30) days before the expiration date the expiration of the license will not be affected. If a licensee fails to apply for a renewal of the license within the thirty (30) day period, there shall be a thirty (30) day grace period in which no penalty shall be assessed against the applicant as long as the application is submitted by July 31. If a licensee fails to submit an application by July 31, there shall be a twenty percent (20%) or \$200 penalty added to the application fee. If an applicant fails to submit a renewal application within ninety (90) days of the expiration of the original license, the license will be considered to have lapsed and the business will be deemed closed by the City Administrative Officer/City Clerk.

(B) The City Administrative Officer/City Clerk must renew or deny the renewal of a license within thirty (30) days of the submission of an application for renewal. The City Administrative Officer/City Clerk shall apply the same criteria used in the initial licensing process set forth in § 120.17 to the renewal process. The City Administrative Officer/City Clerk shall send by hand delivery or certified U.S. mail a letter informing the applicant of any decision to deny the application and the basis for the denial and shall also return the application fee of \$1,000.

(C) When the City Administrative Officer/City Clerk denies renewal of a license for false or misleading information, the applicant shall not be issued a license for one (1) year from the date of denial. If the applicant has been convicted of a violation of this chapter, the applicant shall not be issued a license for two (2) years from the date of conviction. If any other basis of denial for renewal of license has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the denial became final and the applicant is otherwise entitled to receive a license under § 120.17.

(Ord. 1996-5, passed 7-19-96; Am. Ord. 1997-12, passed 10-27-97; Am. Ord. 1998-07, passed 9-1-98)

§ 120.22 SUSPENSION.

(A) The City Administrative Officer/City Clerk shall suspend a license for a period not to exceed sixty (60) days if he/she determines that the licensee or an employee of a licensee has, subsequent to the issuance of the license:

- (1) Violated any provision of this chapter;

(2) Been charged with a violation of any statute, ordinance, or other law pertaining to the possession, use, or consumption of alcoholic beverages or any other controlled substance while on the business premises during business hours;

(3) Prohibited an inspection of the sexually oriented business premises as authorized by this chapter;

(4) Altered the activities or character of the business such that the business offers, provides, displays or exhibits goods, services or entertainment not offered, provided, displayed or exhibited at the time the license was issued, and not otherwise authorized by the license;

(5) Knowingly permitted gambling by any person on the sexually oriented business in a peaceful and law-abiding manner thus necessitating action by law enforcement officers or that the licensee either knew or reasonably should have known that an employee took any of these actions.

(B) It shall be unlawful for any person to operate, conduct, or cause to be operated or conducted a sexually oriented business within the territorial limits of the City of Oak Grove, Kentucky, during any period of time when the license authorizing such operation has been suspended.

(Ord. 1996-5, passed 7-19-96; Am. Ord. 1997-12, passed 10-27-97)

§ 120.23 REVOCATION.

(A) The City Administrative Officer/City Clerk shall revoke a license if he/she determines that:

(1) A cause of suspension under § 120.24, occurs and the license has been suspended within the preceding twelve (12) months;

(2) A licensee gave false or misleading information in the material submitted to the City Administrative Officer/City Clerk during the application process;

(3) A licensee has knowingly allowed the unlawful possession, use, or sale of alcoholic beverages or controlled substances on the premises; or the licensee either knew or reasonably should have known that an employee took such action;

(4) A licensee has knowingly allowed prostitution on the premises; or the licensee either knew or reasonably should have known that an employee permitted any such conduct;

(5) A licensee knowingly operated the sexually oriented business during a period of time when the license was suspended; or the licensee either knew or reasonably should have known that an employee took such action;

(6) A licensee or the business has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact to occur in or on the licensed premises at any time the business is open to the public; or the licensee either knew or

reasonably should have known that an employee took such action. The term "sexual contact" shall have the meaning set forth in KRS 510.010(7);

(7) A licensee is delinquent in payment of any taxes, fees, utilities, fines, assessments or interest to the City of Oak Grove, or penalties assessed against the applicant or imposed upon the applicant in relation to a sexually oriented business;

(8) A licensee has attempted to assign, transfer, or divide a license to operate a sexually oriented business issued under this chapter; or

(9) A licensee commits an offense under § 120.20 or the licensee either knew or reasonably should have known that an employee committed such an offense.

(B) When the City Administrative Officer/City Clerk revokes a license, the revocation shall continue for one (1) year and the licensee shall not be issued a sexually oriented business license for one (1) year from the date revocation became effective. If, subsequent to revocation, the City Administrative Officer/City Clerk finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if six (6) months have elapsed since the date the revocation became effective.

(C) At least fifteen (15) days prior to the revocation of a license, the City Administrative Officer/City Clerk shall send to the licensee by certified mail, return receipt requested, notification of the intention to revoke and the basis for the revocation. The licensee shall have the right to request an opportunity to oppose the revocation and the City Administrative Officer/City Clerk shall schedule a time to hear the licensee's objections within the fifteen (15) day period. (Ord. 1996-5, passed 7-19-96; Am. Ord. 1997-12, passed 10-27-97)

§ 120.24 HEARING; REVOCATION, LICENSE DENIAL, SUSPENSION; APPEAL.

(A) If the City Administrative Officer/City Clerk determines that probable grounds exist for denial, suspension, or revocation of a license under this chapter, the City Administrative Officer/City Clerk shall notify the applicant or licensee (respondent) in writing of the intent to deny, suspend, or revoke the license, including the grounds therefor, by personal delivery, or by certified mail. The notification shall be directed to the most current business address on file with the City Administrative Officer/City Clerk. Within ten (10) working days of receipt of such notice, the licensee may provide to the City Clerk in writing a response which shall include a statement of reasons why the license or permit should not be denied, suspended, or revoked. Within ten (10) working days of the receipt of such written response, the City Administrative Officer/City Clerk shall conduct a hearing at which the licensee shall have the opportunity to present evidence and witnesses on his or her behalf. The City Administrative Officer/City Clerk shall notify the licensee in writing of the hearing date within three (3) days of the receipt of such written response. If a response is not received by the City Administrative Officer/City Clerk in the time stated or, if after the hearing the City Administrative Officer/City Clerk finds that grounds exist for denial, suspension, or

revocation, then such action shall become final and notice of such final action shall be sent to the licensee. Such notice shall include a statement advising the licensee of the right to appeal such decision to a court of competent jurisdiction. If the City Administrative Officer/City Clerk finds that no grounds exist for denial, suspension, or revocation of a license then the City Administrative Officer/City Clerk shall withdraw the intent to deny, suspend, or revoke the license and shall notify the licensee in writing by delivery, or by certified mail of such actions.

(B) When a decision to deny, suspend, or revoke a license becomes final, the licensee whose application for a license has been denied or whose license has been suspended or revoked shall have thirty (30) days from the date of delivery of notice to exercise the right to appeal such action to a court of competent jurisdiction. Any suspension or revocation of a license for a sexually oriented business shall not take effect until a final decision is rendered in an appeal taken pursuant to this section.

(C) Upon the filing of an appeal pursuant to this section by a licensee for a sexually oriented business license, the applicant shall be granted a temporary license to operate the sexually oriented business pending a final decision on the appeal. The temporary license shall be subject to all provisions of this chapter.

(Ord. 1996-5, passed 7-19-96; Am. Ord. 1997-12, passed 10-27-97; Am. Ord. 1998-07, passed 9-1-98)

§ 120.25 TRANSFER OF LICENSE.

A sexually oriented business license is not transferable, assignable or divisible. Any attempt or purported transfer, assignment or division shall be void.

(Ord. 1996-5, passed 7-19-96)

ADDITIONAL APPLICABLE REGULATIONS

§ 120.35 MINORS.

(A) Sexually oriented businesses shall not employ any person under the age of eighteen (18) years.

(B) It shall be an offense for any person to knowingly allow a person under the age of eighteen (18) years to appear in a state of nudity or partial nudity in or on the premises of a sexually oriented business. It is a defense to prosecution under this subsection if the defendant was in a restroom not open to public view or person(s) of the opposite sex.

(C) It shall be an offense for a person under the age of eighteen (18) years to act as an escort. It shall be an offense for a person to act as an escort or agree to act as an escort for any person under the age of eighteen (18) years. The term escort is used as defined in this chapter.

(Ord. 1996-5, passed 7-19-96)

§ 120.36 VISIBILITY FROM OUTSIDE PREMISES.

It shall be an offense for a person to appear in a state of nudity or partial nudity or to allow another person to appear in a state of nudity or partial nudity in an area of a sexually oriented business which can be viewed from outside of the licensed premises.

(Ord. 1996-5, passed 7-19-96; Am. Ord. 1998-07, passed 9-1-98)

§ 120.37 ALTERATION OF INTERIOR.

No alteration after licensing shall be made to the interior configuration of a sexually oriented business nor shall the business alter or relocate a manager's station without prior approval of the City Administrative Officer City/Clerk, subject to compliance with the Kentucky Building Code.

(Ord. 1996-5, passed 7-19-96)

§ 120.38 OCCUPATION OF MANAGEMENT STATIONS.

At least one (1) owner, operator or employee must be situated in each station at all times that any patron is present inside the premises. A licensee commits an offense if patrons are inside the premises and the manager's station is not occupied by an owner, operator, or employee. This subsection shall not apply to adult motels.

(Ord. 1996-5, passed 7-19-96)

§ 120.39 FURNISHINGS RESTRICTED.

A sexually oriented business shall not place or permit a bed, sofa, or mattress in any room on the premises to which members of the public have access, except that a sofa may be placed in a reception room open to the public.

(Ord. 1996-5, passed 7-19-96)

§ 120.40 DISPLAY OF SEXUALLY EXPLICIT MATERIAL TO MINORS.

(A) It shall be an offense for a person, in a business establishment open to persons under the age of eighteen (18) years, to display any graphic or visual representation of material which depicts, in a manner calculated to arouse sexual lust or passion for commercial gain or to exploit sexual lust or perversion for commercial gain, any of the following:

- (1) Human sexual intercourse, masturbation, or sodomy;
- (2) Fondling or other erotic touching of human genitals, buttocks, or female breasts;
- (3) Less than completely and opaquely covered human genital, buttocks, or that portion of the female breasts below the top of the areola; or
- (4) Human male genitals in a discernibly turgid state, whether covered or uncovered.

(B) In this section "DISPLAY" means to locate an item in such a manner that, without obtaining assistance from an employee of the business establishment:

(1) It is available to the general public for handling and inspection; or

(2) The cover or outside packaging on the item is visible to members of the general public.
(Ord. 1996-5, passed 7-19-96)

§ 120.41 LOCATION.

(A) It is an offense for any person to operate or cause to be operated a sexually oriented business within 1,500 feet of:

- (1) A church; or place of religious worship;
- (2) Day care facility;
- (3) School;
- (4) Hospital;
- (5) Public building;
- (6) Public park;
- (7) Residentially zoned property.

(B) It shall be an offense for any person to cause or permit the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within 1,500 feet of another sexually oriented business.

(C) It shall be an offense for any person to cause or permit the operation, establishment, or maintenance of more than one sexually oriented business in the same building, structure, or portion thereof containing another sexually oriented business.

(D) For the purposes of Subsection (A) of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a church; or place of religious worship, day care facility, school, hospital, public building or public park, or residentially zoned property.

(E) For the purposes of subsection (B) of this section, the distance between any two sexually oriented businesses shall be measured in a straight line without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

(F) All sexually oriented businesses must be located and operated in a B-2 zone (General Business District) unless the business qualifies

to, the non-conforming use mentioned in subsection (G). Operation of such businesses in any other zone is prohibited.

(G) Any sexually oriented business lawfully operating on the effective date of this chapter that is in violation of subsections (A), (B), or (C) of this section shall be deemed a non-conforming use.

(1) Such non-conforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use.

(2) If two or more sexually oriented businesses are within seven hundred fifty feet (750) of one another and otherwise in a permissible location, the sexually-oriented business which was first established and continually operating at a particular location is the conforming use and the later established business is non-conforming.

(3) A sexually oriented business lawfully operating as a conforming use is not rendered a non-conforming use by the location, subsequent to the grant or renewal of the sexually oriented business license, of a church or place of religious worship, day care facility, school, hospital, public building or public park, residentially zoned property within 1,500 of the sexually oriented business.

(Ord. 1996-5, passed 7-19-96; Am. Ord. 2000-11, passed 6-6-00)

ENFORCEMENT

§ 120.50 CRIMINAL PENALTIES.

(A) Any person violating §§ 120.35 through 120.40 of this chapter may be prosecuted under either this chapter or the Kentucky Penal Code. Upon conviction under this chapter, violations are punishable by a fine not to exceed \$2,000 per day per violation.

(B) If the sexually oriented business involved displays any type of nude or partial nude modeling activity, or if it is a sexual encounter center, then violation of § 120.15 or § 120.35 through 120.39 of this chapter is punishable as a Class B misdemeanor.

(C) Except as otherwise provided herein, by any person violating a provision of this chapter is punishable upon conviction by a fine not to exceed \$500 as a Class B misdemeanor.

(D) Each calendar day during which a person is in violation of any provision of this chapter shall constitute a separate violation of that provision.

(Ord. 1996-5, passed 7-19-96)

§ 120.51 CIVIL REMEDIES.

In addition to any other remedies which may be available at law or inequity, the city may sue in the appropriate district court for an injunction to prohibit the violation of, or enforce compliance with, any regulation contained in this chapter.

(Ord. 1996-5, passed 7-19-96)

CHAPTER 121: BANK FRANCHISE AND LOCAL DEPOSIT TAX

Section

- 121.01 Definitions
- 121.02 Collection
- 121.03 Lien
- 121.04 Delinquent taxes; penalty
- 121.05 Disposition of taxes collected

§ 121.01 DEFINITIONS.

There is hereby imposed on all "financial institutions," as defined in KRS Chapter 136, located within the corporate limits of the City of Oak Grove, Kentucky, for the 1996 tax year and all subsequent years, a franchise tax at the rate of 0.025% as determined by KRS Chapter 136.

(Ord. 96-14, passed 7-20-96)

§ 121.02 COLLECTION.

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

The City of Oak Grove will issue tax bills to financial institutions no later than December 1 of each year. 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. 96-14, passed 7-20-96)

§ 121.03 LIEN.

The City of Oak Grove, Kentucky shall have a lien for taxes upon any and all property subject to the tax imposed by this section, which lien shall be superior to all encumbrances prior and subsequent.

(Ord. 96-14, passed 7-20-96)

§ 121.04 DELINQUENT TAXES; PENALTY.

All taxes due in accordance with this section which are not paid before January 31 shall be deemed delinquent and shall be subject to the same penalty of 10% and shall bear interest at the rate of 16% per annum.

(Ord. 96-14, passed 7-20-96)

§ 121.05 DISPOSITION OF TAXES COLLECTED.

All moneys collected pursuant to these sections shall be paid into the general fund of the city and shall be used for the payment of proper expenditures as determined by the City Council.

(Ord. 96-14, passed 7-20-96)

CHAPTER 122: PLACES OF ENTERTAINMENT

Section

- 122.01 Definitions
- 122.02 License required
- 122.03 Application for license
- 122.04 Hours
- 122.05 Prohibited activities
- 122.06 Exhibition of license
- 122.07 Inspections
- 122.08 Revocation of license

- 122.99 Penalty

§ 122.01 DEFINITIONS.

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

"FOOD SERVICE ESTABLISHMENTS." As used herein, any fixed or mobile commercial establishment that engages in the preparation and serving of ready-to-eat foods in portions to the consumer, and which establishments derive not less than 80% of their gross annual revenue from the sale of said foods.

"PERSON." A human being and where appropriate, a public or private corporation, an unincorporated association, a partnership, club or organization.

"PLACE OF ENTERTAINMENT." A private club, a roadhouse, place offering beverages or drinks for sale, tourists camp or place of entertainment at which people assemble to eat, drink, dance, bathe or engage in any game or amusement, or any place having therein or thereon any person engaging in the practice of being a medium, or like activity. This chapter shall not apply to a private home at which bona fide guests are entertained; food service establishments; drive-in theaters; places of business conducted only as filling stations for motor vehicles or grocery stores; nor transient or temporary entertainment such as circuses, carnivals, and county fairs; or retail licensees holding package or liquor by the drink licenses, including malt beverages, issued by the Kentucky Alcoholic Beverage Control Administration.

"PREMISES." The land and building in and upon which any person carries out activities as previously defined herein.
(Ord. 1985-10, passed 9-12-85)

§ 122.02 LICENSE REQUIRED.

(A) No place of entertainment shall be operated inside the corporate limits of the city unless its owner or manager has a license,

issued to him by the City Clerk granting to him the privilege to operate the place of entertainment in the city.

(B) The City Clerk shall issue to each applicant a license after the receipt of a properly completed application including all information provided for in this chapter.

(C) Any association, person, firm, corporation or partnership applying for a license to maintain any place of entertainment after the enactment of this chapter must pay upon filing their application, to the City Clerk a filing fee in the sum of \$15.

(Ord. 1985-10, passed 9-12-85)

§ 122.03 APPLICATION FOR LICENSE.

(A) Any person, association, corporation or partnership desiring a license to operate a place of entertainment shall file an application with the City Clerk. The application will set forth the true name and owner of the place of entertainment, the exact location of the proposed place of entertainment and the occupation of the owner and manager of the proposed place of entertainment for five years immediately preceding the date on which the application is filed.

(B) Any applicant for a license for a place of entertainment shall file with the City Clerk true copies, in duplicate, of the articles of incorporation and by-laws, if the applicant is a corporation; true copies of any charters, articles of association and by-laws, if the applicant is an association; partnership agreement if the applicant is a partnership; and a list of the officers, directors, owners, managers and stockholders of said place of entertainment.

(1) If changes occur in the aforesaid officers, directors, stockholders, owners or managers of any place of entertainment after filing their names with the City Clerk, as previously set out herein, said applicant shall furnish such changes in writing and in duplicate with the City Clerk within one week after the occurrence.

(2) All records filed pursuant to this chapter with the City Clerk shall be available for inspection by law enforcement officials.
(Ord. 1985-10, passed 9-12-85)

§ 122.04 HOURS.

Every place of entertainment having a license under the provisions of this chapter shall close and remain closed between the hours of 1:00 a.m. through 6:00 a.m. each day.

(Ord. 1985-10, passed 9-12-85)

§ 122.05 PROHIBITED ACTIVITIES.

No person granted a license shall allow the following:

(A) Drunken, disorderly, or boisterous persons to congregate in or about the premises.

(B) People to congregate there for any unlawful purpose or purposes, including but not limited to causing or aiding a person to engage in prostitution or soliciting patrons for prostitution.

(C) The premises to be used as a place of assemblage or entertainment at later hours than those set out in this chapter.

(D) Engaging in fortune telling at any location except that specifically stated in their permit.

(E) Engaging in fortune telling without first posting in a conspicuous place, both inside and outside the premises of which the licensee is authorized to engage in fortune telling, and without first filing with the City Clerk a schedule showing, in detail, the fees charged for reading, predictions, and services of any nature.

(F) To permit any person under the age of 21 years in or on that part of the licensed premises where persons are permitted to drink alcoholic beverages unless that person is accompanied and in the custody of one of his parents or guardians.

(Ord. 1985-10, passed 9-12-85) Penalty, see § 122.99

§ 122.06 EXHIBITION OF LICENSE.

Every place of entertainment having a license under the provisions of this chapter shall place and exhibit same in some conspicuous place on the premises so licensed and shall further produce and exhibit the same when applying for renewal thereof. Each licensee hereunder shall pay a privilege license fee as provided in Chapter 110.

(Ord. 1985-10, passed 9-12-85) Penalty, see § 122.99

§ 122.07 INSPECTIONS.

(A) The Chief of Police or his officers shall visit places of entertainment on a regular basis. Upon their observing any violation, they shall make arrests without warrants for violations committed within their presence.

(B) It shall be unlawful to refuse to grant admittance to the premises for which a license has been issued, at any time, upon the verbal request of any law enforcement official, health officers, Alcoholic Beverage Control Officer of the Commonwealth of Kentucky, for the purpose of making an inspection of such premises or any part thereof.

(Ord. 1985-10, passed 9-12-85)

§ 122.08 REVOCATION OF LICENSE.

(A) Upon the conviction of the owner, manager, or any employee of a place of entertainment for violation of any of the provisions of this

chapter, the judgment of a court of proper jurisdiction shall cause the Mayor to revoke the license as void in nature.

(B) The conviction of the owner, manager or any employee of a place of entertainment for violation of the Alcoholic Beverage Control Laws or Regulations of the Commonwealth of Kentucky shall be an additional ground for revocation and forfeiture of the place of entertainment's license by the Mayor.
(Ord. 1985-10, passed 9-12-85)

§ 122.99 PENALTY.

(A) Any person who violates this chapter or any part thereof shall be fined not more than \$200 or confined in the County Jail not more than 90 days, or both. Each day that a place of entertainment is operating without a license shall be a separate offense.

(B) Except as provided in subsection (A) above, any owner or manager of a place of entertainment who violates any of the provisions of this chapter shall be fined not more than \$300 or confined in the County Jail not more than 90 days, or both.

(C) Any association or corporation who violates this chapter or any part thereof shall be fined not more than \$500. Each day that a place of entertainment is operating without a license shall be a separate offense.
(Ord. 1985-10, passed 9-12-85)