

TITLE XI: BUSINESS REGULATIONS

Chapter

110.GENERAL LICENSING PROVISIONS

111.REGULATORY LICENSES

112.CHARITABLE SOLICITATIONS

113.[RESERVED]

114.[RESERVED]

115.ALCOHOLIC BEVERAGES

116.[RESERVED]

117.TAXICABS

118.PRECIOUS METALS

119.OUTDOOR CAFÉS AND THE LIKE

CHAPTER 110: GENERAL LICENSING PROVISIONS

Section

Occupational License Tax

- 110.01 Definitions
- 110.02 Levy of license fee
- 110.03 Employees
- 110.04 Net business profits
- 110.05 Apportionment of net profits or gross receipts of business entity
- 110.06 Exemptions
- 110.07 Purpose of subchapter
- 110.08 Quarterly estimated tax payments
- 110.09 Returns and payment of fees
- 110.10 Refund of estimated taxes
- 110.11 Applicability of federal income tax law, business entity to keep records
- 110.12 Tax liability of business entity that ceases doing business in the city
- 110.13 Use of tax year and accounting methods required for federal income tax purposes
- 110.14 When returns are to be made, copy of federal tax return to be submitted with return
- 110.15 Extensions
- 110.16 Enforcing officers; powers and duties
- 110.17 Tax due when return filed; minimum and maximum liability
- 110.18 Auditing of returns; payment of additional tax; federal audit
- 110.19 Revocation or suspension of license; right to appeal
- 110.20 Audit and assessment appeal process
- 110.21 Payment of tax not delayed; claims for refund or credit
- 110.22 Employer to withhold tax
- 110.23 Employer to report tax withheld; liability of employer for failure to withhold or pay tax
- 110.24 Personal liability of officers of business entity
- 110.25 Application for refund or credit; when employee may file for refund
- 110.26 Penalties; confidentiality of information filed with this city
- 110.27 The city may levy one time tax rate
- 110.28 Severability
- 110.29 Applicant required to pay in full all taxes, fees, penalties and interest due

OCCUPATIONAL LICENSE TAX**§ 110.01 DEFINITIONS.**

For the purposes of this subchapter, 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, sole proprietorship, association, joint stock company, receivership, trust, professional service organization, or other legal entity through which business is conducted.

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 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(a), 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 other 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;

FISCAL YEAR. As defined in Section 7701(a)(24) of the Internal Revenue Code.

EMPLOYEE. Any person who renders services to another person or 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 or 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. As defined in Section 3401(d) of the Internal Revenue Code.

GROSS RECEIPTS. All revenues or proceeds derived from the sale, lease, or rental of goods, 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, 2006, that would otherwise terminate;

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

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

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

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

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

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

NON-RESIDENT. An individual, fiduciary, association or corporation domiciled outside the corporate limits of the city.

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

RENTAL REAL ESTATE. Is as follows:

(1) A structure or mobile home located within the corporate limits of the city, which is regularly offered for occupancy, either wholly or in part in return for the payment of rent.

(2) Corporations, limited liability companies and partnerships, which receive income from rental real estate located within the city are presumed to be in the business of renting real estate and

therefore subject to the license fee imposed by this subchapter on net profits derived therefrom and the other provisions of this subchapter.

(3) Individuals and fiduciaries who receive income from rental real estate located within the city are rebuttably presumed to be in the business of renting real estate and therefore subject to the license fee imposed by this subchapter on net profits derived therefrom and the other provisions of this subchapter if they receive more than \$100,000 gross receipts annually from the rental of real estate located within the city.

(4) The Director of Finance shall establish by regulation those factors which will be considered in determining whether the presumption of being in the business of renting real estate has been rebutted.

RESIDENT. An individual, fiduciary, association or corporation domiciled or having a business situs within the corporate limits of the city.

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

TAX DISTRICT. A city of the first to fifth class, county, urban-county, charter county, consolidated local government, school district, special taxing district, or any other statutorily created entity with the authority to levy net profits, gross receipts, or occupational license taxes.

TAXABLE GROSS RECEIPTS. In case of a business entity having payroll or sales revenues both within and without a tax district, means gross receipts as defined in this section, as apportioned under KRS 67.753.

TAXABLE GROSS RECEIPTS. In case of a business entity having payroll or sales revenue only in one tax district, means gross receipts as defined in this section.

TAXABLE NET PROFIT.

(1) In case of a business entity having payroll or sales revenue only in one tax district, means net profit as defined in this section.

(2) In case of a business entity having payroll or sales revenue both within and without a tax district, means net profit as defined in this section, as apportioned under § 110.02.

TAXABLE YEAR. The calendar year or fiscal year ending during the calendar year, upon the basis of which net income or gross receipts is computed.
(Ord. 12, 2008, passed 6-23-08)

§ 110.02 LEVY OF LICENSE FEE.

There is hereby levied and imposed an annual license fee upon all persons, fiduciaries and business entities engaged in any occupation, trade, profession or other business activity in the city for the privilege of engaging in the occupation, trade, profession or other business activity, which license fee shall be measured by and be equal to 1.95% of all salaries, wages, commissions and other compensation, including deferred compensation, earned by every person in the city for work done or services performed or rendered in the city and of the net profits of all businesses, professions or occupations from activities conducted within the city.

(Ord. 12, 2008, passed 6-23-08; Am. Ord. 9, 2012, passed 6-25-12)

§ 110.03 EMPLOYEES.

(A) *Employees in general.* The license fee is imposed on both residents and nonresidents of the city at the rate of 1.95% of all salaries, wages, commissions and other compensation, including deferred compensation, earned for work done or services performed or rendered in the city. The following are subject to the license fee:

(1) Wages, bonuses or incentive payments received by an individual, whether directly or through an agent and whether in cash or in property, for services rendered:

(a) As an officer, agent or employee or both of a business entity, including a non-profit business entity;

(b) As an agent or employee, as distinguished from the proprietor, of a business, trade or profession, conducted by an individual owner;

(c) As an officer, agent or employee, whether elected or appointed, enlisted or commissioned, of a governmental entity, except those enlisted or commissioned in the State National Guard for compensation received for active duty training, training assemblies and annual field training; and

(d) As an officer, agent or employee of any other entity.

(2) Wages, bonuses or incentive payments received by an individual, whether directly or through an agent and whether in cash or in property, for services rendered:

(a) Whether based upon hourly, daily, weekly, semimonthly, monthly, annual, unit of production or piece rates; and

Frankfort - Business Regulations

(b) Whether paid by an individual, fiduciary, business entity, including a nonprofit business entity, governmental entity or any other entity.

(3) Commissions received by an employee, whether directly or through an agent, and whether in cash or in property for services rendered, regardless of how computed or by whom paid. If amounts received as a drawing account exceed the commissions earned the tax is payable on the amounts received. If the commissions are included in the net earnings of an occupation, trade, profession or other business activity regularly carried on by the individual and, therefore, are subject to license fee under § 110.04, they shall not again be separately taxed.

(4) Fees, unless the fees are properly included as part of the net profits of occupation, trade, profession or business activity regularly carried on by the individual and the net profits, are subject to tax under § 110.04. A corporation is permitted but not required to withhold and remit the license fee on compensation paid to directors. If the corporation does not withhold the fees, it must submit to the city a copy of IRS Form 1099.

(5) Other compensations will be treated as follows:

(a) Subject to the license fee:

1. Tips received by waiters and others (tips received are subject to the license fee and will be reported in the same manner as regular earnings);
2. Vacation and holiday benefits (payments made to employees by an employer as vacation wages are subject);
3. Separation payments (payments made to employees by an employer at the time of voluntary or involuntary separation, or dismissal, of the employee from the service of the employer are to be regarded as subject);
4. Deferred compensation (payments made to deferred compensation funds are subject to license fee at time of payment into a fund);
5. Flexible benefit plan (payments by employees to Section 125 plans, sometimes referred to as cafeteria plans, flexible benefit plans or miniflex plans, which provide the opportunity for employees to elect to reduce their taxable compensation to pay for nontaxable benefits such as hospitalization, group term life insurance, group disability insurance and the like, not otherwise paid for by the employer);
6. Non-cash fringe benefits (fringe benefits received by an employee to the extent that the benefits are taxable for federal income tax purposes); and

7. Other income: All other income paid by an employer and received by an employee for the performance of any activity subject to the license fee not expressly exempt unless the income is to be reported and a net profit license fee paid thereon under the provisions of this subchapter.

(b) Not subject to the license fee:

1. Old-age or retirement payments (periodical payments, commonly recognized as old-age or retirement pensions, made to persons retired from service after reaching a specified age or after a stated period of employment are not subject to the license fee);

2. Disability, sickness, accident benefits and unemployment compensation (Payments made to employees by an employer under a disability, sickness and accident plan are not subject to the license fee. Unemployment compensation payments by the state or any other governmental agency are not subject);

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

4. Benefits arising under the workers compensation act (amounts received by employees under the workers compensation act as compensation for a disability sustained during the course of employment, together with any amount of damages received by suit or agreement on account of the disability are not subject to the license fee);

5. Employee under age 16 (Compensation paid to employees who have not attained age 16 on or before the date the income is earned. Earnings of employees shall be subject on the day that age 16 is attained.);

6. Domestic servants (Compensation received by domestic servants is exempt from the license fee on wages imposed by the city. For purposes of this section, a **DOMESTIC SERVANT** is defined as an individual employed 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, transport or otherwise care for or wait upon the employer, the employer's family and guests or to care for the person, home, grounds and/or vehicles of the employer, the employer's family and guests, including, but not limited to maids, butlers, nurses, nursemaids, gardeners, cooks, launderers and chauffeurs engaged to serve the employer, the employer's family and guests, but not including the individuals who are employed by a cleaning service, personal nursing service, chauffeuring service or other entity which offers the services of its employees to the public);

7. State elected officers, who are paid on a per diem basis, as exempted by KRS 82.090. Applicability of the foregoing to employees whose compensation is not wholly subject to the city occupational license fee.

Frankfort - Business Regulations

(c) 1. Individuals whose compensation is earned for services performed both within and without the city are subject to the license fee in the same proportion that services performed within the city bear to their total employment time. The occasional entry into the city of an employee, who:

(i) Performs the duties for which he or she is employed entirely outside the city, but enters the city for the purposes of reporting, receiving instructions, testifying, accounting, and the like, incidental to his or her duties outside the city; or

(ii) Spends a total of two eight-hour work-days or less providing services in the city and whose receipts for such services provided in the city are less than \$1,600 annually, shall not be deemed activities for which occupational license fee is required to be paid to the city.

2. An employee earning not more than \$4,000 in the city per year or working not more than a total of five eight-hour work days in the city per year for which the employee earns not more than \$4,000, may elect to pay a flat occupational license fee to the city in the amount of \$35. In order to elect this payment option, the individual's employer is required to file with the city a completed Election to Pay Flat Tax Return Form signed by the employer and employee with the required \$35 payment with the employer's fourth quarter occupational license tax return no later than January 31 of the following year. The filing of this completed form with the required payment on behalf of an employee qualified to elect this payment option is deemed to satisfy the requirements of § 152.02.

(B) *Specific groups of employees.*

(1) *Musicians and entertainers.*

(a) *Contractor.* An individual musician through whom the purchaser and the musician negotiate the contract of services and the performance thereof. The contractor may or may not perform actual musical service under a contract which he or she has negotiated.

(b) *Purchaser of music.* The person, fiduciary, corporation or association for whom or for which the musical services are to be performed or furnished and who exercises an employer's control over the conduct of the musicians; for example, hotels, cafes, adult entertainment establishments, taprooms, restaurants, theaters, clubs, radio stations and radio sponsors.

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

(d) *Entertainers other than musicians.*

1. An entertainer other than a musician is usually engaged by a purchaser through a booking agent. The booking agent, once the contract of employment has been executed, does not exercise an employer's control over the entertainer. The owner of any place which furnishes entertainment to the public or to its patrons, shall be deemed the person liable as an employer of entertainers.

2. The employers must deduct the license fee from the compensation paid to the entertainer and remit the same to the Director of Finance.

(2) Individuals earning commission sales.

(a) *General.* Individuals engaged in the sale of products and/or services may be either employees or independent contractors.

1. Where the individual is subject to the direct control of another as to the manner of his or her conduct and is paid a fixed fee, he or she is considered an employee and the amount of the license shall be withheld at the source.

2. Where the individual is not under the direct control of another and may conduct the sale as he or she sees fit, receiving his or her payment in the form of commission from the sale, he or she is considered an independent contractor and shall file his or her own return and make payment as an independent contractor subject to the provisions hereof.

(b) Commissions subject to license fee.

1. In determining whether the commissions payable by reason of the selling of any product and/or service by an agent resulted from work done or services performed or rendered in the city, the test shall be the residence of the purchaser at the time of issuance of the product and/or service, rather than the actual place of solicitation. However, where the solicitation is in the city and the individual's established place of business is within the city, the commission is subject to the license fee regardless of the residence of the purchaser.

2. If an individual has an office outside the city as well as an office within the city, the commission on products and/or services sold to nonresidents, if handled through the outside office, are not subject to a license fee.

(C) Withholding of license fee.

(1) It is the duty of each employer who employs one or more persons on a salary, age, commission or other compensation basis, to deduct at the time of the payment of the compensation, the

Frankfort - Business Regulations

license fee on the salary, wage, bonus, incentive payment, commission or other compensation due by the employer to the employee. The license fee shall be deducted by the employer from all compensation paid to employees for activities in the city. However, the fact that the license fee is not withheld by the employer will not relieve the employee of the responsibility of filing a return and paying the fee on the compensation received. A nonresident employer maintaining in the city an office or business address or doing business therein is subject to the withholding provisions of this section.

(2) Where an employee receives compensation for personal services rendered or performed partly within and partly outside the city, the employer shall deduct and withhold that portion of the compensation which is earned within the city in accordance with the following rules of apportionment:

(a) If the licensee is a traveling sales person, agent or other employee whose compensation on the basis of commissions depends directly on the volume of business transacted by him or her, the deducting and withholding shall attach to the portion of the entire compensation which the volume of business transacted by the employee within the city bears to the volume of business transacted by him or her both within and outside of the city.

(b) The deducting and withholding of compensation of all other employees, including officers and directors of corporations, shall attach to the portion of the compensation of the employee which the total number of days employed within the city bears to the total number of working days employed both within and outside the city.

(c) If it is impossible to apportion the earnings as provided above because of the peculiar nature of the services of the employee, or of the usual basis of compensation, apportionment shall be made by other equitable method approved by the Director of Finance.

(d) The occasional entry into the city of an employee, who performs the duties for which he or she is paid entirely outside the city, but enters the city only for the purposes of reporting, receiving instructions or accounting incidental to duties performed outside the city shall not be deemed to take the employee out of the class of those rendering their services entirely outside the city.

(D) *Returns of license fee withheld and payment.*

(1) The return and payment to be made on account of deductions by employees from salaries, wages and other compensation of employees shall be made on a quarterly basis.

(2) The employer shall make a return and pay to the city the full amount of the license fee so deducted or withheld with respect to compensation paid to all employees and the return shall be due on or before the last day of the month following each quarterly period.

(3) The return required to be filed under this subchapter shall be made on a form furnished by or obtainable from the Director of Finance.

(4) If the due date of a return falls on a Saturday, Sunday or legal holiday, the return due date shall be the next succeeding day, which is not a Saturday, Sunday or legal holiday. Returns submitted other than by U.S. mail must be received on or before the due date. Returns submitted by U.S. mail will be considered received when mailed.

(5) On or before January 31, unless written request for extension is made to and granted by the Director of Finance, following any calendar year in which the deductions have been made by any employer, the employer shall file with the Director of Finance in the form prescribed by the Director an information return for each employee from whom the city license fee has been withheld.

(6) For convenience of employers, the information return may be made in one of two ways at the election of each employer, as follows:

(a) May submit a copy of Form W-2 for each employee; and

(b) Furnish a list of all employees from whom the fee has been withheld, which list shall set out the employee's full name, employee's taxable federal wages subject to the license fee, wages and other compensation subject to the license fee that is not included in federal taxable wages, total compensation paid subject to the license fee, and the amount of city license fee withheld. The list may be compiled on any mechanical equipment presently used by the employer. The employee's name must be indicated on each sheet, each sheet must be numbered and the total number of sheets comprising the complete report indicated on the first page.

(7) The gross compensation to be reported for each employee should be the full 12 calendar months of the year or the portion thereof as the employee reported on was employed.

(8) In addition to the information returns, and at the time the same are filed, the employer shall file with the Director of Finance a statement to enable the Director to reconcile the sum total of compensation paid and taxes withheld as disclosed by information return, W-2 or list and prior returns and remittances made pursuant to this subchapter.

(9) The failure of any employer, either residing within or outside of the city, to collect the license fee and to make the return shall not relieve the employee from compliance with this subchapter, with regard to the filing of returns and the payment of license fees. In the event the employer fails to make the return and pay the fee, the employee is required to make the return and pay the fee.

(10) Every employer is deemed to be a trustee of the city in withholding and collecting, the license fee required under this subchapter to be withheld, and the funds so collected by the withholding are deemed to be funds held in trust for the city. Every employer required to withhold and collect the license fee is liable directly to the city for the payment of the fee whether actually collected by the employer or not.

(Ord. 12, 2008, passed 6-23-08; Am. Ord. 9, 2012, passed 6-25-12)

§ 110.04 NET BUSINESS PROFITS.

In the case of an individual, fiduciary, or business entity engaged in the conduct, operation or prosecution of any occupation, trade, profession or other business activity for profit there is imposed an annual license fee being the greater of \$60 or 1.95% of the net profits of the occupation, trade, professional or other business activity conducted in or derived from activity within the city. In determining the proportion or amount of the subject net profits of the person or entity doing business within and without the city, the licensee shall use and apply a business allocation percentage formula computed on the basis of business receipts within and without the city and payrolls within and without the city.

(Ord. 12, 2008, passed 6-23-08; Am. Ord. 9, 2012, passed 6-25-12; Am. Ord. 15, 2012, passed 8-27-12)

§ 110.05 APPORTIONMENT OF NET PROFITS OR GROSS RECEIPTS OF BUSINESS ENTITY.

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

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

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

(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 the purchaser is the United States government.

(c) A sale resulting in the delivery of goods outside the city by the U.S. Postal Service or by common carrier, originating from the seller's facility inside the city, is not a sale made within the city. Deliveries made by a private carrier, hauler or other delivery agent or consignee, not otherwise identified as the U.S. Postal Service or a common carrier are sales within the city.

(2) Sales or 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.

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

(D) However, if one of the factors, receipts or payrolls is missing, the remaining percentage is the business allocation percentage. A factor is not to be deemed missing merely because the expenditures of the licensees for payrolls or the gross receipts of the licensees are found to be situated, incurred or received either entirely within or without the city.

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

(1) Separate accounting;

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

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

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

(F) *Compensation for work done and performed or services rendered.*

(1) The term **COMPENSATION** may include not only payment in cash or property but also the gross credits to or charges by the licensee, under its normal and usual accounting practices, for the performance of work or services. For example, a plant, factory or other establishment in the city which

processes material or manufactures parts for other plants or factories owned by the licensee, and which may receive credit for the performance of the services only by bookkeeping entries, may be chargeable under this section with the gross amount of the entries in applying the formula discussed hereunder. Furthermore, the bookkeeping entries may be considered in lieu of cash or property payment in determining the net profits of any licensee under this subchapter, even though the business allocation percentage formula may not be used by or be applicable to the licensee. However, whenever the gross receipts or charges are included in computing the net profits of any licensee shall not be twice subject in the same fee period by the separate imposition of a fee upon the gross credits or charges.

(2) Compensation and other receipts from work done or services performed within the city are allocable to the city and subject under this section. All amounts so received credited or charged by a licensee in payment for the work or services are so allocable, irrespective of whether done or performed by employees or agents of the licensee, by subcontractors or by any other persons. It is immaterial where the amounts were payable or where they were received. Commissions or fees received by the licensee are allocated to the city if the services for which the commissions were paid were performed in the city. If the licensee's services for which commissions or fees were paid were performed for the licensee by salespersons or other agents or employees attached to or working out of the city place of business of the licensee, the licensee's services will be deemed to have been performed in the city. Where a lump sum is received by the licensee in payment for services within and without the city, the amount attributable to services within the city is to be determined on the basis of the relative values of or amounts of time spent in the performance of the services within and without the city or by some other reasonable method approved by the Director of Finance. Full details must be submitted with the licensee's report.

(3) All business receipts earned by the licensee within the city are allocable to the city. Business receipts are not considered to have been earned by the licensee in the city solely by reason of the fact that they were payable in or actually received in the city. Receipts for sales of capital assets, property not held by the licensee for sale to customers in the regular course of business, are not business receipts. Receipts from the sale of real property held by the licensee as a dealer for sale to customers in the regular course of business are business receipts and are allocable to the city if the real property was situated in the city. Receipts from sales of intangibles included in business capital, held by the licensee as a dealer for sale to customers in the regular course of business, are business receipts and are allocable to the city if the sales were made in the city or through a regular place of business of the licensee in the city.

(G) *Wages, salaries and other compensation.* Wages, salaries and other compensation are computed on the cash or accrual basis in accordance with the method of accounting used in the computation of the entire net income of the licensee. Employees within the city include all employees regularly connected with a place of business maintained by the licensee in the city. Wherever it appears that the licensee's payroll was paid to employees attached to places of business outside the city who performed services within the city, the payroll factor is to be computed by deriving the percentage which the licensee's payroll paid in the city bears to his or her total payroll. In any such case, where an employee performed

services both within and without the city, the amount treated as compensation for services performed within the city shall be deemed to be:

(1) In the case of an employee whose compensation depends directly on the volume of business secured by him or her, such as a salesperson on a commission basis, the amount received by him or her for the business attributable to his or her efforts within the city;

(2) In the case of an employee whose compensation depends on other results achieved, the proportion of the total compensation which the value of his or her services within the city bears to the value of all his or her services; and

(3) In the case of an employee compensated on a time basis, the proportion of the total amount received by him or her which the working time employed in the city bears to the total working time.

(H) *New business license fee.* Every person, fiduciary, or business entity conducting a business, as defined in this subchapter, shall obtain a license from the Director of Finance before commencement of the business, the fee for which shall be \$35, except that no fee shall be required of minors of the ages of 16 and 17. This fee will be credited in full to the account of the license payer and applied against the annual net business profit fee on the first occasion it regularly becomes due thereafter.

(I) *Sufficient nexus test.* A business entity or individual engaged in a business, profession, trade or occupation shall be deemed to be subject to the net business profits fee if the business entity or individual has a nexus with the city sufficient to justify the imposition of the license fee in a manner consistent with the commerce clause and due process clause of the Fourteenth Amendment to the Constitution of the United States and other applicable federal law. If the business entity or individual has a sufficient nexus with the city, but also has a sufficient nexus with other governmental units, then the net profits derived from activities conducted within the city shall be determined by the apportionment formula set forth in this subchapter.

(1) *Establishing nexus.* Without excluding by implication other activities which may create a nexus, one or more of the following connections between a business entity, or individual and in the city shall normally establish a sufficient nexus;

(a) Location of a place of business in the city;

(b) Frequent and continuing entry into the city in the course of business by an officer or employee of the business entity. The occasional entry into the city by an officer or employee of a business entity for which said officer or employee is not required to pay occupational license fee to the city under § 110.03(A)(5)(c) does not, by itself, constitute frequent and continuing entry into the city in the course of business by an officer or employee of the business entity for purposes of this section;

- (c) Delivery of goods to residents in the city other than through the mails or by common carrier;
- (d) Contracting to sell goods in the city; and
- (e) Conducting substantial business activity in the city leading to a contract to buy or sell goods;

(2) *Business locations within the city.* The absence of a branch, office, store, warehouse or other permanent place of business within the city shall not exempt or render non-licensable the net profits of any trade, business, profession, enterprise, undertaking or other activity on which a license fee is imposed by the subchapter.

(J) *Payment election.* Every person, fiduciary, or business entity conducting business in the city that earns not more than \$4,000 per year in net profits on business conducted in the city and that does not have an employee working more than a total of five eight-hour work days per year in the city for which the employee earns more than \$4,000, may elect to pay a flat business license fee to the city in the amount of \$100. In order to elect this payment option, the person, fiduciary, or business entity conducting business in the city is required to file a completed election to pay flat net business profits tax return form with the required \$100, and submit it with the net profits tax return form on or before April 15 of the following year. The filing of the completed forms with the required payment on behalf of a person, fiduciary, corporation or association qualified to elect this payment option is deemed to satisfy the requirements of this subchapter. This section shall not apply to itinerant merchants within the meaning of § 111.21.

(Ord. 12, 2008, passed 6-23-08)

§ 110.06 EXEMPTIONS.

The following are exemptions to this subchapter:

(A) Compensation received by ministers of religion taxable for federal income tax purposes pursuant to the Internal Revenue Code is exempt from the license fee on wages imposed by this subchapter. Compensation received by ministers not taxable for federal income tax purposes pursuant to the Internal Revenue Code is not subject to the license fee imposed by this subchapter. For purposes of this section, a "minister" is defined as a natural person who has been ordained in accordance with the ceremonial ritual or discipline of a recognized church, religious sect or other religious organization, to teach and preach its doctrine or to administer rites in public worship, and who regularly performs one or more of these duties. No person is exempt from the payment of an employee license fee on compensation earned in activities, not connected with the regular functions of a religious organization. Thus, compensation earned by ordained persons employed as chaplains, teachers, administrators, musicians or counselors whose employment is connected with the regular functions of a religious organization is exempt.

Compensation earned by persons who are not ordained is not exempt regardless of the religious nature of the individual's work.

(B) Persons under age 16.

(C) (1) The legally blind shall be exempt from the payment of the city occupational license tax to the extent that their net annual salaries, wages or other compensation does not exceed \$15,000 per year. The legally blind shall be exempt from the payment of the city net business profits tax in excess of \$35.00 to the extent that their net annual income does not exceed \$15,000 per year.

(2) "Legally blind", as used herein, shall mean that the individual claiming exemption has

(a) Central visual acuity of not better than 20/200 in the better eye with corrective lenses; or

(b) Such individual's visual acuity is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

(3) The return required by § 110.09 must be filed by or on behalf of the individual, fiduciary, association or corporation claiming the exemption in order to qualify for the exemption.
(Ord. 12, 2008, passed 6-23-08)

§ 110.07 PURPOSE OF SUBCHAPTER.

This subchapter is enacted as a revenue measure and not as a regulatory measure. All revenue derived as a result of this subchapter shall be deposited in the general fund of the city for general municipal expenses.

(Ord. 19, 1999, passed 7-12-99)

§ 110.08 QUARTERLY ESTIMATED TAX PAYMENTS.

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

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

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

Frankfort - Business Regulations

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

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

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

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

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

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

(Ord. 12, 2008, passed 6-23-08)

§ 110.09 RETURNS AND PAYMENT OF FEES.

(A) Every person, fiduciary, or business entity whose earnings or net profits are subject to the license fee imposed by this subchapter shall make and file a return with the Director of Finance. In the return filed, there shall be set forth the aggregate amount of salaries, wages, bonuses, incentive payments, commissions, fees and other compensation received or net profits earned by and during the preceding year within the city and subject to the license fee, together with other pertinent information as the Director of Finance may require.

(B) Where the entire earnings for the year are paid by the same employer and the license fee has in each instance been withheld or deducted by the employer from the gross amount of compensation without adjustment for expenses, it shall not be necessary for the employee to file a return for the year unless required or requested to do so by the Director of Finance.

(C) Where any portion of the license fee otherwise due shall have been deducted at the source and shall have been paid to the city, a credit equal to the amount so paid shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing the return.

(D) Persons, fiduciaries, or business entities temporarily engaged in business within the city or temporarily performing services within the city shall file a return and pay the license fee upon the completion of the business or employment.

(E) On or before February 28 of the year following the year for which the return and licensee fee are due unless written request for extension is made to and granted by the Director of Finance, every individual, fiduciary, corporation or association making non-employee payments within the city shall file with the Director of Finance in the form prescribed by the Director, an information return disclosing non-employee payments of \$600 or more made for services performed within the city. For convenience of the payer, the information return may be made in either of the following methods:

(1) The payer may submit a copy of applicable IRS Form 1099(s); and

(2) The payer may furnish a list of non-employee payments made, which list shall set out the name, mailing address, social security number or Federal I.D. number of the non-employee, the total payments made to the non-employee and the amount of non-employee payment made that were for services that were performed within the city.

(Ord. 12, 2008, passed 6-23-08)

§ 110.10 REFUND OF ESTIMATED TAXES.

(A) In the case where the tax computed under this subchapter is less than the amount which has been declared and paid as estimated tax for the same taxable year, a refund shall be made upon the filing of a return.

(B) (1) Overpayment resulting from the payment of estimated tax in excess of the amount determined to be due upon the filing of a return for the same taxable year may be credited against the amount of estimated tax determined to be due on any declaration filed for the next succeeding taxable year or for any deficiency or nonpayment of tax for any previous taxable year;

(2) No refund shall be made of any estimated tax paid unless a complete return is filed as required by this subchapter.

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

(Ord. 12, 2008, passed 6-23-08)

§ 110.11 APPLICABILITY OF FEDERAL INCOME TAX LAW, BUSINESS ENTITY TO KEEP RECORDS.

(A) For purposes of this subchapter, computations of gross income and deductions therefrom, gross receipts or sales, and deductions therefrom, accounting methods, and accounting procedures shall be as nearly as practicable identical with those required for federal income tax purposes.

(B) Every business entity subject to an occupational license tax governed by the provisions of this subchapter 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 tax district 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.

(C) 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.
(Ord. 12, 2008, passed 6-23-08)

§ 110.12 TAX LIABILITY OF BUSINESS ENTITY THAT CEASES DOING BUSINESS IN THE CITY.

If any business entity dissolves 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, withdrawal, or loss or surrender of charter shall not defeat the filing of returns and the assessment and collection of net profit or gross receipts taxes or tax withheld for the period of that taxable year during which the business entity had net profit or gross receipts or tax withheld in the city.
(Ord. 12, 2008, passed 6-23-08)

§ 110.13 USE OF TAX YEAR AND ACCOUNTING METHODS REQUIRED FOR FEDERAL INCOME TAX PURPOSES.

If a business entity makes, or is required to make, a federal income tax return, the net profit or gross receipts shall be computed for the purposes of this subchapter on the basis of the same calendar or fiscal year required by the federal government, and shall employ the same methods of accounting required for federal income tax purposes.
(Ord. 12, 2008, passed 6-23-08)

§ 110.14 WHEN RETURNS ARE TO BE MADE, COPY OF FEDERAL TAX RETURN TO BE SUBMITTED WITH RETURN.

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

(B) Every business entity shall submit a copy of its federal income tax return at the time of filing its 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 all statements and schedules in support thereof The city may also require copies of reports of adjustments made by the federal government.

(Ord. 12, 2008, passed 6-23-08)

§ 110.15 EXTENSIONS.

(A) The city may grant any business entity or person 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 or person, for filing its return, if the business entity or person, on or before the date prescribed for payment of the tax, requests the extension and pays the amount properly estimated as its tax.

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

(C) Procedure. No standard form for requesting an extension of time for filing is prescribed. Any written communication from the applicant, or his or her attorney or accountant, which clearly states the request, will be acceptable if filed with the Director of Finance on or before the due date involved. Federal forms 4868, 8736 or 7004 will be accepted as a valid written request for extension.

(Ord. 12, 2008, passed 6-23-08)

§ 110.16 ENFORCING OFFICERS; POWERS AND DUTIES.

(A) The Director of Finance is hereby charged with the enforcement of the provisions of this subchapter and he or she is hereby empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter or thing pertaining to the administration and enforcement of the provisions of this subchapter, including, but not limited to provisions for the reexamination and correction of returns as to which an overpayment or underpayment is claimed or found to have been made. The rules and regulations promulgated by him or her shall be binding upon the licensees and the employers.

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

of Finance or his or her duly authorized agent or employee the means, facilities and opportunity for the examination and investigation as are hereby authorized. The Director of Finance is hereby authorized to examine any person under oath concerning any wages, salaries, commissions or other compensation or net profits which were or should have been returned; and to this end, he or she may compel the production of books, papers, records including copies of forms and schedules filed with the Internal Revenue Service or the Secretary of the Revenue Cabinet and the attendance of all persons before him or her, whether as parties or witnesses, whom he or she believes to have knowledge of the wages, salaries, commissions or other compensation or net profits, to the extent that any officer empowered to administer oaths in the state is permitted to so order.

(Ord. 12, 2008, passed 6-23-08)

§ 110.17 TAX DUE WHEN RETURN FILED; MINIMUM AND MAXIMUM LIABILITY.

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

(B) The city may impose minimum and maximum tax liabilities for the tax on net profits or gross receipts.

(Ord. 12, 2008, passed 6-23-08)

§ 110.18 AUDITING OF RETURNS; PAYMENT OF ADDITIONAL TAX; FEDERAL AUDIT.

(A) Definitions. As used in this section and this subchapter, unless the context requires otherwise:

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

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.

(B) As soon as practicable after each return is received, the city may examine and audit it. If the amount of tax computed by the city is greater than the amount returned by the business entity or person, the additional tax shall be assessed and a notice of assessment mailed to the business entity or person 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 or person understates net profit or gross receipts, or omits an amount properly includable in net profit or gross receipts, or both, which understatement or omission or both is in excess of 25% of the amount of net profit or gross receipts stated in the return, the additional tax may be assessed at any time within six years after the return was filed.

(3) In the case of an assessment of additional tax relating directly to adjustments resulting from a final determination of a federal audit, the additional tax may be assessed before the expiration of the times provided in this 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 or person 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.

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

(D) The city may initiate a civil action for the collection of any additional tax within the times prescribed in division (B).
(Ord. 12, 2008, passed 6-23-08)

§ 110.19 REVOCATION OR SUSPENSION OF LICENSE; RIGHT TO APPEAL.

(A) Any business license issued by the city may be revoked by the Director of Finance or suspended for any period of time determined by the Director to be reasonable and appropriate under the circumstances, for any of the following reasons:

(1) Failure of any person, fiduciary, business entity or employer to timely file any return required by this subchapter;

(2) Failure of an employer to pay to the city the occupational license fees withheld and collected pursuant to this subchapter;

(3) Failure of any person, fiduciary, or business entity to pay any fee imposed by this subchapter when due; or

(4) Failure of the licensee to comply with the applicable provisions of this chapter.

(B) Upon a determination that any one or more of the above derelictions have occurred, the Director of Finance shall notify the licensee in writing of the city's intention to revoke or suspend the licensee's

business license for cause, as the case may be, and shall direct the licensee to appear at the Director of Finance's Office, or respond in writing, within ten days of receipt of notice, to show cause why the licensee's business license should not be revoked or suspended. This notification shall be sent to both the owner and operator of the business licensed therein, if the two are not the same. During the ten-day response period the licensee shall have the opportunity to present any evidence that a return has been filed or that the aforementioned fees and/or taxes have been paid or are not due, or other evidence of good cause for failure to file and/or pay same.

(C) Within 30 days after the expiration of the ten-day response period, the Director of Finance shall review all evidence submitted by the licensee, require the audits as are necessary for the determination of whether or not the contested amounts are disputed in good faith and upon a preliminary determination that cause for revocation or suspension of the licensee's business license is found to exist, the Director of Finance shall promptly conduct a due process hearing at which time the licensee shall be allowed to appear and present witnesses and/or evidence on its behalf. Notice of the hearing shall be sent by the Director of Finance to the licensee, by certified mail, return receipt requested at least seven days prior to the scheduled hearing. A record of the hearing shall be kept. If the licensee fails to appear at the hearing, or fails to establish full compliance with this subchapter, the Director of Finance shall revoke or suspend the license of the business, as deemed as reasonable and appropriate under the circumstances, and the licensee shall immediately cease operation of its business for the duration of the revocation or suspension. Notice of revocation or suspension of any business license shall be sent to the licensee or operator of the business license therein.

(D) Right of appeal. Any business licensee whose occupational license has been revoked or suspended by the Director of Finance pursuant to the foregoing provisions, may appeal the revocation or suspension to the Board of Commissioners, by filing with the City Clerk within ten days of the date of revocation or suspension, a written notice of appeal, along with a copy of the notice of revocation or suspension and a statement of the reasons why the revocation or suspension should be overruled. Within 30 days of the filing of the notice of appeal hereunder, the Board of Commissioners shall review all evidence of record on appeal, and may consider additional testimony or evidence from the licensee or city personnel, in its sole discretion. The Board of Commissioners shall uphold the revocation or suspension imposed by the Director of Finance if it is supported by substantial evidence. The Board of Commissioners shall notify the Director of Finance and the licensee of its decision within seven days after the completion of its appellate review. The decision of the Board of Commissioners upon the appeal shall be a final administrative determination.

(E) Revocation or suspension of a business license hereunder shall be in addition to the imposition of any other penalty prescribed by this subchapter or any other subchapter, statute or law. The city may take any and all necessary and appropriate measures to enforce this section including obtaining injunctive relief to prevent a person or entity from operating a business within the city without first obtaining the required license.

(Ord. 12, 2008, passed 6-23-08)

§ 110.20 AUDIT AND ASSESSMENT APPEAL PROCESS.

(A) The Department is authorized to make refunds on claims filed with the Department of Finance. The licensee may initiate a refund by filing a claim with the Department. The claim must be prepared so as to set out: the licensee's name, address and the form of organization; the calendar or fiscal year involved; amount of license fee paid with dates of payment; amount of license fee refund requested; a certificate that the licensee is not indebted to the city for other fees or taxes; and a statement of licensee's reason for believing that a refund should be granted. Separate claims shall be filed for each period. If the basis of the claim rests upon an interpretation of law or of the treatment of any item or items in the return, an amended return is ordinarily not required and the claim alone will be sufficient. If the original return contained errors of fact necessitating correction, an amended return must be filed. No claim for refund of taxes paid pursuant to a net profit license tax return filed by the taxpayer shall be allowed after three years from the original due date of the return. No claim for refund of license fee tax withheld by an employer shall be allowed after April 15 of the year following the year in which the claimed overpayment was withheld.

(B) A licensee subject to the license fee is required to keep the records as will enable the filing of true and accurate returns, and the records must be preserved to enable the Department of Finance to verify the correctness of returns filed. The Department or its representative may audit any return and examine any records bearing upon matter required to be included in the return. Proof may be required in support of any item. If as a result of audit a return is found to be incorrect, the Department must assess and collect any underpayment for the entire period that erroneous returns were filed. No audit assessment can be made on a filed return three years past the original due date of the return, except the three-year assessment period will be extended for any audit year when the audit begins prior to and ends after the three-year assessment date.

(C) A licensee shall have the right to appeal audit findings or an additional assessment within 30 days from notification to the licensee of the audit results by: sending a written notice, including sufficient documentation to support the appeal, to the Director of Finance; or scheduling a meeting with the Director of Finance to explain the appeal and present evidence. After receiving documentation and/or hearing the licensee, the Director of Finance shall, within seven days after the conclusion of the review, in writing affirm, modify or withdraw the assessment.

(D) A licensee shall have the right to appeal a reaffirmed or adjusted audit assessment of the Director of Finance within 30 days from the date of adjusted audit assessment by sending a written notice of appeal, including sufficient documentation to support the appeal, to the City Manager. Within 30 days of the filing of the notice of appeal hereunder, the City Manager shall review all evidence of record on appeal. The City Manager shall, within seven days after the completion of the review, in writing affirm, modify or reverse the Director of Finance assessment.

(E) A licensee shall have the right to appeal a reaffirmed or adjusted audit assessment of the City Manager within 30 days from the date of adjusted audit assessment by sending a written notice of appeal,

including sufficient documentation to support the appeal to the City Clerk. Within 30 days of the filing of the notice of appeal hereunder, the Board of Commissioners shall review all evidence of record on appeal. The Board of Commissioners shall, within seven days after the completion of its appellate review, in writing affirm, modify or reverse the City Manager assessment. The decision of the Board of Commissioners upon the appeal shall be final.

(Ord. 12, 2008, passed 6-23-08)

§ 110.21 PAYMENT OF TAX NOT DELAYED; CLAIMS FOR REFUND OR CREDIT.

(A) No suit shall be maintained in any court to restrain or delay the collection or payment of any tax subject to the provisions of this subchapter.

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

(1) In any case where the assessment period contained in § 110.18 has been extended by an agreement between the business entity or person and the city, the limitation contained in this subsection shall be extended accordingly.

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

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

(C) Exclusive authority to refund or credit overpayments of taxes collected by the city is vested in that the city.

(Ord. 12, 2008, passed 6-23-08)

§ 110.22 EMPLOYER TO WITHHOLD TAX.

Every employer making payment of compensation to an employee shall deduct and withhold upon the payment of the compensation any tax imposed against the compensation by a tax district. Amounts withheld shall be paid to the city in accordance with § 110.23. The city may impose minimum and maximum tax liabilities for the tax on compensation.

(Ord. 12, 2008, passed 6-23-08)

§ 110.23 EMPLOYER TO REPORT TAX WITHHELD; LIABILITY OF EMPLOYER FOR FAILURE TO WITHHOLD OR PAY TAX.

(A) Every employer required to deduct and withhold tax under § 110.22 shall, for the quarter ending after January 1 and for each quarter ending thereafter, on or before the end of the month following the close of each quarter make a return and report to the city the tax required to be withheld under § 110.22 unless the employer is permitted or required to report within a reasonable time after some other period as determined by the city.

(B) Every employer who fails to withhold or pay to the city any sums required by this subchapter 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 § 110.22.

(C) 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 § 110.22. 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.

(D) Every employer required to deduct and withhold tax under § 110.22 shall annually on or before February 28 of each year complete and file on a form furnished or approved by the city a reconciliation of the tax withheld in each tax district 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.

(E) Every employer shall furnish each employee a statement on or before January 31 of each year showing the amount of compensation and license tax deducted by the employer from the compensation paid to the employee for payment to the city during the preceding calendar year.
(Ord. 12, 2008, passed 6-23-08)

§ 110.24 PERSONAL LIABILITY OF OFFICERS OF BUSINESS ENTITY.

(A) An employer shall be liable for the payment of the tax required to be deducted and withheld under § 110.22.

(B) The president, vice president, secretary, treasurer or any other person holding an equivalent corporate office of any business entity subject to § 110.22 shall be personally and individually liable, both jointly and severally, for any tax required to be withheld under this subchapter from compensation paid to one or more employees of any business entity, and neither the corporate dissolution or withdrawal of the business entity from the tax district nor the cessation of holding any corporate office shall discharge that liability of any person; provided that the personal and individual liability shall apply to each or every person holding the corporate office at the time the tax becomes or became obligated. No person shall be personally and individually liable under this subsection who had no authority to

collect, truthfully account for, or pay over any tax imposed by this subchapter at the time that the taxes imposed by this subchapter become or became due.

(C) Every employee receiving compensation in the city subject to the tax imposed under KRS 68.180, 68.197, 91.200, or 92.281 shall be liable for the tax notwithstanding the provisions of division (A) and (B).
(Ord. 12, 2008, passed 6-23-08)

§ 110.25 APPLICATION FOR REFUND OR CREDIT; WHEN EMPLOYEE MAY FILE FOR REFUND.

(A) Where there has been an overpayment of tax under § 110.22, refund or credit shall be made to the employer only to the extent that the amount of the overpayment was not deducted and withheld under § 110.22 by the employer.

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

(C) An employee who has compensation attributable to activities performed outside the city, based on time spent outside the city, whose employer has withheld and remitted the occupational license fee on the compensation attributable to activities performed outside the city to 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. 12, 2008, passed 6-23-08)

§ 110.26 PENALTIES; CONFIDENTIALITY OF INFORMATION FILED WITH THIS CITY.

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

(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 date prescribed under § 110.23 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 25% of the total tax due; however, the penalty shall not be less than \$25.

(C) In addition to the penalties prescribed in this section, any business entity, person, 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 subject to the provisions of this subchapter, 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) In addition to the penalties prescribed in this section, any business entity, or person, or employer who willfully fails to make a return, willfully makes a false return, or 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.

(F) 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 subchapter of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not the falsity or fraud is with the knowledge or consent of the person authorized or required to present the return, affidavit, claim, or document, shall be guilty of a Class A misdemeanor.

(G) 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 subchapter, or by the rules of the city or by written request for information to the business entity or person by the city.

(H) (1) No present or former employee of the city shall intentionally and without authorization inspect or divulge any information acquired by him or her of the affairs of any person, or information regarding the tax schedules, returns, or reports required to be filed with the city or other proper officer, or any information produced by a hearing or investigation, insofar as the information may have to do with the affairs of the person's business. This prohibition does not extend to information required in prosecutions for making false reports or returns for taxation, or any other infraction of the tax laws, or in any way made a matter of public record, nor does it preclude furnishing any taxpayer or the taxpayer's properly authorized agent with information respecting his or her own return. Further, this prohibition does not preclude any employee of the city from testifying in any court, or from introducing as evidence returns or reports filed with the city, in an action for violation of a tax district tax laws or in any action challenging the city tax laws.

(2) Any person who violates the provisions of this section by intentionally inspecting confidential taxpayer information without authorization shall be fined not more than \$500 or imprisoned for not longer than six months, or both.

Frankfort - Business Regulations

(3) Any person who violates the provisions of this section by divulging confidential taxpayer information shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.

(I) The city may file a lawsuit against business entities and/or persons to enforce the provisions of this chapter, including the requirement to make and file returns, to pay occupational license fee and net profits tax, and shall be entitled to recover its attorneys fees and court costs incurred in said lawsuit. (Ord. 12, 2008, passed 6-23-08)

§ 110.27 THE CITY MAY LEVY ONE TIME TAX RATE.

Notwithstanding the maximum tax rates in KRS 68.180, 68.197, and 91.200, the city may levy a net profits tax rate that would generate approximately the same amount of revenues as the prior year plus normal revenue growth experienced by the city over the prior five years. The city may invoke the provisions of this section only once.

(Ord. 12, 2008, passed 6-23-08)

§ 110.28 SEVERABILITY.

Each section and each provision of each section of this chapter is severable, and if any provision, section, paragraph, sentence or part thereof, or the application thereof to any person, licensee, class or group, is held by a court of law to be unconstitutional or invalid for any reason, such holdings shall not affect or impair the remainder of this chapter, it being the legislative intent to ordain and enact each provision, section, paragraph, sentence, and part thereof, separately and independently from the rest.

(Ord. 12, 2008, passed 6-23-08)

§ 110.29 APPLICANT REQUIRED TO PAY IN FULL ALL TAXES, FEES, PENALTIES AND INTEREST DUE.

(A) An applicant shall pay in full all taxes, fees, penalties and interest due and owing to the city of Frankfort or enter into a payment plan promising to pay same, prior to:

- (1) Obtaining a license to do or conduct business in the city;
- (2) Obtaining a permit to connect to the city sanitary or stormwater sewer system; or

(3) Obtaining any permit, license or approval issued by the planning and building codes department, including but not limited to building permits, variances, zone change requests, occupancy permits, or rental inspection approval.

(B) Failure to comply with the requirements of paragraph (A) above shall result in the denial of the permit, license or request for approval.

(Ord. 22, 2014, passed 11-24-14)

CHAPTER 111: REGULATORY LICENSES

Section

General Provisions

- 111.01 Records of purchases by junk dealers
- 111.02 Purchase of used beverage bottles
- 111.03 Uncrating or display of merchandise on street or sidewalk
- 111.04 Periodic reports
- 111.05 Settlements of insurance claims

Specific Regulatory Licenses

- 111.15 General regulations
- 111.16 Amusements
- 111.17 [Reserved]
- 111.18 Dance halls
- 111.19 Pool and billiard tables
- 111.20 Fortunetellers
- 111.21 Itinerant merchants
- 111.22 Ice cream vendors
- 111.23 Taxicabs
- 111.24 Collecting agencies
- 111.25 Loan companies
- 111.26 Pawnbrokers
- 111.27 Professional bondspersons
- 111.28 Theaters
- 111.29 Dealers in firearms
- 111.30 Itinerant businessmen and contractors
- 111.31 Junk dealers
- 111.32 Bowling alleys
- 111.33 Skating rinks
- 111.34 Circuses
- 111.35 Carnivals
- 111.36 Coin-operated machines for amusement
- 111.37 Insurance companies
- 111.38 Furniture auctioneers
- 111.39 Modeling agencies
- 111.40 Alcoholic beverage licenses

- 111.41 License expiration; fee reduction
- 111.42 Prorated tax for part of year
- 111.43 Application of certain sections
- 111.44 Penalty for delinquency; collection of licenses
- 111.45 Posting of licenses; inspection
- 111.46 Transfer of licenses; revocation
- 111.47 Temporary motor vehicle sales and displays

111.99 Penalty

Cross-reference:

Transient room tax, see § 36.133

GENERAL PROVISIONS

§ 111.01 RECORDS OF PURCHASES BY JUNK DEALERS.

Any person, firm or corporation doing business as a junkyard dealer shall be required to keep a daily record of all purchases made by them from any sources other than an authorized, licensed business establishment dealing with the aforesaid junkyard operator or junk dealer. The file shall consist of a chronological order of purchases, showing the date of purchase, name of the individual or individuals from whom purchased, the address of each and the item purchased. The item shall be so described as to readily identify it from the record. The above record or file shall be made available for inspection by the owners or operators of junk establishments aforesaid to peace officers to assist them in any investigation they may be engaged in, in trying to locate lost or stolen property.

(=70 Code, § 5.24.010) Penalty, see § 111.99

§ 111.02 PURCHASE OF USED BEVERAGE BOTTLES.

It is unlawful for any person, firm or corporation to purchase at retail from any person or persons, used milk, beer or soft drink bottles. Nothing herein shall be construed to prohibit any vendor from reclaiming or redeeming bottles, which, at the time of the sale, he or she had issued redemption checks identifying bottles sold.

(=70 Code, § 5.24.020) Penalty, see § 111.99

§ 111.03 UNCRATING OR DISPLAY OF MERCHANDISE ON STREET OR SIDEWALK.

(A) It is unlawful for any person, firm or corporation to uncrate or display any furniture or goods or merchandise along the sidewalks or public ways of the city.

(B) It is unlawful for any person, firm or corporation to impede pedestrian traffic along the sidewalks or public ways of the city by uncrating or displaying furniture, goods or merchandise. (70 Code, § 5.24.030) Penalty, see § 111.99

§ 111.04 PERIODIC REPORTS.

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

PAWNBROKER. Any person, firm or corporation whose occupation is or includes the taking and receiving by way of pledge, pawn or exchange of any goods, wares or any kind of merchandise as security for payment of money.

(B) (1) Each pawnbroker operating in the city shall keep a record of all purchases made by him or her wherein shall be stated, as to each item purchased, the name and address of the seller, physical description, including height, weight, color of hair and eyes of the seller.

(2) This record shall also contain a description of the item and price paid therefor.

(3) The record shall be kept on forms furnished by the Police Department and shall be filed with the Police Department monthly, not later than five days following the last day of each calendar month.

(70 Code, § 5.24.040) (Ord. 18-78, passed 5-8-78)

Cross-reference:

Pawnbrokers, see Chapter 113

§ 111.05 SETTLEMENTS OF INSURANCE CLAIMS.

(A) (1) On or before the tenth day of each month, every adjuster investigating or settling any claim for loss or damage from fire, lightning or explosions to insured property in the city shall report in writing to the Fire Department of the city all settlements of the claims made during the previous calendar month.

(2) It shall be the duty of the insurer either to cause the adjuster to make the report or to make the report itself.

(B) The report shall state the location of the property damaged or lost, the date of the loss or damage, the owner, the amount or amounts paid, and the person or persons to whom paid. (70 Code, § 5.24.050)

SPECIFIC REGULATORY LICENSES**§ 111.15 GENERAL REGULATIONS.**

The legislative body of the city hereby finds that the following occupations are of a nature as to require special regulation and supervision, and, therefore, along with the business license tax imposed by the provisions hereof, the following additional police license fees are imposed on every person, corporation, association and the like involved in the business, occupation, calling or profession named in this chapter who shall pay in advance, in the case of enterprises not operating throughout the year, to the Director of Finance for a year beginning on May 1 and ending on April 30 of any given year the additional license fee or fees herein set forth. Payment must be made in the case of businesses operating continuously during the month of May of the current year. In the case of businesses not operating continuously, payment must be made prior to the beginning of operations.
(-70 Code, § 5.08.010) (Ord. 23-66, 1966, passed - -66)

§ 111.16 AMUSEMENTS.

Amusement, athletic contest or entertainment not a part of a duly licensed business or not held in a regularly licensed theater or in a publicly-owned or religious building and not sponsored by a bona fide civic, patriotic, religious or educational organization shall pay a license fee of \$50 per show or \$100 per year, the fee to be paid prior to the show.
(-70 Code, § 5.08.020) (Ord. 23-66, 1966, passed - -66)

§ 111.17 [RESERVED].**§ 111.18 DANCE HALLS.**

Each dance hall in the city shall pay a license fee of \$50 per year or \$10 per dance. Any place of business held open to the general public where patrons are permitted to dance shall be deemed a dance hall within the meaning of this section.
(-70 Code, § 5.08.030) (Ord. 23-66, 1966, passed - -66)

§ 111.19 POOL AND BILLIARD TABLES.

Every person or corporation operating for hire a pool or billiard table in the city shall pay an annual license fee of \$25 for each table.
(-70 Code, § 5.08.040) (Ord. 23-66, 1966, passed - -66)

§ 111.20 FORTUNETELLERS.

Any person engaging in the practice of being a medium, clairvoyant, soothsayer, fortuneteller, palmist, phrenologist, spiritualist or like activity shall pay an annual license fee of \$1,500. Nothing contained in this section shall be construed to apply to persons pretending to tell fortunes as a part of any play, exhibition, fair or amateur show presented by any religious, charitable or benevolent institution.

(-70 Code, § 5.08.050) (Ord. 23-66, 1966, passed - -66)

§ 111.21 ITINERANT MERCHANTS.

(A) Every person who shall engage in, do, or transact any temporary or transient business in the city, for the sale of any goods, wares or merchandise, or who, for the purpose of carrying on the business, shall hire, lease, use or occupy any building or structure, motor vehicle, tent, car, lot, boat or public room or any part thereof, including rooms in hotels, lodging houses, or in any street, alley or other public place or elsewhere, for a period of less than one year for the exhibition of or sale of goods, wares or merchandise shall pay a license fee of \$150. No person shall be exempt from the payment of the license imposed by this section by reason of a temporary association with any local merchant, dealer or trader or by reason of conducting the temporary or transient business in connection with or as a part of the business in the name of any local merchant, dealer or trader.

(B) Notwithstanding the language of division (A) above, persons or entities holding a charitable fund-raising event, or governmental entities holding a civic event, within the City, may pay a license fee of \$150 for a one-time group itinerant merchants license applicable to persons or entities selling food or alcohol at said event that are not otherwise licensed to do business within the City. The one-time group itinerant merchants license shall expire four days from the date of issuance or at the conclusion of the event, whichever first occurs, shall authorize sales only at said event, and shall not be applicable to vendors selling food or alcohol at more than two events per year. Persons or entities operating pursuant to a one-time group itinerant merchants license shall satisfy all other City applicable requirements, including the requirements of Chapter 115 of this code and the requirements of the Health Department.

(-70 Code, § 5.08.060) (Ord. 23-66, 1966, passed - -66; Am. Ord. 5, 2017, passed 5-8-17)

§ 111.22 ICE CREAM VENDORS.

Any person, association or corporation engaged in the business of retail distribution or sale of packaged ice cream or other frozen confections and employing for that purpose carts, bicycles, wagons or other vehicles propelled by hand, foot or other means, shall pay an annual license fee of \$10 for each vehicle employed and receive therefor a certificate or tag which shall be conspicuously attached to the vehicle at all times. No person operating any vehicle shall be required to pay the license fee provided above, but the persons operating the vehicle shall pay in lieu thereof an annual fee of \$1 and receive therefor a certificate bearing thereon an adequate identification of the persons.

(-70 Code, § 5.08.070) (Ord. 23-66, 1966, passed - -66)

§ 111.23 TAXICABS.

(A) Before any taxicab shall be operated in the city, the owner thereof shall procure a license therefor from the Director of Finance and shall pay in advance therefor a license fee of \$25 per year for each taxicab. The Director shall furnish a suitable emblem evidencing the license, and it shall be the duty of the owner or operator of the taxicab to display the emblem prominently in the taxicab. Prior to the license being issued, the taxicab owner shall be required to submit to the Director of Finance proof of satisfactory safety inspection by an ASE, automotive service excellence, certified technician dated no more than 30 days prior to date of submission.

(B) All taxicab licenses issued by the city, unless sooner revoked, shall expire on April 30, each year.

(-70 Code, § 5.08.080) (Ord. 23-66, 1966, passed - -66; Am. Ord. 6-98, 1998, passed 3-5-98)

§ 111.24 COLLECTING AGENCIES.

Every person, corporation, agency and the like, engaged solely in the business of collecting accounts for others, shall pay an annual license fee of \$25.

(-70 Code, § 5.08.090) (Ord. 23-66, 1966, passed - -66)

§ 111.25 LOAN COMPANIES.

Every person, corporation, agency and the like, engaged in the business of buying notes or obligations or of lending money on assignment of salaries, wages due or to become due, on chattels or other notes, shall pay an annual license fee of \$150.

(-70 Code, § 5.08.100) (Ord. 23-66, 1966, passed - -66)

§ 111.26 PAWNBROKERS.

A pawnbroker shall pay an annual license fee of \$250.

(-70 Code, § 5.08.110) (Ord. 23-66, 1966, passed - -66)

§ 111.27 PROFESSIONAL BONDSPERSONS.

The annual license fee for any person engaged in the business of a professional bondsperson shall be \$100 per year for each individual or each individual member of a firm or corporation so engaged.

(-70 Code, § 5.08.120) (Ord. 23-66, 1966, passed - -66)

§ 111.28 THEATERS.

Every theater shall pay to the Director of Finance an annual license fee of \$300.
(=70 Code, § 5.08.130) (Ord. 4-66, 1966, passed - -66; Am. Ord. 23-66, 1966, passed - -66)

§ 111.29 DEALERS IN FIREARMS.

Every person, corporation, partnership and the like who engages in the business of buying, selling or trading in firearms of any type shall pay an annual fee of \$25.
(=70 Code, § 5.08.140) (Ord. 23-66, 1966, passed - -66)

§ 111.30 ITINERANT BUSINESSMEN AND CONTRACTORS.

All persons, agencies, corporations and the like, engaging in any temporary or transient occupation, not included elsewhere in the provisions of this chapter, shall pay a minimum Net Business Profits fee of \$60 set forth in § 110.04 above, with no additional license fee due.
(=70 Code, § 24.051) (Ord. 23-66, 1966, passed - - 66; Am. Ord. 5-77, passed 2-14-77; Am. Ord. 15, 2012, passed 8-27-12)

§ 111.31 JUNK DEALERS.

Every person, corporation and the like engaged in the business of buying or selling objects or items commonly termed "junk" shall pay an annual fee of \$50.
(=70 Code, § 5.08.160) (Ord. 23-66, 1966, passed - -66)

§ 111.32 BOWLING ALLEYS.

Every person, corporation, partnership and the like engaged in the business of operating a bowling alley shall pay an annual fee of \$15 for each bowling lane in the bowling alley.
(=70 Code, § 5.08.170) (Ord. 23-66, 1966, passed - -66)

§ 111.33 SKATING RINKS.

Every person, corporation, partnership and the like who operates a skating rink in the city shall pay an annual fee of \$50.
(=70 Code, § 5.08.180) (Ord. 23-66, 1966, passed - -66)

§ 111.34 CIRCUSES.

Every person, corporation, partnership and the like who engages in the business of operating a circus, regardless of local sponsorship, shall pay a fee of \$25 per week or any part thereof for each week that the business is in the city. Before any license is issued the applicant shall furnish proof of insurance coverage covering personal injury to any patron of the circus in an amount not less than \$25,000 for any one individual or \$50,000 for any one accident.

(70 Code, § 5.08.190) (Ord. 23-66, 1966, passed - -66; Am. Ord. 26-68, 1968, passed - -68)

§ 111.35 CARNIVALS.

(A) Every person, corporation, partnership and the like engaged in the business of operating a carnival regardless of local sponsorship shall pay a license fee of \$25 per week or any part thereof for each week that the carnival is operating in the city.

(B) Before any license is issued, the applicant shall furnish an affidavit stating that all rides or mechanical devices upon which passengers are carried have been inspected within 90 days of the date of application and found to be safe.

(C) In addition, before any license is issued, the applicant shall furnish proof of insurance coverage covering personal injury to any patron of the carnival in an amount not less than \$25,000 for any one individual or \$50,000 for any one accident.

(70 Code, § 5.08.200) (Ord. 23-66, 1966, passed - -66; Am. Ord. 26-68, 1968, passed - -68)

§ 111.36 COIN-OPERATED MACHINES FOR AMUSEMENT.

Every person, corporation, partnership and the like who has on the premises any pinball or other coin-operated machine for amusement only shall pay for each machine an annual fee of \$10.

(70 Code, § 5.08.210) (Ord. 23-66, 1966, passed - -66)

§ 111.37 INSURANCE COMPANIES.

(A) *General provisions.* 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 beginning on July 1, 1989, and thereafter on a calendar-year basis.

(B) *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 6% of the first year's premiums actually collected within each calendar quarter by reason of the issuance of such policies.

(C) *All others.* The license fee imposed upon each insurance company which issues any insurance policy which is not a life insurance policy shall be as follows: 6% 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 the business which such company is authorized to transact, less all premiums returned to policy holders; 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).

(D) *Due date; interest rate.* All license fees imposed by this section shall be due no later than 30 days after the end of each calendar quarter. License fees which are not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6).

(E) *Written breakdown of collections.*

(1) Every insurance company subject to the license fees imposed by this section shall, on a quarterly basis, furnish the city with a written breakdown of all collections in the preceding quarter for the following categories of insurance:

- (a) Casualty;
- (b) Automobile;
- (c) Inland marine;
- (d) Fire and allied perils;
- (e) Health;
- (f) Life; and
- (g) All other types of insurance.

(2) This written breakdown shall include each policyholder's name and his/her address, the address where the insured or the insured's property is located (if different than the policyholder's address), the period covered by the policy, and the amount of insurance premium surcharge tax paid by the policyholder. The insurance company shall submit the required information on the form provided by the city.

(F) *Insurance agents report.* As of January 1, 2006, each insurance agent doing business in the city shall submit, on a quarterly basis, a list of the insurance companies upon which they have written insurance policies covering property or individuals living in the city.

(G) *Transmission of copy to Commonwealth.* The Finance Director is hereby directed to transmit a copy of the ordinance [Ordinance No. 11-89] from which this section is derived, and any amendment thereto, to the Commissioner of Insurance, Commonwealth of Kentucky.

(Ord. No. 25-84, §§ 1-5, 10-22-84; Ord. No. 11-89, 5-1-89; Am. Ord. 1, 2007, passed 1-22-07)

§ 111.38 FURNITURE AUCTIONEERS.

Any person, firm or corporation engaged in the business of auctioning off furniture in the city and owning or leasing any property for the purposes of carrying on the business shall pay an annual license fee of \$50.

(-70 Code, § 5.08.240) (Ord. 3-66, 1966, passed - -66)

§ 111.39 MODELING BUSINESSES.

Every person, corporation or other legal entity who engages in the business of providing, obtaining or attempting to obtain training or employment for models shall pay an annual license fee of \$100.

(Ord. 12, 2000, passed 3-27-00)

§ 111.40 ALCOHOLIC BEVERAGE LICENSES.

(A) The legislative body of the city hereby finds that the business or occupation of selling alcoholic beverages, either wholesale or retail, is of a nature as to require special regulations and supervisions and special license provisions.

(B) Therefore, the following license fees for each place of business falling into one of the following categories is hereby imposed upon that business exclusive of all other business license fees including occupation and business license fees:

- (1) Wholesaler's license: \$200.
- (2) Quota retail package license: \$500.
- (3) Quota retail drink license: \$500.
- (4) NQ-3 Retail drink license: \$300.
- (5) Distributor's license: \$200.
- (6) NQ Retail Malt Beverage Package license: \$75.

- (7) NQ-4 Retail Malt Beverage Drink License: \$75.
- (8) NQ-2 Retail Drink license: \$575.
- (9) Caterer's license: \$250.
- (10) NQ-1 Retail Drink license: \$1,000.
- (11) Special temporary license: \$125.
- (12) Special Sunday Retail Drink license (wine and distilled spirits only): \$300.
- (13) Distiller's license: \$250.
- (14) Rectifier's license: \$1,500.
- (15) Brewer's license: \$250.
- (16) Microbrewery license: \$250.
- (17) Brew-On-Premises license: \$50.
- (18) Bottle House/Bottle House Storage license: \$500.

(19) The holder of a nonquota (NQ) retail malt beverage package license may obtain a NQ-4 malt beverage drink license for a fee of \$50. The holder of a NQ-4 malt beverage drink license may obtain a nonquota (NQ) retail malt beverage package license for a fee of \$50. (70 Code, § 5.08.250) (Ord. 30-64, 1964, passed - -64; Am. Ord. 4-77, 1977, passed 2-14-77; Am. Ord. 23-78, 1978, passed 6-12-78; Am. Ord. 10, 2000, passed 2-28-00; Am. Ord. 14, 2006, passed 7-24-06; Am. Ord. 12, 2014, passed 7-28-14; Am. Ord. 17, 2014, passed 9-22-14; Am. Ord. 16, 2015, passed 10-26-15)

§ 111.41 LICENSE EXPIRATION; FEE REDUCTION.

(A) (1) All regulatory licenses issued by the city, except temporary licenses, shall be valid for a period of one year and shall expire on June 30 of each year.

(2) Any applicant for a new regulatory license shall be charged the full fee for the respective license if six months or more remains before the license is due to be renewed and one-half the fee if less than six months or more remains before the license is due to be renewed.

(B) 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) All validly issued regulatory licenses scheduled to expire on April 30, 2006 shall be decreed to be in effect until June 30, 2006, and shall expire on that date.
(-70 Code, § 5.08.260) (Am. Ord. 10, 2000, passed 2-28-00)

§ 111.42 PRORATED TAX FOR PART OF YEAR.

(A) Persons, firms or corporations engaging in any occupation, calling or trade or enjoying any privilege for which a license is required under the provisions hereof after the beginning of the regular license year shall be subject to the following prorated percentages of the annual license tax:

- (1) For one month or any part thereof: 20%.
- (2) For two months or any part thereof: 30%.
- (3) For three months or any part thereof: 40%.
- (4) For four months or any part thereof: 50%.
- (5) For five months or any part thereof: 60%.
- (6) For six months or any part thereof: 70%.
- (7) For seven months or any part thereof: 75%.

(8) For eight months or any part thereof: 80%.

(9) For nine months or any part thereof: 85%.

(10) For ten months or any part thereof: 90%.

(11) For eleven months or any part thereof: 95%.

(B) All prorated licenses shall expire on April 30 next succeeding the issuance thereof and shall be paid for up to that date unless otherwise provided for in the chapter.

(70 Code, § 5.08.270)

§ 111.43 APPLICATION OF CERTAIN SECTIONS.

The administrative and enforcement provisions hereof are in effect pursuant to the provisions hereof and shall pertain and control the regulation of the licenses provided for herein.

(70 Code, § 5.08.280)

§ 111.44 PENALTY FOR DELINQUENCY; COLLECTION OF LICENSES.

(A) All licenses imposed by this chapter remaining unpaid 30 days after they become due shall be deemed delinquent and shall have added to them a penalty of 10% and shall thereafter bear interest at the rate of .5% for each month or fraction of a month until paid.

(B) It shall be the duty of the finance director to proceed to collect the delinquent licenses 30 days after the penalty is imposed, and at the expiration of 30 days or 60 days from the time the licenses become due, he or she shall take out warrants in the police court against all persons, corporations, partners or firms, whether public, private or professional, who owe and have not paid the license tax required to be paid by them under this chapter.

(70 Code, § 5.08.290) (Ord. 38-69, 1969, passed 9-8-69)

§ 111.45 POSTING OF LICENSES; INSPECTION.

All license certificates issued by the city shall be posted in a conspicuous place in the house, office or place for which the same is granted and shall be subject at all times to inspection by the license inspector.

(70 Code, § 5.08.300)

§ 111.46 TRANSFER OF LICENSES; REVOCATION.

(A) All licenses may by the consent of the Board of Commissioners, entered of record, be transferred from one place to another to which the business authorized may actually be removed.

(B) (1) The Board of Commissioners shall have the right to revoke the license of any person, firm or corporation who violates any portion of this chapter, or who shall be found guilty in any court of competent jurisdiction of violation of any law, state, federal or municipal prohibiting the illicit sale, transportation of, or having in possession intoxicating liquors of any kind.

(2) The revocation to be made by resolution of the Board of Commissioners upon the filing by the City Solicitor with the City Clerk an authenticated copy of the judgment of conviction.

(C) No license shall be issued to any person, firm or partnership unless the licensee or transferee be a person or persons of good moral character or to any corporation unless the officers are of good character. If the Director of Finance is in doubt as to the moral character of persons seeking license to do business, he or she shall refer the same to the Board of Commissioners and the Chief of Police. (70 Code, § 5.08.310)

§ 111.47 TEMPORARY MOTOR VEHICLE SALES AND DISPLAYS.

That off-site temporary motor vehicle sales or display events are permitted within the corporate limits of the city upon the following conditions:

(A) The motor vehicle dealer shall hold a valid business license to sell motor vehicles within the corporate limits of the city or hold a valid city Itinerant Merchants License;

(B) The motor vehicle dealer shall comply with all city planning and building codes requirements and ensure that the site for the temporary motor vehicle sales or display shall be in compliance with all applicable city requirements and standards, including the requirement that the site of the temporary sale must be properly zoned to allow for this commercial use;

(C) The site and the motor vehicle dealer shall comply with all proper business regulations and requirements, including advertising the sale as temporary in nature and the sale shall consist of a representative sampling of the inventory of each participating licensed motor vehicle dealer;

(D) The motor vehicle dealer shall submit to the City Planning and Building Codes Department an application to obtain a permit to hold a temporary sale or display of motor vehicles off its permanent site and obtain the permit before holding a temporary sale or display.

(E) No motor vehicle dealer shall be limited from selling or distributing motor vehicles at a temporary sale within the corporate city limits provided the above conditions and requirements have been met.

(Ord. 19, 2004, passed 10-18-04)

§ 111.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) Any person, firm or corporation violating the provisions of § 111.02 shall be deemed guilty of a misdemeanor, each day of failure to comply with the section being deemed a separate offense, and fined not less than \$100 nor more than \$500 in the discretion of the court. (-70 Code, § 5.24.010)

(C) Any person, firm or corporation violating § 111.02 shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not less than \$100, nor more than \$500. Each sale shall constitute a separate offense. (-70 Code, § 5.24.020)

(D) Any person, firm or corporation who violates the provisions of § 111.03 shall be deemed guilty of a misdemeanor and shall be fined not less than \$100 nor more than \$500 for each offense. (-70 Code, § 5.24.030)

(E) Any person, firm or corporation violating any provision of § 111.04 shall be guilty of a misdemeanor and upon conviction thereof shall, for each offense, be fined not less than \$100 nor more than \$500. (-70 Code, § 5.24.040) (Ord. 18-78, passed 5-8-78)

(F) Every person failing to make or cause to be made any report, as required in § 111.05, shall upon conviction be fined not less than \$100 or more than \$500 for each offense. (-70 Code, § 5.24.050)

(G) (1) Any person, firm or corporation who shall engage in any business, trade, occupation or calling or shall exercise any privilege, for which a license is required under this chapter, without having first procured the license and paid the tax thereon, shall be fined not less than \$100 nor more than \$500 for each offense.

(2) For any violation of any section or part of a section of this chapter not otherwise herein provided wherein the state statutes prescribe a penalty therefor, for each violation the same penalty shall attach to this chapter as is prescribed by the statutes.

(3) For each and every violation of this chapter or any section or part of a section thereof, for the violation of which no other penalty is prescribed, the offender shall be fined in any sum from \$100 to \$500 and each day (of 24 hours) that any violation shall be carried on or continued shall constitute a separate offense.

(4) Any person, firm or corporation being tried and convicted of any violation of this chapter shall not be exempt from paying the license as set out therein. (-70 Code, § 5.08.320)

(5) The city shall be entitled to obtain injunctive relief to prohibit any person or entity from conducting, or continuing to conduct, business within the city without first obtaining the required license.

(6) The city shall be entitled to recover its court costs and attorneys fees incurred in attempting to collect any fees due under this chapter, to obtain injunctive relief, or to enforce the provisions of this chapter.

CHAPTER 112: CHARITABLE SOLICITATIONS

Section

- 112.01 Permit required
- 112.02 Registration
- 112.03 Application
- 112.04 Issuance of permit
- 112.05 Description of permit
- 112.06 Display of permit
- 112.07 Rules of solicitation

- 112.99 Penalty

§ 112.01 PERMIT REQUIRED.

No person shall solicit or collect contributions of funds for charitable purposes upon any portion of a public street or the public way without first having obtained a permit for such purpose from the city Police Department.

(Ord. 8, 2008, passed 4-28-08)

§ 112.02 REGISTRATION.

No permit for solicitation of charitable contributions on the public streets or ways shall be issued to any person or entity unless such person or entity is either a benevolent, philanthropic, patriotic or eleemosynary organization registered and in good standing with the Attorney General of the Commonwealth of Kentucky or the Kentucky Secretary of State.

(Ord. 8, 2008, passed 4-28-08)

§ 112.03 APPLICATION.

Application for a charitable solicitation permit shall be made on a form issued by the city Police Department. The application shall include the name, address and telephone number of the soliciting organization; proof of registration and good standing with the Attorney General of the Commonwealth of Kentucky or the Kentucky Secretary of State and evidence of current good standing as a not-for profit entity; the name, residence address and telephone number of the local officer of the organization; the

dates and locations of the solicitation; the approximate number of persons engaging in the solicitation; a description or facsimile of the tag, badge, emblem or other token (if any) which will be distributed as part of the solicitation; and such other information as the Police Department may require. Application for a charitable solicitation permit shall be made no less than seven days before the commencement of the solicitation. The application shall be signed and verified by at least one officer of the organization, and a fee of \$25 shall be paid to the Police Department at the time the application is filed. (Ord. 8, 2008, passed 4-28-08; Am. Ord. 11, 2009, passed 7-27-09)

§ 112.04 ISSUANCE OF PERMIT.

(A) The Police Department shall review each application for a charitable solicitation permit within seven days of its submission. The permit shall not be issued unless all of the requirements have been met, and the Police Department shall notify the applicant of its decision and the grounds therefor. Notice of the decision shall be sent by mail, addressed to the applicant at the address stated in the application. All decisions of the Police Department shall be reported to the City Manager.

(B) If more than one organization applies for a permit to solicit charitable contributions on the same date and at the same location, the Police Department shall resolve the conflict by giving preference to the organization first submitting the application. Any organization which has engaged in solicitation of charitable contributions on the public streets or ways in the same manner and at the same approximate time of year for five consecutive years shall be permitted to select its dates one year in advance of actual solicitation. The Police Department may offer alternate dates and/or sites as a means of resolving conflicts. (Ord. 8, 2008, passed 4-28-08; Am. Ord. 11, 2009, passed 7-27-09)

§ 112.05 DESCRIPTION OF PERMIT.

A charitable solicitation permit shall bear the legend "City of Frankfort Charitable Solicitation Permit" and shall state the name of the organization to which it is issued and the dates and places of the permitted solicitation. Each permit shall be sequentially numbered to indicate the year of its issuance and the number of permits then outstanding. Each permit shall be signed by a representative of the Police Department. (Ord. 8, 2008, passed 4-28-08; Am. Ord. 11, 2009, passed 7-27-09)

§ 112.06 DISPLAY OF PERMIT.

Each person who engages in the solicitation of charitable contributions on a public street or way shall display on his or her person a tag or card no smaller than two inches by four inches, indicating the

name of the organization to which the permit is issued. A facsimile of the permit may be used instead of the tag or card.

(Ord. 8, 2008, passed 4-28-08)

§ 112.07 RULES OF SOLICITATION.

Individuals or entities engaging in charitable solicitation on the public streets or ways shall comply with the following rules, as well as the applicable provisions of the Kentucky Revised Statutes concerning pedestrians and motor vehicles:

(A) The charitable organization must be registered with the Office of the Kentucky Attorney General or the Office of the Kentucky Secretary of State as a not-for-profit corporation.

(B) Prior to issuance of the permit the charitable organization must sign an agreement whereby the organization agrees to indemnify and hold harmless, the city, its officers, employees and agents from any and all claims, suits or damages, including but not limited to court costs and attorneys fees, arising from their use of the public streets or ways to solicit funds, including claims asserted by the traveling public.

(C) Persons under the age of 18 shall be prohibited from soliciting on public streets or ways and all person soliciting donations are required to carry a government issued photo ID card verifying his or her age, such as a driver's license.

(D) Soliciting on public streets or ways will be allowed only at intersections where vehicles must come to a complete stop and only when those vehicles have come to a complete stop.

(E) All persons involved in the solicitation activities must wear a bright yellow safety vest.

(F) The charitable organization must display a legible sign with dimensions of at least two feet by three feet on which is printed the name of the charitable organization and which is visible from each direction of the public street or way upon which the solicitation is being conducted.

(G) Solicitation activities are to be limited to one person for each lane of traffic and persons conducting solicitation activities shall refrain from yelling at or otherwise distracting motorists.

(H) Solicitation activities are not to be conducted in any conditions which, in the judgment of any city law enforcement officer, would constitute a hazard to individuals conducting the solicitation activity or to the traveling public.

(I) Organizations conducting solicitation activities shall furnish to the City Police Department proof of a liability insurance policy providing insurance in an amount no less than \$1,000,000 per incident.

(J) Any organization soliciting donations on the public streets or ways can only do so on seven days in any calendar year.

(K) Pursuant to KRS 189.570, no person shall stand on a highway for the purpose of soliciting contributions or donations unless such soliciting is designated by the presence of a traffic control device or warning signal or an emergency vehicle or public safety vehicle as defined in KRS 189.910 making use of the flashing, rotating or oscillating red, blue, or yellow lights on such devices or vehicles.

(Ord. 8, 2008, passed 4-28-08; Am. Ord. 11, 2009, passed 7-27-09)

§ 112.99 PENALTY.

(A) Any person who violates any provision of this chapter relating to solicitation of charitable contributions on the public streets or ways shall be fined not more than \$500. Each day that a violation is committed shall be considered a separate and distinct offense.

(B) Any charitable organization that violates any provision of this chapter relating to solicitation of charitable contributions on the public streets or ways shall have their privileges suspended for a period of one year. Any charitable organization that violates any provision of this chapter a second time shall have their privileges suspended for a second year.

(C) Any charitable organization that violates any provision of this chapter a third time shall be prohibited from soliciting charitable contributions on the public streets or ways for a period of five years.

(D) The city, upon learning of violations of the provisions of this chapter relating to solicitation of charitable contributions on the public streets or ways, may institute an action in the appropriate court to seek an injunction against such violation in addition to the fines authorized by this section.

(Ord. 8, 2008, passed 4-28-08)

[Text continues on page 43]

CHAPTER 113: [RESERVED]

[Text continues on page 47]

CHAPTER 114: [RESERVED]

CHAPTER 115: ALCOHOLIC BEVERAGES

Section

General Provisions

- 115.01 Adoption of statutes
- 115.02 License required
- 115.03 Application procedure
- 115.04 License restrictions
- 115.05 Posting of license
- 115.06 Conduct
- 115.07 Revocation of license
- 115.08 Refund of license fee
- 115.09 Hours during which premises may remain open and sell alcoholic beverages

Mandatory Responsible Beverage Service Training

- 115.20 Mandatory responsible beverage service training
- 115.21 Licensees
- 115.22 Required information and signage to assist the trained servers and sellers
- 115.23 Seller/Server Training Agency

- 115.99 Penalty

Cross-reference:

- Alcoholic beverage licenses, see § 111.38*
- Drinking alcohol; public drunkenness, see § 131.01*
- License expiration; fee reduction, see § 111.39*
- Purchase of used beverage bottles, see § 111.02*

Statutory reference:

- Alcoholic beverages, see KRS 241 through 244*

GENERAL PROVISIONS

§ 115.01 ADOPTION OF STATUTES.

The provisions of KRS Chs. 241, 243 and 244 and also all acts amendatory thereto and supplementary thereof relating to the manufacture, sale, transportation, possession or other disposition

of alcoholic beverages are adopted so far as the same may be applicable or unless otherwise provided by ordinance.

(70 Code, § 5.12.010)

§ 115.02 LICENSE REQUIRED.

No person, firm or corporation shall sell, deal or traffic for the purpose of evading the statutes or ordinances, give intoxicating liquors without having procured a license as provided by ordinance, or without complying with all statutes, ordinances and regulations applicable thereto.

(70 Code, § 5.12.020)

§ 115.03 APPLICATION PROCEDURE.

Application for a license to sell, deal or traffic in intoxicating liquor shall be made in writing, properly subscribed and sworn to before a notary public or other officer authorized to administer an oath, wherein shall be stated the applicant's name, age, nativity and address and the exact location, by street number or otherwise, of the premises where the liquor is to be sold, and the name of the owner of the premises, and, if the applicant be a corporation, the name of the president or other chief officer of the corporation and the name and address of the person who is to manage or conduct the sale of liquor, and the application shall contain a statement signed by two reputable citizens and taxpayers of the city to the effect that the applicant is of good standing and character and will, in their opinion, comply with the law and the ordinances in the conduct of the proposed business.

(70 Code, § 5.12.030)

§ 115.04 LICENSE RESTRICTIONS.

No license shall be granted to any person or persons not of good moral character and a full citizen of the country and state; nor shall any license be issued to any person who has habitually been a petty law offender. No license shall be granted to any person under 21 years of age.

(70 Code, § 5.12.040) (Ord. 26-66, 1966, passed - -66)

§ 115.05 POSTING OF LICENSE.

Every license and permit issued pursuant hereto shall be posted while in force in a conspicuous place in the room or place where intoxicating liquors are kept for sale.

(70 Code, § 5.12.050)

§ 115.06 CONDUCT.

Each licensed premises shall at all times be conducted in an orderly manner, and no disorderly, riotous or indecent conduct, gambling or any violation of the law whatever shall be allowed at any time on any licensed premises.

(-70 Code, § 5.12.060)

§ 115.07 REVOCATION OF LICENSE.

A violation hereof by a duly authorized agent or employee of a licensee or permit holder shall constitute a violation of the licensee or permit holder, and whenever the holder of any license or permit shall violate any portion hereof or any regulation adopted pursuant thereto, the Board of Commissioners of the city shall cancel or revoke the license.

(-70 Code, § 5.12.070)

§ 115.08 REFUND OF LICENSE FEE.

Where a licensed liquor dealer of the city fails to procure his or her state license or under the statutes is unable to procure the license, then the City Finance Director is authorized and directed to refund the regulatory license fee to the unsuccessful licensee.

(-70 Code, § 5.12.090)

§ 115.09 HOURS DURING WHICH PREMISES MAY REMAIN OPEN AND SELL ALCOHOLIC BEVERAGES.

(A) *Sunday Hours for All Retail Sate Licenses, Including Package Sales.* Pursuant to the delegation of authority contained in KRS 244.290 and 244.480, and subject to the remaining provisions of this ordinance and all other licensing requirements in this Chapter, a premises for which there has been granted a license for the retail sale of any alcoholic beverages shall be permitted to remain open and sell alcohol in accordance with its license from 11:00 a.m. Sunday to 11:59 p.m. Sunday; provided, however, that when a Sunday falls on December 31, hours may be extended to 1:59 a.m. on the following Monday. All times are prevailing time.

(B) *Additional Requirements for Retail By the Drink Sales.* A premises for which there has been granted a license for the sale of alcoholic beverages at retail by the drink shall be permitted to remain open and sell alcohol in accordance with its license during the following hours, all prevailing time:

- 6:00 a.m. Monday to 1:59 a.m. Tuesday;
- 6:00 a.m. Tuesday to 1:59 a.m. Wednesday;
- 6:00 a.m. Wednesday to 1:59 a.m. Thursday;

Frankfort - Business Regulations

6:00 a.m. Thursday to 1:59 a.m. Friday;
 6:00 a.m. Friday to 1:59 a.m. Saturday;
 6:00 a.m. Saturday to 12:59 a.m. Sunday; and

11:00 a.m. Sunday to 11:59 p.m. Sunday; provided, however, that when a Sunday falls on December 31, hours may be extended to 1:59 a.m. on the following Monday.

(C) Special Sunday Drink License.

(1) Any licensee selling wine or distilled spirits by the drink on Sunday must obtain a Special Sunday Drink License under § 111.40(B)(12) of this Code of Ordinances, in addition to any other applicable licenses.

(2) As of the effective date of this section, all premises which were previously granted appropriate licenses to sell alcohol under a Special Sunday Drink License shall be allowed to sell alcohol in accordance with the Sunday hours set forth above, as long as appropriate licenses are maintained.

(D) Outdoor Café Permits Unaffected. Nothing in this ordinance is intended to affect or modify the regulations governing outdoor café permits located in Chapter 119 of this Code of Ordinances. (70 Code, § 5.12.100) (Ord. 6-74, 1974, passed 3-11-74; Am. Ord. 34, 2000, passed 12-11-00; Am. Ord. 22, 2003, passed 10-20-03; Am. Ord. 26, 2005, passed 11-28-05; Am. Ord. 23, 2006, passed 9-25-06; Am. Ord. 17, 2014, passed 9-22-14; Am. Ord. 15, 2018, passed 6-25-18)

MANDATORY RESPONSIBLE BEVERAGE SERVICE TRAINING

§ 115.20 MANDATORY RESPONSIBLE BEVERAGE SERVICE TRAINING.

All persons employed in the selling and serving of alcoholic beverages in the city shall participate in a city approved responsible beverage service training program. For a responsible beverage service training program to be approved by the city, it must effectively train its participants in the identification of false age documentation and recognition of characteristics of intoxication. The city will not require enrollment in particular classes, but only that the training be obtained from a recognized program meeting the goals expressed in this subchapter.

(Ord. 22, 2007, passed 6-25-07)

§ 115.21 LICENSEES.

(A) All entities located or doing business in the city and who are licensed to sell alcohol by the drink or otherwise, pursuant to city ordinance, shall show proof as a condition prerequisite for the issuance

of the license to sell alcoholic beverages that those employees whose job duties include the sale or service of alcoholic beverages or the management of premises on which alcoholic beverages are served have completed a responsible beverage service training from a program approved by the city. This subchapter shall not apply to manufacturers of alcoholic beverages as this term is defined in KRS 241.010(30) or any other person, corporation, association, business or other entity licensed for the wholesale of alcoholic beverages.

(B) All employees of those persons or entities licensed under city ordinance for the sale of alcoholic beverages shall complete responsible beverage service training from a program approved by the city and show proof that all employees whose job duties include the sale or service of alcoholic beverages or the management of premises on which alcoholic beverages are served have completed a responsible beverage service training from a program approved by the city.

(C) All entities licensed under city ordinance for the sale of alcoholic beverages shall designate a person who, on behalf of the entity, shall complete responsible beverage service training from a program approved by the city. The person designated must have the authority to implement or amend the licensee's on-premise practices for selling and serving alcohol.

(D) All persons required to complete training under divisions (A), (B) and (C) above, shall complete the required training within 45 days of the date on which the person first becomes subject to the training requirement. All persons completing the training required by this section shall be re-certified in responsible beverage service training from a program approved by the city not less than once every three years thereafter.

(E) All persons or entities licensed under city ordinance for the sale of alcoholic beverages in the city shall require all their employees who are engaged in the selling or serving of alcoholic beverages or the managing of premises on which such sales are offered to complete a city approved responsible beverage service training class according to the provisions of this subchapter.
(Ord. 22, 2007, passed 6-25-07)

§ 115.22 REQUIRED INFORMATION AND SIGNAGE TO ASSIST THE TRAINED SERVERS AND SELLERS.

(A) *Driver's license guide and compilation of laws.* The licensee shall maintain the following information on the premises, in a location accessible at all times to all employees of the licensed establishment.

(1) A current driver's license guide, which shall include license specifications for both adults and minors for each state (including Canadian provinces), and shall list such information from at least five years prior to the present date; and

(2) A current compilation of the laws relating to the sale and possession of alcoholic beverages in Kentucky. This compilation must also include a copy of this subchapter.

(B) *Signage.* The licensee shall maintain on the premises current signage related to underage consumption of alcoholic beverages and to driving under the influence of alcohol. One sign must be located behind the counter/bar and, for establishments serving alcoholic beverages in rooms other than the room in which the counter/bar is located, at least one additional sign must be located in an area visible to the patrons of the establishment. The sign(s) must have dimensions of at least one foot by one foot with letters at least 1/2-inch in height. All signs must be comfortably readable from a distance of 15 feet.

(C) *Personnel certification records.* Each licensee shall maintain a file on its business premises for each person whose job duties include the sale or service of alcoholic beverages or are responsible for management of premises on which alcoholic beverages are served and for whom training is required under this subchapter. That file shall contain the name, job description, date of employment and proof of certification pursuant to this subchapter of each employee, officer and agent subject to the training requirement provided in this subchapter. During business hours, this file shall be available to the person or persons designated by the City Manager with responsibility for enforcement of this and other ordinances relating to the licensing of premises for the sale of alcoholic beverages. (Ord. 22, 2007, passed 6-25-07)

§ 115.23 SELLER/SERVER TRAINING AGENCY.

(A) *Training program.* Licensees and servers shall participate in a training program with an approved responsible beverage service training agency, selected and approved by the city.

(B) *Compensation.* The approved training agencies shall not be compensated or otherwise reimbursed by the city. The training agencies shall recover costs and profit through fees collected from those participating in the training program or from the licensees.

(C) *Training.* The approved training agencies shall certify the qualifications of all required participants as required by this subchapter. All new employees, officers or agents shall complete the training within 45 days following their hiring or other event which subjects that person to the training requirement. New employees, officers or agents failing to complete the training within the prescribed time shall not work on the premises after the expiration of that period until they have successfully completed such training.

(D) *Standards for certification.* The training agency must reasonably instruct upon and certify the participants' competence in at least the following:

- (1) Pertinent laws and ordinances regarding the sale of alcohol;

(2) Verification of age, forms of identification and usual methods of false or misleading age identification;

(3) The effect of alcohol on humans and the physiology of alcohol intoxication;

(4) Recognition of the signs of intoxication;

(5) Strategies for intervention and prevention of underage and intoxicated persons from consuming alcohol,

(6) The licensee's policies and guidelines, including the employee's role in observing those policies; and

(7) Potential liability of persons serving alcohol;

(E) *Qualifications for training agencies.* The training agency shall have a minimum of two years actual experience in responsible beverage service and alcohol awareness training. Each instructor shall be certified to teach his or her subject matter.

(F) *Personnel and physical resources.* The training agencies shall have sufficient personnel and physical resources to provide responsible beverage service training course to newly hired employees, officers and agents as required by this subchapter.

(Ord. 22, 2007, passed 6-25-07)

§ 115.99 PENALTY.

(A) For violation of any of the provisions hereof, the licensee shall be deemed guilty of a misdemeanor and for each offense shall be fined not less than \$100 nor more than \$500, 30 days imprisonment or both the fine and imprisonment, and it shall be the duty of the Police Court so finding the violation to notify the Board of Commissioners whereupon the license theretofore issued by the city shall upon notice be forfeited.

(B) (1) The Office of the City Manager, or his or her designee, is charged with primary responsibility for enforcement of §§ 115.20 through 115.23.

(2) Penalties for violation of §§ 115.20 through 115.23 shall be assessed against the person or entity holding a license for the sale of alcoholic beverage under the Kentucky Revised Statute and a license issued by the city. The individual employee shall not be civilly or criminally liable for violations of §§ 115.20 through 115.23, but shall be liable for other violations as set forth in the Kentucky Revised Statutes addressing alcohol sales. The penalties assessed against the licensee for violations of §§ 115.20 through 115.23 are as follows:

Frankfort - Business Regulations

(a) For the first violation within a two year period, suspension of the licensee's city liquor license for a period of up to ten days and a fine of not less than \$100 nor more than \$250.

(b) For the second or subsequent violation within a two year period, a suspension of the licensee's city liquor license for a period of 30 days and a fine of not less than \$250 nor more than \$500.

(=70 Code, § 5.12.080) (Ord. 22, 2007, passed 6-25-07)

CHAPTER 116: [RESERVED]

CHAPTER 117: TAXICABS

Section

- 117.01 Definitions
- 117.02 Taximeters required; posting rates and fares
- 117.03 Driver's license required; issuance
- 117.04 Accident reports
- 117.05 Inspection and certification

- 117.99 Penalty

Cross-reference:

Taxicabs, see § 111.23

§ 117.01 DEFINITIONS.

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

DRIVER. Any person who drives or physically operates any taxicab, as defined herein.

OWNER. Any person, firm or corporation who has the legal ownership, control, direction, operation, leasing or collection of revenues from any taxicab operated on the streets of the city.

TAXICAB. Any motor vehicle carrying not more than seven passengers and operating within the city for hire.

(=70 Code, § 5.20.010)

§ 117.02 TAXIMETERS REQUIRED; POSTING RATES AND FARES.

It is unlawful for any person, firm or corporation to operate any taxicab from and within the city unless the same shall be equipped with a taximeter of standard make and model, Rockwell Ohmer or its equal, in good operating condition and designed for the purpose of registering the correct taxi fare for each individual trip. Each person, firm or corporation operating taxicabs within the city shall at all times keep posted in a conspicuous place in each office, cab stand or branch thereof a typewritten or printed schedule of rates and metered fares currently in effect.

(=70 Code, § 5.20.020) Penalty, see § 117.99

§ 117.03 DRIVERS LICENSES REQUIRED; ISSUANCE.

(A) (1) It is unlawful for any driver to operate a taxicab without having first obtained a taxicab driver's license from the City Treasurer or his or her designated representative, and for any owner to permit any taxicab to be driven or operated by an unlicensed driver. Each applicant for a taxicab driver's license must be:

- (a) Of the age of 18 years or over;
- (b) The holder of a valid motor vehicle chauffeur's license under the laws of the commonwealth;
- (c) Of sound physique, with good eyesight, and not subject to epilepsy, vertigo, heart trouble or any other infirmity of body or mind which might render him or her unfit for the safe operation of a taxicab and must furnish a certificate of a reputable licensed and practicing physician of the city to the effect;
- (d) Be able to read and write the English language;
- (e) Be clean in dress and person and not addicted to the use of intoxicating liquor;
- (f) Of good moral character, and shall file with his or her application affidavits attesting his or her good character from two reputable witnesses of the city who have known him or her personally and observed his or her conduct next preceding the date of his or her application; and
- (g) Shall not have been convicted of a felony or of any offense involving the use of force or violence or the taking or conversion of the property of another, or any offense against the administration of justice, or the offense of operating an automobile while under the influence of intoxicating liquor.

(2) Each applicant for a taxicab driver's license shall file with the City Treasurer an application in writing, upon blanks to be furnished by the City Treasurer, signed and sworn to by the applicant, stating his or her age, place of residence for one year previous to the application, race, height, color of eyes and hair, place of birth and length of time he or she has resided in the city; whether a citizen of the United States, whether married or single, whether he has been convicted of any of the crimes herein stated and, if so, the name of the court where convicted and the date thereof; whether he or she has been previously licensed as a taxicab driver and had his or her license revoked, and, if so, the date and cause of the revocation. The Chief of Police shall investigate the statements made in each application, and no license shall be issued to any applicant who has made a false statement therein. Each applicant for a taxicab driver's license shall file with his or her application two recent photographs of himself or herself; approximately three inches by five inches, one of which shall be attached to the license when issued and the other of which shall be attached to the application and filed with the Police Department.

(=70 Code, § 5.20.030)

(B) The City Finance Director or his or her designated representative shall issue a taxicab driver's license to each applicant who has complied with all of the provisions of division (A) above which license shall be for one year. The license shall have permanently attached thereto a picture of the licensee and shall state thereon sufficient facts to identify the licensee. Every driver under penalty of revocation of his or her license must constantly and conspicuously display his or her license in some place in the taxicab being driven by him or her in a manner that the same is visible to any passengers therein at all times. It is unlawful for any owner or driver to operate a taxicab or permit a taxicab to be operated in the city unless the driver's license is so displayed. A violation of this section shall subject both the owner and the driver to a fine of not less than \$10 nor more than \$25 and shall constitute good cause for revoking the driver's license and the license for the taxicab being operated by him or her. (70 Code, § 5.20.040)

(C) (1) The City Finance Director or his or her designated representative may, simultaneously with the filing of any application for a taxicab driver's license as provided for in division (A) above and the payment of a fee of \$.50, issued to the applicant a temporary taxicab driver's license, which temporary license shall entitle the holder to all of the privileges attaching to the license provided for in division (A) above and which shall be valid for a period of 20 days from the issuance thereof, or until the time as the Chief of Police has had an opportunity to investigate the application for a permanent taxicab driver's license.

(2) The temporary taxicab driver's license may be issued prior to the medical examination and certificate required in division (A) above, but unless the medical certificate is furnished the City Treasurer within ten days after the issuance of the temporary taxicab driver's license, the temporary license shall be void.

(70 Code, § 5.20.050) Penalty, see § 117.99

§ 117.04 ACCIDENT REPORTS.

It shall be the duty of every driver to report, in writing, to the Chief of Police all injuries to persons or property, accident or casualties in which the taxicab driver participated directly or indirectly, and the report shall be made within six hours after the happening thereof and shall give in detail the time, place, nature and cause of the injury, or the name and address of the person injured, together with the name, address and license number of the driver submitting the report. It shall be the further duty of every driver to notify the Chief of Police, in writing, of any change in his or her address.

(70 Code, § 5.20.060) Penalty, see § 117.99

§ 117.05 INSPECTION AND CERTIFICATION.

(A) All taxicabs must be maintained in a safe condition and their appearance must be properly maintained. All windows and doors must be kept in an operating condition, clear of defects with all mechanisms working. All safety features (lights, signals, brakes, seat belts, mufflers, horn, and the like) must be in operating condition.

(B) No taxicab shall be operated within the city until it has been inspected by an ASE certified technician and certified to be in a safe condition for the transportation of passengers. The ASE certified technician shall certify in writing the results of the inspection on a form prescribed by the Chief of Police, one copy to be retained by the ASE certified technician, and one copy to be presented by the taxicab owner to the Director of Finance with his or her application for license.
(70 Code, § 5.20.070) (Ord. 7-98, 1998, passed 3-5-98)

§ 117.99 PENALTY.

Violators of any part of this section shall be guilty of a misdemeanor and shall be subject to a fine of no less than \$100 nor more than \$500 for each offense. Each day of violation is considered a separate offense. Repeated violations by any taxicab company will be grounds for the city to request that the State Department of Transportation withdraw the offender's operating certificate.
(70 Code, § 5.20.070) (Ord. 7-98, 1998, passed 3-5-98)

CHAPTER 118: PRECIOUS METALS

Section

- 118.01 Definitions
- 118.02 Dealer's license and permit
- 118.03 Record keeping
- 118.04 Retention period
- 118.05 Regulation of transactions

- 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.

CANVASSER or SOLICITOR. Any person, firm or corporation who, as the duly authorized representative or agent of a dealer, shall canvass or solicit for the secondhand purchase or acquisition of any item containing any precious metal.

PRECIOUS METAL. Gold, silver or platinum, alone, or in combination, to include coins.

PRECIOUS METALS DEALER. 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.
(70 Code, § 5.28.010) (Ord. 10-81, 1981, passed 5-4-81)

§ 118.02 DEALER'S LICENSE AND PERMIT.

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

Frankfort - Business Regulations

(B) A precious metals dealer's permit must be applied for to the Police Department of the city. 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 permit and shall contain the person's occupation license number.

(C) The Police Department shall, within 20 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) A permit will not be issued to any person, firm or corporation whose chief officers or members have been convicted of a felony or a criminal misdemeanor involving moral turpitude within the past two years.

(2) If the permit is to be denied, the Police Department shall provide the applicant with written notification, including a statement of the reasons of denial, and any aggrieved applicant shall, within 30 days of the action, have a right to request a hearing before the Chief of Police.

(3) The Police Department shall have the authority to suspend or revoke any permit issued pursuant to this chapter for any violation of the terms of this chapter. However, any aggrieved permittee shall, within 30 days of the action, have a right to request a hearing before the legislative body of the city.

(4) Permits issued under this section shall not be transferable. An individual permit is required for each place of business conducted by a dealer. The permit, or a copy thereof, must be posted in a conspicuous place in each place of business.

(=70 Code, § 5.28.020) (Ord. 10-81, 1981, passed 5-4-81)

§ 118.03 RECORD KEEPING.

(A) Each precious metals dealer shall keep a record, on the standard form as the Police Department shall furnish, of each transaction involving the secondhand purchase by the 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 of the city by the close of business on the first working day after the completion of the transaction.

(B) The dealer will complete the form provided by the Police Department in detail. Failing to complete the form will be deemed to have been a violation of the permit.

(C) The method of identification shall include two identification cards. One must be with a picture of the seller and one corroborating, both of which will contain numbers from the cards. These identification card numbers will be entered onto the transaction forms.

(D) The original record of each secondhand transaction in any item containing any precious metal shall be subject to inspection and examination by any member of the Police Department of the city and any member of the Police Department shall be permitted to examine and inspect any and all items purchased by the precious metals dealer which fall within the scope of this chapter.

(E) 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 originally purchased from the person, or exchanging an 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.

(-70 Code, § 5.28.030) (Ord. 10-81, 1981, passed 5-4-81)

§ 118.04 RETENTION PERIOD.

It shall be the duty of each precious metals dealer to retain each and every item containing precious metal purchased secondhand by him or her 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 15 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 the 15-day retention period the article may not be resold, exchanged, altered or otherwise disposed of.

(-70 Code, § 5.28.040) (Ord. 10-81, 1981, passed 5-4-81)

§ 118.05 REGULATION OF TRANSACTIONS.

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

(B) No precious metals 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.

(-70 Code, § 5.28.050) (Ord. 10-81, 1981, passed 5-4-81)

§ 118.99 PENALTY.

(A) Any person violating any of the provisions of this chapter shall, upon conviction thereof, be fined not more than \$500, or imprisoned not more than six months or both so fined and imprisoned, for each offense.

(B) Upon conviction of any violation of this chapter, the city shall have the authority to suspend or revoke any license and/or permit in accordance with § 118.02(C)(3).

(-70 Code, § 5.28.060) (Ord. 10-81, 1981, passed 5-4-81)

CHAPTER 119: OUTDOOR CAFÉS AND THE LIKE

Section

- 119.01 Definitions
- 119.02 Permit requirements
- 119.03 Application
- 119.04 Prohibited conduct
- 119.05 Form and conditions
- 119.06 Denial, revocation or suspension

- 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.

ADMINISTRATOR. The Director of Planning and Building Codes or his or her designee authorized to enforce this section.

ENCROACHMENT. Tables, umbrellas, chairs, decorations and objects directly related to the business of food and refreshment service on the public right-of-way, sidewalk or common area on public property. Encroachments may not be attached, affixed or chained to the permitted area or to any object therein.

OUTDOOR CAFÉ. The placing, locating or permitting of the placing or locating of chairs, tables or other dining or cooking equipment, or offering service to patrons, on the right-of-way, such as sidewalks or upon the St. Clair Street, adjacent to a business licensed to operate as an eating establishment where food and other refreshments are served.

PERMITTEE. The recipient of an encroachment permit under the terms and provisions of this chapter.

SIDEWALK. The portion of the public right-of-way between the curb lines of a roadway and the adjacent property lines, intended for the use of pedestrians.
(Ord. 10, 1999, passed 5-10-99; Am. Ord. 29, 2000, passed 10-9-00; Am. Ord. 12, 2018, passed 5-21-18)

§ 119.02 PERMIT REQUIREMENTS.

(A) It shall be unlawful for any person to create, establish, operate, maintain or otherwise be engaged in the business of operating an outdoor café unless he or she shall hold a permit issued under the terms of this chapter, except during special community events recognized by the city, a list of which shall be maintained in the Office of the Administrator.

(B) Permits shall be issued only to a business properly licensed by the city, which wishes to provide service to its patrons or to locate tables and chairs or other objects directly related to its business of food and refreshment service on the outdoor public property immediately adjacent to its business.

(C) If a permit applicant wishes to extend the encroachment onto immediately adjacent property located in front of an adjoining property owner's front property line, the following requirements shall apply:

(1) The permit applicant shall obtain written, signed approval from the adjoining property owner for the encroachment, which includes confirmation that use of the first floor of the adjoining property does not include sale or provision of food or beverages. The approval shall be submitted with the permit application;

(2) The encroachment approval may be revoked by the adjoining property owner at any time upon written notice to the permit applicant who requested the encroachment and the Office of the Administrator; and

(3) No fee shall be charged related to use of such extended encroachment area.

(D) An outdoor café permit shall not be issued for any business which sells alcoholic beverages unless the business agrees to and continues to comply with the following:

(1) The business provides proof that it sells food in accordance with a proper food sales permit from the Health Department and provides a copy of its food and beverage menu including verification that it offers food from its menu for sale during outdoor café hours; and

(2) There shall be no service or consumption of alcoholic beverages within the permitted area prior to 11:00 a.m. and after 10:00 p.m. on Monday, Tuesday and Wednesday; prior to 11:00 a.m. and after 11:00 p.m. on Thursday, Friday and Saturday; and prior to 1:00 p.m. and after 10:00 p.m. on Sunday, local prevailing time, except during special community events during which alcoholic beverages are being legally served on public property in the vicinity by other licensees outside of the timeframes listed above.

(Ord. 10, 1999, passed 5-10-99; Am. Ord. 29, 2000, passed 10-9-00; Am. Ord. 1, 2016, passed 1-25-16; Am. Ord. 12, 2018, passed 5-21-18) Penalty, see § 119.99

§ 119.03 APPLICATION.

(A) Application for a permit shall be made at the Department of Planning and Building Codes in a form deemed appropriate by the Administrator. The application shall include, but not be limited to the following information:

(1) Name, home and business addresses and telephone number of the applicant, and the name and address of the owner, if other than the applicant, of the business;

(2) In the event the applicant or owner is not a resident of the county, the name, home address and telephone number of a designated person whom the city may notify or contact at any time concerning the applicant's encroachment;

(3) A copy of a valid City of Frankfort business license to operate a business establishment adjacent to the public property which is the subject of the application;

(4) Proof of current liability insurance, issued by an insurance company licensed to do business in the commonwealth, insuring the licensee and the city against all claims or liability for damage to property or for bodily injury including death, arising from the result, direct or indirect, of the use of public property, pursuant to the outdoor café permit (The insurance shall name the city as an additional insured and shall provide that the policy shall not terminate or be canceled prior to the stated expiration date without 30 days' advance written notice to the city by the insurer. The policy shall provide coverage in the minimum amount of \$1,000,000 provided that the city's Risk Manager may require a higher minimum coverage in his or her reasonable discretion.);

(5) A diagram of the proposed permitted area showing the locations and dimensions of the area, all proposed encroachments and all publicly-owned benches, tables and other objects within the area; and

(6) Written, signed approval from adjoining property owner in accordance with the requirements in § 119.02(C) for any encroachment area extending in front of the adjoining property owner's front property line;

(7) Proof of any required ABC license(s), health permits or other permits for the business involved; and

(8) Proof of food sales in accordance with the requirements of § 119.02(D)(1).

(B) (1) Within a reasonable time after the application is filed, the applicant shall be notified of the issuance or denial of the permit. Upon issuance of the permit, the applicant shall be required to pay to the city an annual fee in the amount of fifty dollars (\$50.00).

(2) The fee shall be independent of and in addition to any other license tax or fee imposed by the city.

(C) Any person who shall operate an outdoor café upon public property, within the definitions in this chapter, without an outdoor café permit shall be subject to the penalties hereinafter set forth herein. (Ord. 10, 1999, passed 5-10-99; Am. Ord. 29, 2000, passed 10-9-00; Am. Ord. 12, 2018, passed 5-21-18) Penalty, see § 119.99

§ 119.04 PROHIBITED CONDUCT.

(A) No permittee shall:

(1) Place any encroachment on any portion of the public property other than within the permitted area;

(2) For permits on St. Clair Street, place any encroachment extending more than twenty (20) feet from the front property line of the business;

(3) Extend the encroachment in front of the adjoining property owner's front property line without written, signed approval from the adjoining property owner and compliance with all requirements in § 119.02(C);

(4) Block or restrict any public passageway to less than four feet of unrestricted width or block the ingress/egress to any building. In areas of congested pedestrian activity, the Administrator is authorized to require a wider pedestrian path, as circumstances dictate. No items shall be placed so as to block any driveway, crosswalk or bus stop;

(5) Sublicense the encroachment area;

(6) Place anything around the perimeter of an area occupied by tables and chairs which would have the effect of forming a physical or visual barrier unless otherwise required by the State Department of Alcoholic Beverage Control;

(7) Use tables, chairs, umbrellas or any other objects of a type, composition or size or in a placement not authorized by the Administrator or which are unsafe, in disrepair or unsightly;

(8) Use umbrellas or other decorative material which is not fire retardant, pressure treated or manufactured of fire resistant material;

(9) Fail to secure permission of the landlord where a building has multiple occupants;

(10) Operate without the insurance coverage specified;

(11) Except during special community events, sound or permit the sounding of any device on the public property or operate any loudspeaker, public address system, radio, sound amplifier or

similar device in a manner that violates the noise regulations in City Ordinance § 131.01, or past 9:00 p.m. on Sundays, Mondays, Tuesdays and Wednesdays or past 10:00 p.m. on Thursdays, Fridays and Saturdays;

(12) Fail to promptly pick up, remove and dispose of all trash or refuse within the permitted area or fail to take reasonable measures to prevent the deposit of any substance upon the surface of the permitted area which stains, discolors or alters the texture of the area surface;

(13) Store, park or leave any items overnight on any street or sidewalk, except for authorized encroachments which may be kept in the permitted area only at the permittee's risk;

(14) Store, park or leave any vehicle, truck or trailer within the permitted area; and/or

(15) Allow its patrons to engage in conduct in violation of KRS 244.120.

(B) The encroachment permit is a temporary license which may be denied, suspended or revoked for any conduct which is contrary to the provisions of this section or for use of the permitted area in a manner as to create a public nuisance, or constitute a danger to the public's health, safety or welfare. (Ord. 10, 1999, passed 5-10-99; Am. Ord. 29, 2000, passed 10-9-00; Am. Ord. 1, 2016, passed 1-25-16; Am. Ord. 12, 2018, passed 5-21-18) Penalty, see § 119.99

§ 119.05 FORM AND CONDITIONS.

(A) The permit shall be issued on a form deemed suitable by the Administrator.

(B) In addition to naming the permittee and any other information deemed appropriate by the administrator, the permit shall contain the following conditions:

(1) Each permit shall be effective for one year, from May 1 to April 30, subject to annual renewal, unless revoked or suspended prior to expiration. No fees will be refunded for revocations or periods of suspension.

(2) The permit issued shall be personal to the permittee only and shall not be transferable.

(3) The permit may be suspended by the Administrator when necessary to clear the public property for public safety or for a "community or special event," as referred to above.

(4) The Administrator may require the temporary removal of items within the encroachment area when street, sidewalk, common areas or utility repairs necessitate the action.

(5) The permit shall be specifically limited to the area shown on the diagram attached to and made part of the permit.

Frankfort - Business Regulations

(6) Any signage must comply with Article 13 of the city's zoning ordinance.

(7) No outdoor seating authorized herein shall be used for calculating seating requirements pertaining to location of, applications for, or issuance of an alcoholic beverage control license for any establishment, or be used as the basis for computing required off-street parking.

(8) The issuance of a permit does not grant any property right or infer vested rights to use of the area by the permittee. The city retains the right to deny the issuance of a permit or the renewal of a permit for any reason.

(9) (a) The city retains the right to suspend the privilege of using glass containers within the encroachment area during festivals and events and when streets are closed. The privilege of using of glass containers will be revoked if an incident jeopardizes the health, safety and welfare of customers or of the general public.

(b) Repeated offenses may result in revocation of the encroachment permit.

(10) The serving and consumption of alcoholic beverages will be as limited by the State Department of Alcoholic Beverage Control.

(Ord. 10, 1999, passed 5-10-99; Am. Ord. 29, 2000, passed 10-9-00; Am. Ord. 12, 2018, passed 5-21-18)

§ 119.06 DENIAL, REVOCATION OR SUSPENSION.

(A) The Administrator or his or her designee may deny, revoke or suspend an outdoor café permit at any time if it is found that:

(1) Any necessary business or health license or permit has been suspended, revoked or canceled;

(2) The permittee does not maintain insurance in force, as required by § 119.03(A)(4);

(3) Changing conditions of pedestrian or vehicular traffic cause congestion necessitating removal of the encroachment (the decision shall be based upon findings by the Administrator that the pedestrian or emergency vehicle path is insufficient under existing circumstances and represents a danger to the health, safety or general welfare of pedestrians or vehicular traffic);

(4) The permittee has failed to correct violations of this chapter or conditions of his or her permit upon receipt of the Administrator's notice of same delivered in writing to the permittee or his or her designee;

(5) The permittee has failed to take remedial actions to prohibit violations from reoccurring;

(6) The permittee has failed to make modifications upon receipt of the Administrator's notice of requirement of such; and

(7) All encroachments may be removed by the Department of Public Works, and a reasonable fee charged for labor, transportation and storage should the permittee fail to remove the items within 36 hours after receipt of the Administrator's notice to do so. If the Administrator's action is predicated on violation of divisions (A)(2) and (A)(3), the period for voluntary removal by the permittee shall be four hours.

(B) Upon denial or revocation, the Administrator shall give notice of the action to the applicant or the permittee in writing stating the action which has been taken and the reason therefor. The action shall be effective upon giving the notice to the applicant or permittee.

(C) The applicant or permittee shall have the right to appeal the decision of the Administrator to the City Manager within five working days from receipt of notice. An appeal does not stay the denial or revocation of the outdoor café permit. A hearing shall be held by the City Manager or his or her designee within a reasonable time. The City Manager shall thereafter notify the permittee or applicant of his or her determination in writing.

(Ord. 10, 1999, passed 5-10-99; Am. Ord. 29, 2000, passed 10-9-00; Am. Ord. 12, 2018, passed 5-21-18)

§ 119.99 PENALTY.

Any person violating any provision of this chapter or any condition or provision of a permit issued thereunder shall be fined not less than \$20 nor more than \$500 for each offense. Each day of continuance of any violation shall be a separate offense.

(Ord. 10, 1999, passed 5-10-99; Am. Ord. 29, 2000, passed 10-9-00; Am. Ord. 12, 2018, passed 5-21-18)

