

CHAPTER 114: MISCELLANEOUS BUSINESS REGULATIONS

Section

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§ 114.01 SUNDAY BUSINESS HOURS.

(A) Persons, companies or organizations may work or operate on Sundays subject to the following restrictions;

- (1) No employer shall require as a condition of employment that any employee work on Sunday or on any other day of the week which any such employee may conscientiously wish to observe as a religious Sabbath.
- (2) No employer shall in any way discriminate in the hiring or retaining of employees between those who designate a Sabbath as their day of rest and those who do not make such designation, provided, however, that the payment of premium or overtime wage rates for Sunday employment shall not be deemed discriminatory.
- (3) Every employer engaged in retail sales on Sunday shall allow each person employed by him/her in connection with such business or service at least twenty-four (24) consecutive hours of rest in each calendar week in addition to the regular periods of rest normally allowed or legally required in each working day.
- (4) Restrictions on alcoholic beverage sales during Sunday hours within the jurisdictional boundaries of the City is addressed in City Ordinance, *§111.40, Hours, Sale of Alcoholic Beverages*.

(B) This section shall not be construed to permit activities specifically prohibited by law from being conducted on Sunday.

§ 114.02 TAX ON COIN MACHINES.

(A) All owners of coin machines, as defined below, within city limits, are subject to the coin machine City tax.

(1) COIN MACHINE. Any coin or token operated machine or device which, as a result of depositing a coin, token, or other object, plays music or amusement of some character, with or without vending any merchandise, but in addition to any merchandise. Example of coin machines are gaming machines and juke box machines. Coin machines shall not include any bona fide merchandise vending machine in which there are no amusement features, such as drink or snack vending machines.

(2) The license tax imposed on coin machines shall be ten dollars (\$10) per machine per calendar year, from January 1st to December 31st. By January 15th of each year, the owner of the coin machine(s) shall submit to the City of Hazard Tax Administrator a list of all coin machines the owner has in operation within the city limits, including where the machines are located and pay the \$10 tax due for each coin machine. If the owner places a coin machine(s) within the City during the calendar year that has not been included on the list, within 10 days of placing the coin machine into service, the owner is responsible for updating his/her coin machine list to include the newly placed machine(s) and pay the \$10 tax for each machine. There is no proration and no refund of the tax imposed if the coin machine is placed for and/or removed from service within the calendar year.

§ 114.03 *deleted*

§ 114.04 SPECIAL EVENTS

(A) Definitions.

ARTIST. A person the makes handmade items, not items from commercial kits, no factory, commercial or mass produced works.

The prints and books derived by the handmade works of the artist are not considered commercial or massed produced works.

CHARITABLE ORGANIZATION. A non-profit organization that is organized and operated for a public purpose. Profits are not paid to shareholders or owners but contributions are received from difference sources, including fundraising projects, to further benefit the specific purpose of the organization. Religious organizations, churches, public service organizations, educational groups, juvenile civic organization and organizations that serve underprivileged, underserved or distressed populations are an example of charitable organizations.

FARMERS MARKET. An open, public market that sells directly to consumers agricultural products and value-added food products by the primary grower or producer of the product offered for sale or their agent.

SPECIAL EVENTS. Any festival, ceremony, sale, show, demonstration, exhibition, pageant, transient amusement enterprise, outdoor temporary gathering or similar event, in or on or having substantial impact on any public street, public park, or other public place in the City. Excludes transient merchants, flea markets, solicitors and peddlers.

VENDOR. Person who transfers property by sale.

YARD SALES. A used item sales event that is conducted in an open air setting that may be held on public or personal property. Yard sales are only exempted from this ordinance if the sale is held on personal property.

(B) Permit Required; Categories, Fees and Exemptions.

(1) Special Event Permit Required.

No person or company shall engage in, participate in, aid, form, or start any special event unless a special event permit has been obtained from the City Manager. However, this section may not apply to certain governmental agencies acting within the scope of its functions. If a question arises as to applicability, the City Manager will make the determination if this ordinance applies.

A special event permit allows a person or organization to host

the special event. Additional permits, licenses, taxes and costs may be applicable to the event. It is the responsibility of the host of the special event to determine which additional permits, licenses, taxes and costs may apply.

(2) Alcoholic Beverage Sale and/or Consumption Permit.

(a) No special event shall allow the event sponsor or any vendor to sell closed alcoholic containers ("alcohol for sale") or sell alcohol for on-site consumption ("alcohol for consumption") without first complying with *City Ordinance Chapter 111, Alcoholic Beverages* including having a state and city license for the sale or consumption of alcoholic beverage during the special event. The city license for alcoholic beverages is to be applied for and acquired from the ABC representative for the City of Hazard.

(b) In order to sell alcoholic beverages during the special event, the rules and regulations of the physical premises where the event takes place determines if alcoholic beverage sales and consumption are allowed on the premise regardless if the event sponsor or event vendor has the appropriate alcoholic beverage licenses to do so.

(c) The special event application requires the special event applicant/sponsor to apply for an additional permit for alcoholic beverage sale and/or consumption if the sponsor or vendors will be offering alcohol for sale or consumption during the special event. This permit is separate from the state license and city licenses per Chapter 111, Alcoholic Beverages. This special permit must be approved by the City Manager as a separate consideration for the special event permit.

(d) If the special event permit allows for the sale or consumption of alcoholic beverages, the applicant/sponsor shall pay the applicable special permit fee, per section C of this subchapter, unless determined to be exempt, and an additional fee of \$100 per day of the special event for the alcohol sale in closed containers and an additional fee of \$250 per day of the special event for alcohol for consumption regardless if the applicant/sponsor is otherwise exempt from the special event permit fee.

(e) The alcohol permit fee shall be paid unto the City Tax Administrator at least seven (7) business days prior to the commencement of the special event and is non-refundable.

(f) The alcohol sale and consumption permit fee will be used for the cost of providing services and any other costs the City determines is necessary for the health and safety of the community including administrative costs associated with the alcohol consumption at the special event.

(g) Upon receiving approval for a special event permit, the sponsor/applicant may receive approval from the City Manager to sell alcoholic beverages in closed containers only thereby excluding any alcohol for consumption on the special event premises. If the special event sponsor is granted a permit for the sale of alcohol but not consumption, the sponsor, at their sole expense, shall post signage at numerous locations, including, but not limited to, all entries and exits, every booth or location selling alcohol, restroom areas, and at the main contact booth for the event. In addition to stating on the sign that the alcoholic beverage containers cannot be opened and consumed on the premises, the signs shall also state that public consumption of alcohol will result in immediate ejection from the event and will be immediately reported to law enforcement.

(h) The applicant/sponsor, at their cost, must comply with all rules and regulations with regard to the sale and consumption of alcoholic beverage at a special event, including, but not limited to, the cost of posting all signage associated with alcohol consumption health warnings, signage regarding the requirements for the purchase of alcohol and that open alcoholic beverage containers must only be consumed in the special event designated area. Additional signage shall be posted stating that any person may be denied service or ejected from the special event based on their consumption of alcohol. All violations of the law associated with alcoholic beverages are to be considered in addition to the penalties for violation of this ordinance.

(i) The special event sponsor and vendors, including their

agents, employee(s), volunteers, or any other person(s) in their association, who have been granted an alcohol permit shall abide by all Kentucky law, regulation, City and County ordinance or order and any directions or instructions from law enforcement during the special event.

(3) Special Event Categories; Fees and Exemptions.

Special events are classified in categories as follows;

- (a) Category A; 1-25 persons in attendance at special event
Fee: \$25 per day.
- (b) Category B; 26-75 persons in attendance at special event
Fee: \$50 per day.
- (c) Category C; 76-125 persons in attendance at special event
Fee: \$75 per day.
- (d) Category D; 126-225 persons in attendance at special event
Fee: \$100 per day.
- (e) Category E; 226-400 persons in attendance at special event
Fee: \$125 per day.
- (f) Category F; 401-600 persons in attendance at special event
Fee: \$150 per day.
- (g) Category G; 601+ persons in attendance at special event
Fee: \$250 per day.
- (h) Category H; Transient amusement enterprises at special event
Fee: \$200 per day.

(4) Exemptions from Special Event Permit Fee;

No person, business entity, organization or other applicant/sponsor of a special event will be granted a permit without payment of the permit fee except the person, business entities, organization or other applicant/sponsor that meet the exemptions listed in this section herein. Exemption from the permit fee for a special event does not exempt sponsors/applicants, vendors, booth renters, or any other person, business entity, organization or other participant in the special event from paying applicable fees under additional City ordinances. The permit fee exemption list includes;

- (a) Any special event sponsored by a non-profit

business or organization as defined by the Internal Revenue Service Code, with proof of the non-profit status submitted to the City at time of the application;

- (b) Any special event sponsored by a charitable organization;
- (c) Sheriffs, constables, or other public or court officers, or any other person or persons acting under the direction or authority of any court, state or federal, selling goods, wares or merchandise in the course of their official duties;
- (d) Any special event operated as a local farmer's market or local artist market. Local is defined as being sponsored by an individual or organization located within Perry, Knott, Leslie, Letcher, Breathitt counties;
- (e) A yard sale on private property.

(5) Permit Application;

- (a) Application for a special event permit shall be filed with the City Manager on forms provided by him/her at City Hall. The application for the special event must be accompanied by payment of the applicable permit fee by check, cash or money order. Every sponsor of a special event must submit an application even if the sponsor is exempt from the permit fee. No application will be accepted unless all of the information requested herein is submitted at the same time as the application. Applications will be accepted no less than thirty (30) days prior to the beginning of the event. It is recommended that the event sponsor/applicant contact the City Clerk prior to submission of the application to determine if the public area which the special event is to be held is available on the specific day and time.
- (b) The application for a special event permit shall set forth the following information:
 - i. The name, address, and telephone number of the

person seeking to conduct the special event,

- ii. If the special event is proposed to be conducted for, on behalf of, or by an organization, the name, address, telephone number and e-mail address of the headquarters of the organization, and of the authorized heads of the organization,
- iii. If the special event sponsor is claiming exemption from the permit fee, the sponsor must submit written proof of the exemption status with the application;
- iv. The name, address, telephone number and e-mail address of the person who will be the special event chairperson and who will be responsible for its conduct;
- v. The date and hours when the special event is to be conducted;
- vi. A description of the area to be utilized, including requested street changes and parking restrictions;
- vii. A description of the event to be conducted including any sales, vendors, exhibits, concerts, performances and any other activities happening during the event;
- viii. The expected total attendance for the event, and the estimated maximum number of people to be assembled at any one time;
- ix. Verification of the applicant or sponsoring organization that proof of adequate liability insurance coverage shall be provided;
- x. Plan of action regarding waste disposal, toilet facilities, crowd control including number of city police and other law enforcement needed, ambulance services and any other service required in order to operate the special event in compliance with all applicable laws and regulations.
- xi. If the special event requires additional permits or licenses, per City ordinance or any other law or regulation, then the additional permit or license

must be submitted as an attachment to the application or in the alternative, the application for the required permit or license, including the applicable fee, must accompany the special event application;

- xii. Any additional information and criteria which the City Manager or his/her designee shall find reasonably necessary to a fair determination as to whether a permit should be issued.

(6) Standards for Permit Issuance.

The City Manager shall issue a permit as provided for hereunder when, from a consideration of the application and from any other information that may otherwise be obtained, he/she finds that:

- (a) The conduct of the special event will not present an unreasonable hazard to the safety of the public;
- (b) The conduct of the special event will not require the diversion of so great a number of police officers of the city to properly police the event and areas contiguous thereto as to prevent normal police protection to the city; if the special event requires a greater number of police/law enforcement than usually provided for the area and time period, the special event applicant/sponsor agrees to enter into a written agreement with the City to pay the additional cost of providing an adequate number of law enforcement upon the terms of the agreement.
- (c) The conduct of the special event will not require the diversion of so great a number of ambulances as to prevent normal ambulance service to portions of the city other than that to be occupied by the special event and areas contiguous thereto, if so, the special event sponsor will present a plan of action to provide the additional ambulance services;
- (d) The concentration of persons, animals, vehicles, and equipment will not duly interfere with proper fire and police protection, and ambulance service;
- (e) The conduct of the special event is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct, or create a disturbance;

- (f) The permit fee tendered is of good and value consideration thereby paying the applicable fee in full;
- (g) The applicant or sponsor of the event shall provide general liability insurance coverage, a minimum of \$500,000.00, applicable to all persons in attendance at the special event, including the special event applicant/sponsor agents, employees, invitees, or any person or business participating in the special event, including the City, law enforcement and other agent or employee of the City, against hazards for claims involving personal injury, bodily injury, property damage, damages, medical expenses, business expenses, other expenses and any loss or damages arising in tort or breach of contract or insurance contract or otherwise as a result of the special event including the indemnification of the City by the applicant/event/sponsor;
- (h) The applicant/sponsor of the event shall name the City and city officials as an insured under the policy of insurance;
- (i) The applicant/sponsor of the event shall provide the City with a certified copy that the required insurance coverage is in effect for the event;
- (j) The applicant/sponsor of the event shall indemnify and hold the City harmless from all claims for liability against the City, City employees and elected officials arising from the issuance of the special events permit and any occurrence at the event. All special events will require a written hold harmless and indemnification agreement holding harmless and indemnifying the City, City employees and elected officials;
- (k) The applicant/sponsoring organization have read and agreed to the City's ordinances and requirements, including but not limited to guaranteeing the vendors, booth, salespersons and any other persons associated with the vendors, are informed of and comply with the same;

- (l) There will be sufficient help available to provide necessary services, including but not limited to, toilet facilities, first aid location, lost child station, utility services and other needed services specific to the type of special event held, and that the cost of these services will be the sole responsibility of the special event applicant/sponsor unless a written agreement between the City and the applicant/sponsor is entered into stating to the contrary. Any City utility services used by the special event will be invoiced and payment by the applicant/sponsor is required within thirty (30) days after the end of the special event. If the invoice is not paid within thirty days, a penalty of \$25 will be added and interest at a rate of 12% per annum will be added to the original invoice. Failure to pay will result in the revocation of the special event permit for the applicant/sponsor and disqualify the applicant/sponsor from receiving a permit in the future until the utility services invoice is paid in full, including any interest, penalties and reasonable attorney fees, if applicable. The remedies in this subsection do not bar or limit additional remedies available to the City for non-payment;
- (m) There will be sufficient help available to provide necessary services in order to clean up and any other service needed to return the public property to the same condition when the applicant/sponsor took possession of the public property at no cost to the City;
- (n) The applicant/sponsor shall be responsible to provide the City application and/or other paperwork to the participants, including vendors;
- (o) The participants/ vendors shall return the application and paperwork to the special event applicant/sponsor no less than fifteen (15) business days, excluding holidays and weekends, from the start date of the special event. All participants/vendors must submit a completed application even if they are claiming exemption from the vendor's license fee;

- (p) The participant/vendor must include the vendor's license fee with their application unless the participant/vendor is claiming an exemption;
- (q) If a participant/vendor is claiming an exemption from the vendor's license fee, they must submit proof of their exemption with their application;
- (r) The applicant/sponsor will deliver one (1) package containing all of the completed participant/vendor applications and vendor's license fees, to the City Tax Administrator no less than fourteen (14) business days, excluding holidays and weekends, from the start day of the special event;
- (s) Incomplete participant/vendor applications will not be considered. If a participant/vendor application is incomplete, the party may submit additional information prior to 14 business days before the event but the Tax Administrator is under no duty to inform the participant/vendor that their application is incomplete;
- (t) The Tax Administrator will notify the applicant/sponsor no less than seven (7) days prior to the start date of the special event of the list of participants/vendors that are qualify for vendor's licenses for the special event;
- (u) The applicant/sponsors agree to apply for and comply with any and all federal, state, county and city laws and regulations. If the participant(s), including vendors, fail to comply with all applicable permits, licenses, taxes, laws and regulations, the applicant/sponsor shall exclude the participant/vendor from the event and report the non-compliance to the City.

(7) Denial of Permit.

Without regard to any other provision of this subchapter, the City Manager, only from his/her consideration of available, appropriate, and necessary information, shall deny the application for a permit provided for by this subchapter when,

from this information, the application or other required paperwork submitted is incomplete, he/she has reason to believe that any contemplated advocacy at the proposed event will be directed to inciting or producing imminent lawless action and will likely incite or produce such action or be a health or safety risk to the City.

(8) Notice of Rejection.

The City Manager shall act upon the application for a special event permit in a timely manner after the filing thereof. If the City Manager disapproves the application, he or she shall notify the applicant in a timely manner stating the reason for his or her denial of the permit.

(9) Appeal Procedure.

Any applicant aggrieved shall have the right to appeal the denial of a special event permit to the City Commission. The notice of appeal shall be filed with the City Clerk within five (5) business days of receiving the notice of denial. The appeal will not be considered if the appeal is not filed in a timely manner. The City Commission will hear the appeal at the next regularly scheduled meeting or at a special called meeting if the next regularly scheduled City Commission meeting will not allow the aggrieved applicant to have the special event if the City Manager's denial is over-turned.

(C) Contents, display and revocation of Permit.

(1) Each special event permit shall state the following information:

- (a) Name of sponsoring organization, including the full name and telephone number of the contact person on premises for the sponsor;
- (b) Dates, times and location of the event;
- (c) If applicable, the type of alcohol beverage permit;
- (d) Any other information that the City Manager finds necessary for the enforcement of this subchapter.

(2) The special event permit must be displayed at the main contact booth for the event and must be available for inspection at all times. If applicable, the alcohol beverage permit must be displayed at the main contact booth for the event and must be available for inspection at all times.

(3) Revocation of Permit.

The City Manager, or his/her designee, shall have the authority to immediately revoke a special event permit used under this subchapter, upon application of the standards for issuance as set forth in herein. The revocation of the special event permit will cause an immediate cease and desist regarding any activity of the applicant/sponsor upon City property. The revocation of the permit will not result in a refund of any monies paid to the City, including monies paid for vendor's licenses, and does not relieve the applicant/sponsor of responsibility for payment of any monies owed to the City.

(D) Special Event Vendor License

(1) License Required.

No person, organization or other entity, otherwise known as vendor, shall sell goods or services at a permitted special event unless they have a valid City Occupational License or a special event vendor license ("vendor license") as defined herein. The vendor license shall be valid for a year, with a vendor license year beginning May 1 and ending April 30. Every special event attended by the vendor within the license time period requires the vendor to pay a license fee per section 5, Vendors License Fee, herein. At the expiration of the vendor license time period, a new application must be submitted for approval.

(2) Application Required.

The vendor license application shall be available from the sponsor of the special event and the vendor shall return the completed application and required fee to the sponsor no less than fifteen (15) business days, excluding weekends and holidays, from the start date of the event. Upon approval of the application, the City will issue a vendor license. If the application is denied, the fee will be returned to the sponsor to return to the vendor. If the license is granted, the fee is non-refundable, regardless if the vendor participates in the special event or not. The permit or occupational license issued by the City must be displayed on the front of

the vendor stall or other location at all times.

(3) Notice of Rejection and Appeal.

If the City Manager disapproves the application, he or she shall notify the applicant in a timely manner stating the reason for his or her denial of the vendor license. Any applicant aggrieved shall have the right to appeal the denial of a vendor license to the City Commission. The notice of appeal and written statement explaining the reason for the appeal, including any supporting documentation, shall be filed with the City Clerk within five (5) business days of receiving the notice of denial. The appeal will not be considered if the appeal is not filed in a timely manner. The City Commission will issue an opinion within 7 business days from receipt of the appeal letter. If the Commission overturns the City Manager's denial, the vendor license will be issued.

(4) Revocation of Permit.

The City Manager, or his/her designee, shall have the authority to immediately revoke a vendor license upon application of the standards for issuance as set forth in herein. The revocation of the license will cause an immediate cease and desist regarding any activity of the vendor upon City property. The revocation of the license will not result in a refund of any monies paid to the City and does not relieve the vendor of responsibility for payment of any monies owed to the City.

(5) Vendor License Fee;

- (a) Single stand, stall or other designated location, 10 feet by 10 feet or less in size, for a one (1) day special event; \$15.00,
- (b) Single stand, stall or other designated location, 10 feet by 10 feet or less in size, for a two (2) day special event; \$30.00,
- (c) Single stand, stall or other designated location, 10 feet by 10 feet or less in size, for a three (3) day special event; \$45.00,

- (d) Any additional day(s) for a single stand, stall or other designated location, 10 feet by 10 feet or less in size; \$10.00 per day,
 - (e) Multiple stands, stalls or other designated locations greater than 10 feet by 10 feet, vendors will pay the multiple of the single location fee to operate the location;
 - (f) Amusement Ride Vendor, Each amusement ride will require a fee of \$10.00 per day. All other amusements provided aside from amusement rides will be charged the regular vendor license fee stated above.
- (6) Exceptions to Vendor License Fee.

Upon submitting valid proof with their vendor license application, the following festival vendors shall be excluded from paying the festival vendor's license fee or pay a reduced fee;

- (a) Local vendors residing in Perry, Knott, Leslie, Letcher or Breathitt County, Kentucky;
- (b) A non-profit business or organization as defined by the Internal Revenue Service Code, with proof of the non-profit status submitted to the City at time of the application;
- (c) Individuals or businesses that have a current and valid Occupational License with the City;
- (d) A charitable organization;
- (e) Sheriffs, constables, or other public or court officers, or any other person or persons acting under the direction or authority of any court, state or federal, selling goods, wares or merchandise in the course of their official duties;
- (f) Regional individuals or organizations residing in the Eastern Kentucky Coal Fields and Mountain Regions, also known as Coal Area Counties or ARC

counties, will pay a reduced festival vendors license fee of \$10.00 per day of the special event;

- (g) Persons or businesses that are for-profit but donate twenty-five percent (25%) or one hundred dollars (\$100.00), whichever is greater, of their net profit, from the special event to a local non-profit business or charitable organization with offices in the local area counties as stated in subsection (a) herein, are exempt from the vendor license fee. The donations may benefit numerous local non-profit businesses or charitable organization as long as the total contribution equal at least 25% or one hundred dollars (\$100.00), whichever is greater, of the net profit from the special event. The vendor shall submit to the City Manager the financial documentation showing the net profit from the special event within 7 business days after the event ended. The City Manager shall have the right to review the financial documentation from the vendor and request additional financial documentation to determine if the contribution was calculated and paid correctly. The non-profit business or charitable organization must submit, in writing, that they received the donation from the vendor within 14 days after the event ended. If the vendor fails to comply with the provisions herein, the City shall charge the vendor the applicable vendor license fee, administration costs, reasonable legal fees and a 10% penalty on the applicable vendor license fee plus 12% interest per annum until paid in full by the offending vendor. Until the balance, with interest, is paid, the vendor is banned from any special event and will not qualify permits or licenses.

(E) Public Conduct during Special Events.

(1) No person shall unreasonably hamper, obstruct, impede, or interfere with any special event or with any person participating in, or property used in a special event.

(2) The Chief of Police, or his/her designee, shall have the authority, when reasonably necessary, to close off roads

to restrict usage and parking thereon. The Chief of Police, or his/her designee, shall post signs to that effect.

(3) Penalties for violation of Chapter 114.04 are stated herein and in Chapter 114.99.

§ 114.05 Auctions

(A) License requirements and exceptions;

(1) State License.

It is unlawful for any person to advertise or act as an auctioneer, apprentice auctioneer or auction house, in order to sell real and personal property or any item of value including limited livestock, within the Commonwealth without a license issued by the Kentucky Board of Auctioneers. A real estate auction must be held by a licensed auctioneer who also is a licensed real estate broker or the real estate auctioneer shall conduct the real estate auction in collaboration with a real estate broker with both parties being separately paid for their services.

(2) City License.

It is unlawful for any person to advertise or act as an auctioneer, apprentice auctioneer or auction house, in order to sell real and personal property or any item of value including limited livestock, within the Commonwealth without a license issued by the City of Hazard.

(3) Exceptions to the License requirements.

(a) Judicial or other sale by law or valid court order;

(b) Real property sale by the individual owner(s) of the real property;

(c) Livestock auctions performed by and on behalf of 4-H, FFA, or any university within Kentucky;

(d) Charitable organization, church, political party, association or corporation auction if; the person conducting the auction is not compensated for their

services and does not advertise or otherwise represent themselves as an auctioneer, all items for sale at the auction are donated and not on consignment, and 100% of the proceeds of the auction is contributed to the charitable organization, church, political party, association or corporation sponsoring the auction.

(B) General Merchandise Auction Sales.

- (1) Tags on sale items; contents; statement of warranty.
 - (a) Any person conducting an auction shall attach to each article of merchandise exposed or offered for sale at the auction, a tag on which shall be written or printed in English, a true statement of the character and quality of the goods or article offered or exposed for sale. The tag shall be a warranty to the purchaser of the kind, character and quality of the merchandise being sold. The tag attached to the merchandise shall be signed by the auctioneer conducting the sale and shall be firmly attached to the merchandise and delivered to the purchaser when the purchaser takes possession of the merchandise. The auctioneer shall read aloud to the audience the information or statement contained on the tag immediately before offering the merchandise for sale.
 - (b) If any secondhand goods or articles are offered for sale at such an auction, that fact shall appear in the statement on the tag.
 - (c) The statement on the tag shall begin with the words: "The undersigned represents that the (describe or name the article) to which this statement is attached is (then shall follow in detail representations as to the quality, kind, and character of the merchandise, together with all facts relative thereto, in detail as above provided)."
- (2) Bidding Regulations.
 - (a) Any person conducting an auction sale, or who may hereafter be licensed to conduct such a sale by auction, shall not employ or use at the sale any "by-bidder", "capper" or "booster". No auctioneer shall, at such a sale, accept or pretend to accept any

false, misleading, or fictitious bid for any article offered for sale, but every sale must be bona fide.

- (b) The auctioneer at the sale shall recognize no bidder for any article exposed for sale, unless the bidder shall speak in tone audible to those present, the amount of his or her bid, or shall extend his or her arm above the heads of the crowd so as to be plainly seen and identified as the bidder by those present.
 - (c) The article sold shall be immediately and publicly delivered to the bidder and the amount of the bid then and there publicly paid for the article by the purchaser.
 - (d) When an article is offered for sale and a bid is received therefor as provided for herein, the article shall be sold for the bid offered, unless the auctioneer, at the time he offers the article for sale, shall publicly announce that he or she reserves the right to reject the bid received. Only when such a reservation is made shall the auctioneer have the right to reject the bid offered.
- (4) City License and Bond required.

Before conducting an auction or public sale, the individual or business must produce a valid Kentucky auction license, make application for a City auction license, including the fee of \$50.00, including applying for an occupational license, including the required fee, if applicable. In addition, the individual or business must execute a bond to the City in the sum of \$500.00 conditioned on their fully complying with the provisions of this chapter and that the articles sold at the sale are the kind, quality, and character which are represented to be on the tag attached to the article sold. The bond shall be for the benefit of the purchasers of any articles sold at the auction which may prove not to be of the kind and quality represented. At the sole discretion of the City Manager, the bond, or any portion remaining, will be returned to the individual or business, within 30 days after

payment of the last claim by aggrieved purchasers or 30 days after the end of the auction, whichever is sooner.

§ 114.06 Solicitors and Peddlers.

(A) Definitions.

CANVASSER. Any person who attempts to make personal contact with a resident at his or her residence without prior specific invitation or appointment from the resident, for the primary purpose of (1) attempting to enlist support for or against a particular religion, philosophy, ideology, political party, issue, or candidate, even if incidental to such purpose the canvasser accepts the donation of money for or against such cause, or (2) distributing a handbill or flyer advertising a non-commercial event or service.

CHARITABLE. This term means and includes the words patriotic, philanthropic, social service, health, welfare, benevolent, educational, civic, cultural, or fraternal, either actual or purported.

CONTRIBUTIONS. This term means and includes the words alms, money, subscription, property, or any donations under the guise of a loan or money or property.

PEDDLER. Any person who goes upon the premises of any private residence, business or other premises in the city, not having been invited by the occupant thereof, carrying or transporting goods, wares, merchandise, or personal property of any nature and offering the same for sale. PEDDLER also includes any person who solicits orders and as a separate transaction makes deliveries to purchasers as part of the scheme to evade the provisions of this subchapter. PEDDLER does NOT include a person who distributes handbills or flyers for a commercial purpose, advertising an event, activity, good, or service that is offered to a resident for purchase at a location away from his or her residence or at a time different from the time of visit.

PEDDLING. All activities ordinarily performed by a peddler as indicated in the above referenced definition of "peddler".

PERSON. A natural person or any firm, corporation, partnership, limited liability company, association, club, society, or other

organization.

SOLICITOR. Any person who goes upon the premises of any private residence, business or other premise in the city, not having been invited by the occupant thereof, for the purpose of taking or attempting to take orders for the sale of goods, merchandise, wares, or other personal property of any nature for future delivery, or for services to be performed in the future. SOLICITOR also includes any person who, without invitation, goes upon private property, to request contribution of funds or anything of value, or sell goods or services for political, charitable, religious, or other non-commercial purposes.

SOLICITATION. All activities ordinarily performed by a solicitor as indicated in the above referenced definition of "solicitor."

(B) Permit Requirements and Exemptions.

- (1) It shall be unlawful for any person 18 years of age or older to engage in peddling or solicitation activities within the City without first obtaining a permit issued by the City Manager, provided, however, that the following are exempted from the provisions of this section:
 - (a) Any solicitation made upon premises owned or occupied by an organization upon whose behalf the solicitation is made;
 - (b) Any communication by an organization soliciting contributions solely from persons who are members of the organization at the time of such solicitation;
 - (c) Any solicitation in the form of a collection at a regular meeting, assembly, or service of a charitable purpose; or
 - (d) Any solicitation for the relief of any individual specified by name at the time of the solicitation where the solicitor represents in each case that the entire amount collected shall be turned over to the named beneficiary.
 - (e) A "canvasser" as defined above.

- (f) No person under the age of 18 shall be permitted to engage in peddling except representing a non-profit or charitable organization and in the presence of an adult 18 years and older at all times. The supervising adult sponsor shall comply with the laws of the Commonwealth of Kentucky governing youth workers.

(C) Permit Application.

- (1) Every person subject to the provisions of this subchapter shall file with the City Manager an application in writing on a form to be furnished by the City Manager, which shall provide the following information:
 - (a) Proof of age, address, and identification of the applicant, to be provided through the applicant's driver's license, articles of incorporation (for sponsors), or other legally recognized form of identification;
 - (b) A brief description of the business or activity to be conducted;
 - (c) The hours and location for which the right to peddle or solicit is desired;
 - (d) If employed, the name, address, and telephone number of the employer; or if acting as an agent, the name, address, and telephone number of the principal who is being represented, with credentials in written form establishing a relationship and the authority of the employee or agent to act for the employer or principal, as the case may be;
 - (e) A statement as to whether or not the applicant has been convicted of a felony, misdemeanor, or ordinance violation (other than traffic violations), the nature of the offense or violation, the penalty or punishment imposed, the date when and place where such offense occurred, and other pertinent details thereof;

- (f) Proof of possession of any license or permit which, under federal, state, or local laws or regulations, the applicant is required to have in order to conduct the proposed business, or which, under any such law or regulation, would exempt the applicant from the licensing requirements of this subchapter; and
- (g) Two photographs of the applicant that shall have been taken within 60 days immediately prior to the date of filing of the application. The photographs shall measure three inches by two inches and show the head and shoulders of the applicant in a clear and distinguishing manner.

(D) Fees.

- (1) At the time the application is filed with the City Manager's Office, the applicant shall pay a fee to cover the cost to the city of processing the application and investigating the facts stated therein. The permit fee shall be \$50 for each solicitor or peddler to be paid at the time of the application, the fee is non-refundable. The permit may be revoked at the discretion of the City Manager.

(E) Bond.

- (1) All solicitors requiring deposits or who require a contract of agreement to finance the sale of any goods, services, or merchandise for future delivery or for services to be performed in the future, shall furnish to the City Manager's Office a bond in the amount of \$500 unless the goods or services exceed \$500, then the bond will be increased to the amount of the goods and services plus 10% of the cost. The bond will be returned within 30 days after the goods are delivered to the purchaser.

(F) Application Review and Permit Issuance.

- (1) Upon receipt of an application, the City Manager, or authorized representative, shall review the

application as deemed necessary to ensure the protection of the public health, safety, and general welfare.

- (2) If the City Manager finds the application to be satisfactory, the City Manager shall endorse his or her approval on the application and shall, upon payment of the prescribed fee, and if applicable, the bond, deliver the required permit to the applicant.
- (3) The permit shall show the name, address, and photograph of the permit holder, the type of permit issued, the kinds of goods or services to be sold or delivered, the date of issuance, and the length of time that the permit shall be in effect. The permit shall also show the permit number and identifying description of any vehicle to be used in carrying on the business for which the permit is issued.

(G) Denial of Permit.

- (1) Upon the City Manager's review of the application, the City Manager may refuse to issue a permit to the applicant under this subchapter for any of the following reasons:
 - (a) The location and time of solicitation or peddling would endanger the safety and welfare of the solicitors, peddlers, or their customers;
 - (b) An investigation reveals that the applicant falsified information on the application;
 - (c) The applicant has been convicted of a felony, misdemeanor, or ordinance violation involving a sex offense, trafficking in controlled substances, or any violent acts against persons or property, such conviction being entered within five years preceding the date of application;
 - (d) The applicant is a person against whom a judgment has been entered for or who has been convicted of fraud, deceit, or misrepresentation within the five years

immediately preceding the date of application;

- (e) There is no proof as to the authority of the applicant to serve as an agent to the principal; or
 - (f) The applicant has been denied a permit under this subchapter within the immediate past year, unless the applicant can and does show to the satisfaction of the City Manager that the reasons for such earlier denial no longer exist.
- (2) The City Manager's disapproval and the reasons for disapproval shall be noted on the application, and the applicant shall be notified that his or her application is disapproved and that no permit will be issued. Notice shall be mailed to the applicant at the address shown on the application form, or at the applicant's last known address.

(H) Permit Expiration.

- (1) All permits issued under the provisions of this subchapter shall expire one year from the date of issuance, unless an earlier expiration date is noted on the permit.

(I) Permit Exhibition.

- (1) Every person required to obtain a permit under the provisions of this subchapter shall exhibit the permit when requested to do so by any prospective customer or upon the request of city official.

(J) Transfer Prohibited.

- (1) It shall be unlawful for any person other than the permit holder to use or wear any permit or badge issued under the provisions of this subchapter.

(K) Entry Upon Premises Unlawful.

- (1) It shall be unlawful for any person, whether licensed or unlicensed, while conducting the business of a canvasser, peddler, or solicitor, to enter upon any residential premises in the city where the owner, occupant, or person legally in charge of the premises

has posted, at the entry to the premises, or at the entry to the principal building on the premises, a sign bearing the words "No Peddlers," "No Solicitors," or words of similar import.

(L) Hours of Solicitation.

- (1) No person, while conducting the activities of a canvasser, peddler or solicitor shall enter upon any private property or business and knock on doors or otherwise disturb persons in their residences between the hours of 6:00 pm and 9:00 a.m. Monday through Saturday. No business shall be conducted on Sunday.

(M) Permit Revocation.

- (1) Any permit issued under this subchapter may be revoked or suspended by the City Manager after notice and hearing for any of the following reasons:
 - (a) Fraud, misrepresentation, or false statement contained in the application for a permit;
 - (b) Fraud, misrepresentation, or false statement made by permit holder in the course of conducting solicitation or peddling activities;
 - (c) Conducting peddling or solicitation activities contrary to the provisions contained in the permit;
 - (d) Conviction for any crime involving moral turpitude; or
 - (e) Conducting peddling or solicitation activities in such a manner as to create a public nuisance, constitute a breach of the peace, or endanger the health, safety, or general welfare of the public.

(N) Appeals.

- (1) Any person aggrieved by the action or decision to deny, suspend, or revoke a permit applied for under the provisions of this subchapter shall have the right to appeal such action or decision to the City Commissioners within 15 days after the notice of the action or decision

has been mailed to the person's address as shown on the permit application form, or to his or her last known address.

- (2) An appeal shall be taken by filing with the City Clerk a written statement setting forth the grounds for the appeal.
- (3) The Clerk shall transmit the written statement to the City Commissioners within 10 days of its receipt and the City Clerk shall set a time and place for a hearing on the appeal.
- (4) A hearing shall be set not later than 30 days from the date of receipt of the appellant's written statement.
- (5) Notice of the time and place of the hearing shall be given to the appellant in the same manner as provided for the mailing of notice of action or decision.
- (6) The decision of the City Commission on the appeal shall be final and binding on all parties concerned.

(O) Claims Of Exemption.

Any person claiming to be legally exempt from the regulations set forth in this subchapter, or from the payment of a permit fee, shall cite to the City Manager the statute or other legal authority under which exemption is claimed and shall present to the City Manager proof of qualification for such exemption. The City Manager will forward the correspondence to the City Attorney who will issue an opinion and the City Manager will contact the person claiming an exemption to state if the exemption is valid and applicable.

§ 114.07 Transient Merchants

(A) Definitions.

TEMPORARY OR TRANSIENT BUSINESS. Any business conducted for the sale or offer for sale of goods, wares or merchandise which is carried on in any building, structure, motor vehicle or real estate in one (1) locality for a period of less than ninety (90) days in each year.

TRANSIENT MERCHANT. All persons who engage in or conduct a temporary or transient business at a fixed location in the city for selling goods, wares, and merchandise, who uses any building, structure, vehicle, or any place within the City other than an established flea market, with the intention of continuing in that business in the City for a period of not more than 90 days within a 12-month period.

(B) Permit Required.

- (1) No person shall engage in business or trade as a transient merchant without having first obtained transient merchant permit from the City.
- (2) The transient merchant permit shall be valid for 90 days beginning the day of issuance of the permit and expiring 90 days thereafter.
- (3) The permit shall not be transferable and shall be valid only within the territorial limits of the City.
- (4) The permit issued shall be valid for only one (1) person, unless such person shall be a member of a partnership or employee of a firm or corporation obtaining such permit.
- (5) The permit shall at all times be conspicuously displayed at any place that the transient merchant is transacting business.

(C) Exclusions.

- (1) This chapter does not apply to the following;
 - (a) Sales at wholesale to retail merchants by commercial selling agents in the usual course of business;
 - (b) Trade shows or conventions;
 - (c) Temporary sales other than sales or displays by motor vehicle dealers) at another location by businesses with a permanent location within the City;

- (d) Temporary sales or displays by state licensed used motor vehicle dealers and recreational vehicle dealers who are also licensed to do business in the City;
 - (e) Temporary sales or displays by state licensed new motor vehicle dealers within the dealer's market area which is a radius of 10 miles around permanent location of the new car dealership;
- (D) Application for Permit and Permit Fee.
- (1) Transient merchants must submit an application for transient merchant permit and occupational license fee thirty (30) days prior to effective date and the City Clerk will inform the City Commissioners of all such requests at the Commissioners meetings. The application for a permit shall include but not be limited to the following information:
 - (a) The name and permanent address of the transient merchant making the application, and if the applicant is a firm or corporation, the name and address of the members of the firm or the officers of the corporation;
 - (b) If the applicant is a corporation, there shall be stated on the application form the date of incorporation, the state of incorporation, and if the applicant is a corporation formed in a state other than Kentucky, the date on which such corporation qualified to transact business as a foreign corporation in this state;
 - (c) A statement showing the kind of business proposed to be conducted, the length of time for which the applicant desires to transact such business and the location of the proposed place of business;
 - (d) An estimate of the aggregate market value of any goods, wares or merchandise to be offered for sale during the permit period;
 - (e) A statement that the applicant has acquired all other required city, county and state permits and licenses;

- (f) The applicant's sales and use tax permit number or temporary vendor's registration number, and the Social Security numbers, of all salesmen employed by the applicant, or representing the applicant, in the transaction of business in the Commonwealth of Kentucky;
- (g) The name and permanent address of the transient merchant's registered agent or office;
- (h) A statement that the applicant consents to venue of Perry County for any claim arising out of the applicants conduct of business in the City.
 - i. Evidence of security as stated in KRS 365.680 and as additional security, any applicant who will be selling goods, wares or merchandise during the permit period which have an aggregate market value of five hundred dollars (\$500) or more, shall secure and submit evidence of security, a cash bond or a surety bond in the amount of one thousand dollars (\$1,000) or five percent (5%) of the retail value of any goods, wares or merchandise to be offered for sale, whichever sum is greater. Such evidence of security shall be held by the City Clerk. The surety bond required by this section shall be in favor of the City of Hazard and shall assure the payment by the applicant of all taxes that may be due from the applicant to the City, the payment of any fines that may be assessed against the applicant or its agents or employees for violation of the provisions of City ordinances, and for the satisfaction of all judgments that may be rendered against the transient merchant or its agents or employees in any cause of action commenced by any purchaser of goods, wares or merchandise within one (1) year from the date of the sale by such transient merchant. The bond shall be maintained so long as the transient merchant conducts business in the City and for a period of one (1) year after the termination of such business and shall be released only when the

transient merchant furnishes satisfactory proof to the City Clerk it has satisfied all claims of purchasers of goods, wares or merchandise from such merchant, and that all state and local sales taxes and other taxes have been paid.

(i) The fee for obtaining the permit is \$50.00.

(E) Denial of Application and Appeal.

- (1) The absence of any of the information requested for the application for the permit shall result in the denial of the permit by the City Clerk.
- (2) If the City Clerk refuses to issue the permit, the applicant may apply to the Perry County District Court for a hearing. The City Clerk shall notify the City Attorney who shall appear in opposition to the issuance of the permit.

(F) Revocation of Permit.

The City Manager, or his/her designee, shall have the authority to immediately revoke a permit upon application of the standards for issuance as set forth in herein. The revocation of the permit will cause an immediate cease and desist regarding any activity of the transient merchant or business within City limits. The revocation of the permit will not result in a refund of any monies paid to the City and does not relieve the transient merchant or business of responsibility for payment of any monies owed to the City.

§ 114.08 Flea Markets

(A) Definitions.

FLEA MARKET. Any commercial or private property including both open air markets and enclosed structures which has been subdivided into a series of shops, stalls, booths, tables, lots or measured floor space for the specific purpose of providing rental space for vendors of wares, crafts or items made by hand, foodstuffs, second-hand articles or miscellaneous goods on a short-term basis.

FLEA MARKET VENDOR. Any person, whether as owner, agent, or consignee, who for a period not exceeding 120 total days per year, whether continuous or

interrupted, engages in a temporary business of selling goods within the city and who in furtherance of such business uses a flea market within the city.

(B) License Required.

- (1) Any person or business who is a flea market vendor shall obtain a flea market license before opening or working a booth at any flea market within the City.
- (2) Flea market owners must obtain a business license prior to opening or operating a flea market.
- (3) Flea market owners must obtain all applicable city, county, state and federal licenses and permits in order to operate a flea market within the City.
- (4) Flea market owners and flea market vendors must file and pay all applicable city, county, state and federal taxes, including the City occupational license tax.
- (5) No license issued under this chapter shall be transferable.

(C) License Application.

- (1) Flea market owners shall be responsible, within the City, to issue licenses and to impose and collect from each flea market vendor the license fee required by this chapter.
- (2) Flea market owners who are authorized to issue licenses are also responsible to collect from each flea market vendor occupational license fees.
- (3) Flea market owners pay to the City of all occupational license tax revenues collected from the flea market vendors.
- (4) Tax revenues shall be paid to the City, by the flea market owner, quarterly on January 1, April 1, July 1 and October 1 of each year for all flea market vendors who engage in business at the flea market within the preceding quarter.
- (5) The flea market owner shall maintain accurate records of the licenses issued and tax revenues collected, and

the records pertaining thereto shall be open to inspection and audit by City personnel at all times.

(D) License Fee.

- (1) Any flea market vendor shall pay to the City a license fee before they are permitted to open or operate at the flea market.
- (2) Flea market vendors shall pay a flea market license fee in the amount of \$10 per license.
- (3) In addition to the flea market license fee, the flea market vendor must pay occupational license fees per the vendor's revenue. The flea market license fee of \$10 is the minimum occupational license fee a flea market vendor shall pay, therefore the minimum occupational license fee as stated in Ch. 115 as \$50 is not applicable to the flea market vendor.
- (4) Flea market vendors shall use the calculation method in Ch. 115 to determine the amount of occupational license fee to pay quarterly. The vendor is to pay the amount calculated quarterly to the flea market owner who shall transfer the exact amount to the City.
- (5) All City flea market vendor licenses shall expire 90 days after the date of issuance.
- (6) No refund shall be made to the flea market owner or flea market vendor if the license tax liability shall be an amount less than the minimum tax liability imposed by this section.
- (7) The minimum tax shall not be subject to proration as otherwise provided in this chapter and shall apply in full without exception whether the flea market owner or flea market vendor engages in the business for a full period of his or her license or any portion thereof.

(E) Application Procedure.

- (1) Applicants for flea market vendors license shall be accepted by flea market owners who are authorized to issue such licenses pursuant to this chapter. The application shall be signed by the applicant if an individual, or by all partners of a partnership, or by the president if a corporation. The applicant may

be required to provide information concerning the following items:

- (a) The name and address of an applicant;
- (b) The name of the individual having management authority or supervision of the applicant's business during the time that it is proposed to be carried on in the City;
- (c) The local address of such individual;
- (d) The permanent address of such individual;
- (e) The capacity in which such individual will act;
- (f) The name and address of the person, if any, for whose purpose the business will be carried on, and, if a corporation, the state of incorporation;
- (g) The time period or periods during which it is proposed to carry on applicant's business;
- (h) The nature, character, and quality of the goods or services to be offered for sale or delivered.

(F) Standards For Issuance.

- (1) Upon receipt of an application, an investigation of the applicant's business reputation and moral character shall be made.
- (2) The application shall be approved unless such investigation discloses tangible evidence that the conduct of the applicant's business would pose a substantial threat to the public health, safety, morals, or general welfare. In particular, tangible evidence that the applicant:
 - (a) Has been convicted of a crime of moral turpitude;
 - (b) Has made willful misstatements in the application; or
 - (c) Has committed prior violations of ordinances;
 - (d) Has committed prior fraudulent acts; or

(e) Has a record of continual breaches of solicited contracts;

(f) Has an unsatisfactory moral character

(G) Revocation Procedure.

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

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

(a) Any fraud or misrepresentation contained in the license application;

(b) Any fraud, misrepresentation, or false statement made in connection with the business being conducted under the license;

(c) Any violation of this chapter;

(d) Conviction of the licensee of any felony, or conviction of the licensee of any misdemeanor involving moral turpitude;

(e) Conducting the business licensed in an unlawful manner or in such a way as to constitute a menace to the health, safety, morals, or general welfare of the public.

(H) Appeal Procedure.

(1) Any person aggrieved by a decision of revocation or denial shall have the right to appeal to the City Commissioners. The appeal shall be taken by filing a written statement setting forth the grounds of the appeal with the City Clerk within 14 days after notice of the decision. The City Commissioners shall set the time and place for a hearing, and notice for such hearing shall be given to the aggrieved

person.

- (2) The order of the City Commissioners after the hearing shall be final.

§114.09 SEVERABILITY CLAUSE

The provisions of this ordinance are severable and if any provisions or part thereof shall be held invalid or unconstitutional or inapplicable to any person or circumstance, such invalidity, unconstitutionality or inapplicability shall not affect or impair the remaining provisions of this ordinance.

114.99 PENALTY.

(A) Excluding §114.01 and §114.02 herein, in addition to any other crime and punishment per state and federal law, any person convicted of violating the provisions of this ordinance shall be deemed guilty of a misdemeanor and shall be subject to a fine of not more than \$250 or imprisonment for a period not to exceed 30 days, or both, for the first day's violation. Each day's continued violation shall constitute a separate offense.

(B) Excluding §114.01 and §114.02 herein, in addition to any other crime and punishment per state and federal law, any person convicted of violation of this ordinance pertaining to sale and/or consumption of alcoholic beverages shall be deemed guilty of misdemeanor and shall be fined in an amount not to exceed \$500 or imprisoned in the county jail for a term not to exceed six months.

(c) §114.01, SUNDAY ORDINANCE;
Any person, business or organization in violation of this section shall be fined not less than two dollars (\$2) nor more than fifty dollars (\$50). The employment of every person employed in violation of this section shall be deemed a separate offense. Each separate offense shall be a misdemeanor offense with a minimum and maximum fine as stated above and term of imprisonment not to exceed thirty (30) days. In addition, the City may seek an injunction or abatement order and relief in civil court against the employer that violates this ordinance.

(d) §114.02, COIN MACHINE ORDINANCE

Each violation of this ordinance shall result in a Class B misdemeanor with a minimum fine of \$50.00 and maximum fine of \$250.00 per coin machine and a term of imprisonment not to exceed ninety (90) days. Each coin machine in violation of this ordinance shall be treated as a separate offense. In addition, the City may seek injunctive relief in civil court to compel the immediate removal of the coin machines from within City limits. If the offender does not pay the fine within the prescribed period of time after he/she has been cited for the violation of the ordinance, each violation shall subject the offender to a civil penalty to be recovered by the City in a civil action and the offender shall pay interest at a rate of 12% per annum on the principal amount due from date of violation or due date of the tax, January 15th, the cost of said action including reasonable attorney fees.

(e) Nothing in this ordinance shall be construed to authorize any otherwise illegal activity including but not limited to encroachment, trespass or use of any public rights-of-way, roadsides or private property.

All of existing Chapters 114 and 116 of the Hazard Code are hereby repealed and replaced by this Ordinance.

The provisions of Chapter 114:03 in the proposed Ordinance are hereby deleted.

FIRST READING:

SECOND READING:

PASSED AND APPROVED THIS ____ day of _____

JIMMY RAY LINDON, Mayor

ATTESTED:

LINDA STEELE, City Clerk