

TITLE XI: BUSINESS REGULATIONS

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determined by the corporate authorities to be offensive or unwholesome, and as such a nuisance within the meaning of this section.

Section

- 110.01 Offensive or unwholesome businesses
- 110.02 Use of false weights and measures
- 110.03 Sale of poisons

(D) Any person, firm, or corporation violating this section shall, upon conviction, be subject to a fine not

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§ 110.01 OFFENSIVE OR UNWHOLESOME BUSINESSES.

(A) The conduct of any offensive or unwholesome business or establishment within the city and within the distance of one mile beyond the corporate limits of the city is prohibited.

(B) The owner of any business or establishment in existence on the effective date of this section, situated within the city or within the distance of one mile beyond the corporate limits of the city, and which has been determined by the corporate authorities to be offensive or unwholesome, shall be deemed guilty of maintaining a nuisance, and such owner shall be afforded nine months from and after the effective date of this section in which to abate or remove the nuisance without penalty.

(C) The owner of any business or establishment which may come into existence after the effective date of this section, situated in the city or within the distance of one mile beyond the corporate limits of the city, and which has been determined by the corporate authorities to be offensive or unwholesome, shall abate or remove the same within ten days after receipt of notice from the corporate authorities that such business or establishment has been

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exceeding \$500 for each offense, and each day such violation continues shall be deemed a separate offense.
('69 Code, § 18-36.1) (Ord. 68-0-11, passed 11-25-68)

Cross-reference:

Nuisances, see §§ 136.35, 136.36

Statutory reference:

Offensive businesses, ILCS Ch. 65,
Act 5 § 11-42-9

§ 110.02 USE OF FALSE WEIGHTS AND MEASURES.

It shall be unlawful to knowingly use any false scales, beam, weight, or measure in the purchase, sale, receipt, or delivery of any goods, articles, or property, purchased, or sold, received, or delivered by weight or measure, knowing the weight or measure to be materially inaccurate and different from the standard prescribed by the laws of the state, or to sell or deliver any goods, articles, or property, sold or delivered by weight or measure and purporting to be a certain weight or measure, knowing it to be materially less than the true weight or measure for which it was sold or delivered.
('69 Code, § 18-45) Penalty, see § 10.99

Statutory reference:

Use of weights and measures, see
ILCS Ch. 65, Act 5 § 11-53-3

§ 110.03 SALE OF POISONS.

No person shall keep, sell, or deliver any poison usually known or used as deadly poison, without legibly marking the name thereof, or the word "poison" upon the vial, wrapper, or other enclosure containing the poison. No person shall sell or deliver any arsenic, strychnine, prussic acid, or other poison actually known or used as a deadly poison, to any person known to him, without registering the name of such person and the kind and quantity of the poison sold or delivered and the purpose for which the poison was obtained. No person shall sell or deliver any poison to any person unknown to him, provided, that the sale or delivery of such poison as a medicine, upon the prescription of a practicing physician, shall not be deemed a violation of this section.
('69 Code, § 18-38) Penalty, see § 10.99

Statutory reference:

Poison prevention packaging act,
see ILCS Ch. 430, Act 40 § 1 et seq.

§ 110.05 DOING BUSINESS WITHOUT A LICENSE.

It shall be unlawful for any person to conduct, engage in, maintain, operate,

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carry on, or manage a business or occupation for which a license is required without a license having been procured for such business or occupation.

('69 Code, § 15-1) Penalty, see § 10.99

Statutory reference:

Licensing of certain occupations,
see ILCS Ch. 65, Act 5 § 11-42-1
et seq.

year. The fee shall be the same although the license is for a fractional instead of a full year except when otherwise provided. Each license shall be dated the day of the issuing thereof; but if the applicant has been acting without a license, then it shall

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§ 110.06 APPLICATION FOR LICENSE.

(A) Any person desiring a license shall make a written application to the City Clerk or other official or authority designated by this code. ('69 Code, § 15-3)

(B) Every applicant for a license shall state the purpose for which the license is desired, for what length of time, and the place where his business is to be carried on. If required, he shall file bond before licensed and shall name the proposed sureties on the bond in his application. ('69 Code, § 15-4)

(C) The City Clerk shall receive applications for licenses and shall grant them in all cases where it is not otherwise expressly provided. If he does not, for any purpose, feel authorized to grant an application for a license within his jurisdiction to grant, he may report the application to the next meeting of the City Council for its action thereon. ('69 Code, § 15-2)

(D) Each application shall require approval by the Mayor. If the Mayor approves the application, he shall endorse his name thereon. Upon filing of the endorsed application and payment of the license fee with the City Clerk, the Clerk or other official having jurisdiction thereof shall issue the applicant a license for the purpose and time specified. ('69 Code, § 15-4)

(E) All licenses shall be signed by the Mayor and countersigned by the City Clerk, under the corporate seal. No license shall be valid until signed and countersigned as provided, and no person shall be deemed licensed until a license is duly issued to him. ('69 Code, § 15-5)

§ 110.07 LICENSE YEAR.

The license year shall begin May 1 each year and all licenses shall be to the end of the license year, unless otherwise provided and no license shall be granted for a longer period than the municipal

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examine the license register, and prosecute all persons who may be acting without license.

be dated from the time he commenced acting. ('69 Code, § 15-6)

('69 Code, § 15-10)

Cross-reference:

Municipal year, see § 10.23

§ 110.08 LICENSE NONASSIGNABLE AND NONTRANSFERABLE.

No license granted shall be assignable or transferable, nor shall any person be authorized to do business or act under such license but the person to whom it is granted, or, in any other place than the place specified therein, without the consent of the City Council. Such consent shall be certified on the license by the City Clerk. No license shall authorize any person to act under it at more than one place at the same time, nor at any other time than is therein specified. Whoever violates any of the provisions of this section shall be deemed to be acting without proper license, and shall be subject to the same penalty as is prescribed for acting without a license. ('69 Code, § 15-8) Penalty, see § 10.99

§ 110.09 CLERK TO KEEP REGISTER.

The City Clerk shall keep a license register in which he shall enter the name of each person licensed, for what purpose licensed, the place of business, the date of the license, the amount paid, and the date of expiration. He shall pay into the city treasury, on the first Monday of each month, all money received by him on account of licenses. ('69 Code, § 15-9)

§ 110.10 LICENSES SUBJECT TO CODE.

All licenses which may at any time be issued under this code or any other ordinance of the city shall be subject to all the provisions of this code which may be in force during the period of the license, or any portion of that period. If any person licensed violates any provision of this code or of any ordinance in relation to his license, he may be proceeded against for any fine or penalty imposed thereby; and his license may be revoked or forfeited, in the discretion of the City Council or in any other manner provided for by this code or by ordinance. ('69 Code, § 15-7)

§ 110.11 CHIEF OF POLICE TO ENFORCE LICENSE REGULATIONS.

The Chief of Police shall enforce all provisions of this code in relation to licenses, and shall from time to time

TAXATION

§ 110.15 HOME RULE MUNICIPAL RETAILERS'
OCCUPATION TAX AND HOME RULE MUNICIPAL
SERVICE OCCUPATION TAX.

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(A) A tax is hereby imposed upon all persons engaged in the business of selling tangible personal property, other than an item of tangible personal property titled or registered with an agency of this state's government, at retail in this municipality at the rate of 0.5% of the gross receipts from such sales made in the course of such business while this section is in effect, and a tax is hereby imposed upon all persons engaged in this municipality in the business of making sales of service, at the rate of 0.5% of the selling price of all tangible personal property transferred by such serviceman as an incident to a sale of service. Such "Home Rule Municipal Retailers' Occupation Tax" and "Home Rule Municipal Service Occupation Tax" shall not be applicable to sales of food for human consumption which is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks and food which has been prepared for immediate consumption) and prescription and non-prescription medicine, drugs, medical appliances and insulin, urine testing materials, syringes and needles used by diabetics.

(B) The imposition of these home rule taxes is in accordance with the provisions of Sections 8-11-1 and 8-11-5, respectively, of the "Illinois Municipal Code" (ILCS Ch. 65, Act 5, § 8-11-1 and ILCS Ch. 65, Act 5, § 8-11-5).

(C) The taxes hereby imposed, and all civil penalties that may be assessed as an incident thereto, shall be collected and enforced by the Department of Revenue of the state. The Department of Revenue shall have full power to administer and enforce the provisions of this section.

(Ord. 67-0-6, passed 7-10-67; Am. Ord. 2004-0-6, passed 3-22-04)

Statutory reference:

Municipal Retailers' Occupation Tax,
see ILCS Ch. 65, Act 5 § 8-11-1
Filing returns; payment of tax,
see ILCS Ch. 35, Act 120 § 3

§ 110.16 [RESERVED].§ 110.17 TAX ON OCCUPATION OF RENTING
AUTOMOBILES.

(A) A tax is imposed on all persons

automobiles in this city at the rate of 1% of the gross receipts from such rentals made in the course of such business while this section is in effect, in accordance with the provisions of ILCS Ch. 65, Act 5 § 8-11-7.

(B) Every person engaged in such business in the city shall file on or before the last day of each calendar month, the report to the Illinois Department of Revenue required by Sections 2 and 3 of "An Act in Relation to a Tax Upon Persons Engaged in the Business of Selling Tangible Personal Property to Purchasers for Use or Consumption" approved June 29, 1933, as amended.

(C) At the time such report is filed, there shall be paid to the Illinois Department of Revenue the amount of tax imposed in division (A) hereof on account of the renting of automobiles during the preceding month.

(D) The City Clerk is directed to transmit to the Illinois Department of Revenue a certified copy of this section. (Ord. 82-0-3, passed 3-8-82)

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§ 111.01 DEFINITIONS.

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

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"ADEQUATE WRITTEN EVIDENCE OF AGE AND IDENTITY."

A document issued by a federal, state, county, or municipal government, or subdivision or agency thereof, including, but not limited to, a motor vehicle operator's license, a registration certificate issued under the Federal Selective Service Act, or an identification card (which term shall include any identification document) issued to a member of the Armed Forces.

"ALCOHOLIC LIQUOR." Includes alcohol, spirits, wine and beer, and every liquid or solid, patented or not, containing alcohol, spirits, wine, or beer, and capable of being consumed as a beverage by a human being.

"CLUB." A corporation organized under the laws of this state, and not for pecuniary profit, solely for the promotion of some common object other than the sale or consumption of alcoholic liquor, which conforms to the definition of a club in ILCS Ch. 235, Act 5 § 1-3.24.

"HOTEL" or "MOTEL." Every building or other structure kept, used, maintained, advertised, and held out to the public to be a place where meals are actually and regularly served and consumed and where sleeping accommodations are offered for pay to travelers and guests, whether transient, permanent or residential, in which 50 or more rooms are used for the sleeping accommodations of such guests and having one or more public dining rooms where meals are served to such guests, such sleeping accommodations and dining rooms being conducted in the same building, in connection therewith, and such building, or structure being provided with adequate and sanitary dining room and kitchen equipment and capacity.

"LICENSEE." Any person, firm, corporation, partnership, or club holding a license under the provisions of this chapter.

"ORIGINAL PACKAGE." Any bottle, flask, jug, can, cask, barrel, keg, hogshead, or other receptacle or container, whatsoever used, corked or capped, sealed and labeled by the manufacturer of alcoholic liquor, to contain and to convey any alcoholic liquor.

"RESTAURANT." Any public place kept, used, maintained, advertised, and held out to the public to be a place where meals are served, and where meals are actually and regularly served, without sleeping

accommodations, such space being provided with adequate and sanitary kitchen and dining room equipment and capacity and having employed therein a sufficient number

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and kind of employees to prepare, cook, and serve suitable food for its guests.

"RETAIL SALE." The sale for use or consumption and not for resale in any manner.

(Ord. 81-0-10, passed 4-27-81; Am. Ord. 81-0-29, passed 9-28-81)

§ 111.02 LOCAL LIQUOR CONTROL COMMISSIONER.

The Mayor is authorized to be the Local Liquor Control Commissioner and shall be charged with the city administration of the Dram Shop Act, S.H.A. Ch. 43 and of such ordinances and regulations relating to alcoholic liquor. The Mayor may appoint a person to assist in the exercise of the powers and performance of the duties provided for such Local Liquor Control Commissioner. The specification in this chapter of certain powers and authority of the Local Liquor Control Commissioner shall not be construed as a limitation of other such power and authority provided by law, rule, or otherwise.

(Ord. 81-0-10, passed 4-27-81)

§ 111.03 ENTRY POWERS.

The Local Liquor Control Commissioner is given the power to enter or to authorize any law enforcement officer to enter at any time on any premises licensed hereunder to determine whether any of the provisions of this chapter or the Dram Shop Act, S.H.A. Ch. 43, or any rules or regulations adopted by the Commissioner or by the State Liquor Commission have been or are being violated, and at such time to examine the premises of the licensee in connection therewith.

(Ord. 81-0-10, passed 4-27-81)

§ 111.04 LIQUOR CONTROL ADVISORY COMMITTEE.

(A) The Local Liquor Control Commissioner may, with the advice and consent of the City Council, appoint a board to assist him/her in the discharge of his/her duties. This board shall be known as the Liquor Control Advisory Committee, and the number of members and their terms of office shall be at the discretion of the Local Liquor Control Commissioner.

(B) It shall be the purpose and function of the Committee to maintain surveillance over the operations of all licensees, to report violations of this chapter to the Mayor, and to make recommendations from time to time concerning any modifications of regulations concerning the subject matter of this

chapter which may be required to the end that the objects and purposes of this chapter may be more completely effectuated. The Committee shall, at its first meeting

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each year, elect a chairman from among its membership, and the Committee shall meet thereafter at the call of the chairman or at the call of any two other members thereof. The Local Liquor Control Commissioner may in writing authorize a member to act as agent on his behalf with respect to such matters as by law or ordinance an agent may so act. (Ord. 81-0-10, passed 4-27-81; Am. Ord. 2006-0-12, passed 8-14-06)

§ 111.05 ADOPTION OF STATE LAW BY REFERENCE.

Each and every part of the Dram Shop Act, S.H.A. Ch. 43 which relates in any manner to the sale at retail of alcoholic liquors, is adopted by this reference and made a part of this chapter, to the same extent and with the same legal effect as if fully set forth herein. Any violation of such applicable and adopted provisions of such act shall be deemed a violation of this chapter and be subject to penalties herein provided. (Ord. 81-0-10, passed 4-27-81) Penalty, see § 111.99

§ 111.06 SANITARY CONDITIONS.

All premises licensed hereunder for the sale of alcoholic liquor, or for the storage of such liquor for sale, shall be kept in a clean and sanitary condition, and shall be kept in full compliance with the ordinances regulating the condition of premises used for the storage or sale of food for human consumption. (Ord. 81-0-10, passed 4-27-81) Penalty, see § 111.99

§ 111.07 SALES RESTRICTED TO LICENSED ESTABLISHMENTS; PUBLIC POSSESSION AND CONSUMPTION.

(A) It shall be unlawful to serve, or drink, any alcoholic liquor in any restaurant, dining room, lunch room, bowling alley, or other place of public resort in the city, other than one where the sale of alcoholic liquor for consumption on the premises is licensed hereunder.

(B) It shall be unlawful for any person to drink any alcoholic liquor or have in his possession in a container with the seal broken any alcoholic liquor in any public street, alley, parkway, driveway, parking lot, or other place in the City, or upon that portion of the establishment that sold the alcoholic liquor outside of the enclosed portion thereof; provided, however, that the foregoing shall not

prohibit the consumption of alcoholic liquor (but shall not permit sale or delivery) in the City's Community Building; and, further, providing that the foregoing

shall not prohibit the sale or delivery and consumption of alcoholic liquor on a public street or in a public place as authorized by the City pursuant to a special festival permit as provided for in the liquor code. The authorization of such consumption shall be subject to the imposition of such conditions and restrictions (including a reasonable damage deposit and surety bond) as the Local Liquor Control Commissioner may provide with due regard given to the protection of the public health, safety, morals, and welfare, and to the protection of the building where alcoholic liquor is to be consumed.

(Ord. 81-0-29, passed 9-28-81; Am. Ord. 92-0-15, passed 8-19-92; Am. Ord. 96-0-7, passed 8-26-96) Penalty, see § 111.99

§ 111.08 LOCATION RESTRICTIONS ON SALE OF ALCOHOLIC LIQUOR.

(A) No license shall be issued for the sale at retail of any alcoholic liquor within 100 feet of any church, school other than an institution of higher learning, hospital, home for aged or indigent persons, or for veterans, their spouses or children, or any military or naval station, provided, that this prohibition shall not apply to hotels offering restaurant service, regularly organized clubs, or to restaurants, food shops, or other places where the sale of alcoholic liquor is not the principal business carried on, if such place of business so exempted is not located in a municipality of more than 500,000 persons; nor to the renewal of a license for the sale at retail of alcoholic liquor on premises within 100 feet of any church or school where such church or school has been established within such 100 feet since the issuance of the original license. In the case of a church, the distance of 100 feet shall be measured to the nearest part of any building used for worship services or educational programs and not to property boundaries.

(B) In the interest of further developing the state's economy in the area of tourism, convention, and banquet business, nothing in this section shall prohibit issuance of a retail license authorizing the sale of alcoholic beverages to a restaurant or hotel having not fewer than 150 guest room accommodations located in the municipality, notwithstanding the proximity of such hotel or restaurant to any church, if the licensed premises described on the license are located within an enclosed mall or building of a height of at least six stories and if the sale of alcoholic liquors is not the principal business carried on by such license.

(C) Nothing in this section shall prohibit the issuance of a license to a church or private school to sell at retail alcoholic liquor if any such sales are limited to periods when groups are assembled

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on the premises solely for the promotion of some common object other than the sale or consumption of alcoholic liquors.
(Ord. 81-0-10, passed 4-27-81; Am. Ord. 90-0-1, passed 5-14-90) Penalty, see § 111.99

§ 111.09 STORES SELLING SCHOOL SUPPLIES.

No license shall be issued to any person for the sale at retail of any alcoholic liquor at any store or other place of business where the majority of customers are minors of school age or where the principal business transacted consists of school books, school supplies, food, lunches, or drinks for such minors.
(Ord. 81-0-10, passed 4-27-81) Penalty, see § 111.99

§ 111.10 RESTRICTION ON SALE, DELIVERY, PURCHASE, AND ACCEPTANCE; REGULATIONS GOVERNING IDENTIFICATION.

(A) No licensee nor any officer, associate member, representative, agent, or employee of such licensee shall sell, give, or deliver alcoholic liquor to any person under the age of 21 years, or to any intoxicated person or to any person known by him to be a habitual drunkard, spendthrift, insane, mentally ill, mentally deficient, or in need of mental treatment. No person, after purchasing or otherwise obtaining alcoholic liquor, shall sell, give, or deliver such alcoholic liquor to another person under the age of 21 years except in the performance of a religious ceremony or service. No person shall purchase, accept delivery, or have possession of alcoholic liquor in violation of this section.

(B) (1) For the purpose of preventing the violation of division (A) of this section, any licensee, or his agent or employee, may refuse to sell or serve alcoholic beverages to any person who is unable to produce adequate written evidence of identity and of the fact that he is over the age of 21 years.

(2) Proof that the defendant-licensee, or his employee or agent, demanded, was shown and reasonably relied on such written evidence in any transaction, forbidden by this section is competent evidence and may be considered in any prosecution therefor or to any proceedings for the suspension or revocation of any license based thereon.

(C) Any person who sells, gives, or furnishes to any person under the age of 21 years any false or fraudulent written, printed, or photostatic evidence of the age and identity of such person or who sells,

gives, or furnishes to any person under the age of 21 years evidence of age and identification of any other person is in violation of this section.

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(D) Any person under the age of 21 years who presents or offers to any licensee, his agent, or employee, any written, printed, or photostatic evidence of age and identity which is false, fraudulent, or not actually his own for the purpose of ordering, purchasing, attempting to purchase, or otherwise procuring or attempting to procure, the serving of any alcoholic beverage, or who has in his possession any false or fraudulent written, printed, or photostatic evidence of age and identity, is in violation of this section.

(E) No person shall transfer, alter, or deface such an identification document; use the identification document of another; carry or use a false or forged identification document; or obtain an identification document by means of false information.
(Ord. 81-0-29, passed 9-28-81) Penalty, see § 111.99

§ 111.11 GAMBLING.

There shall be no card games or gambling allowed on any premises licensed to sell alcoholic liquor.
(Ord. 81-0-10, passed 4-27-81) Penalty, see § 111.99

§ 111.12 LICENSE REQUIRED TO SELL OR DELIVER ALCOHOLIC LIQUOR.

It shall be unlawful to sell or to deliver alcoholic liquor at retail in the city except as expressly authorized or permitted under and pursuant to this chapter. All sales or delivery of alcoholic liquor in the city shall be as licensed under and pursuant to this chapter.
(Ord. 81-0-10, passed 4-27-81) Penalty, see § 111.99

§ 111.13 EMPLOYEES; HEALTH REQUIREMENTS.

It shall be unlawful for any person, firm, partnership, corporation, or club to employ in any manner in any premises used for the sale of alcoholic liquor any person who is afflicted with, or who is a carrier of, any contagious, infectious, or venereal diseases, and it shall be unlawful for any person afflicted with, or who is a carrier of, any such disease to work in or about any such premises or to engage in any way in work on or about any such premises.
(Ord. 81-0-10, passed 4-27-81) Penalty, see § 111.99

§ 111.14 NOTICE BY LICENSEES TO MINORS; REGULATIONS OF MINORS IN ESTABLISHMENTS SERVING ALCOHOLIC LIQUOR.

(A) In every place in the city where alcoholic liquor is sold or permitted to be sold, there shall be displayed, at all times, in a prominent place, a printed

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notice which shall read substantially as follows:

"WARNING TO MINORS

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(B) It shall be unlawful for any holder of any license or his agent or employee to suffer or permit any person under the age of 21 years to remain in any room or compartment adjoining or adjacent to or situated in the room or place such licensed premises are located; provided that this division shall not apply to any person under the age of 21 years who is accompanied by his parent, guardian, or other adult custodian in a licensed premises which derives its principal business from the sale or service of other commodities than alcoholic liquors.

(C) It shall be unlawful for any parent or guardian to knowingly permit any person under the age of 21 years of which he may be the parent, guardian or custodian to violate any of the provisions of this section.

(D) It shall be unlawful for any person under the age of 21 years of age to attend any bar, to draw, pour, or mix any alcoholic liquor in any licensed premises. (Ord. 81-0-29, passed 9-28-81) Penalty, see § 111.99

§ 111.15 RESTRICTIONS ON PURCHASE, ACCEPTANCE, POSSESSION, AND CONSUMPTION OF ALCOHOLIC LIQUOR BY MINORS; EXCEPTIONS.

(A) Any person to whom the sale, gift, or delivery of any alcoholic liquor is prohibited because of age shall not purchase, or accept a gift of such alcoholic liquor or have such alcoholic liquor in his possession. This section does not apply to possession by a person under the age of 21 years making a delivery of an alcoholic beverage in pursuance of the order of and in the presence of his parent or in pursuance of his employment.

(B) The possession and dispensing, or consumption by a minor of alcoholic liquor in the performance of a religious service or ceremony, or the consumption by a minor under the direct supervision and approval of the parents of such minor in the privacy of a home, is not prohibited by this section. Except as otherwise herein permitted, the consumption of alcoholic liquor by any person under 21 years of age is forbidden. (Ord. 81-0-29, passed 9-28-81) Penalty, see § 111.99

§ 111.20 LICENSE REQUIRED.

It shall be unlawful to sell or offer for sale in the city any alcoholic liquor without having a license issued under and pursuant to this chapter, or in violation of the terms of such license, or in violation of any provisions of this chapter or any laws or regulations in connection therewith. (Ord. 81-0-10, passed 4-27-81) Penalty, see § 111.99

§ 111.21 LICENSES, CLASSES, NUMBER, AND FEE.

Licenses for the sale at retail of alcoholic liquor in the city shall be in such classes and authorized numbers and with such license fee, as follows:

<u>Class</u>	<u>Authorized Number</u>	<u>Fee</u>
A	8	\$1,000.00
B	3	750.00
C	3	310.50
D	2	625.00
E	5	625.00
DE	2	650.50

(Ord. 81-0-10, passed 4-27-81; Am. Ord. 83-0-3, passed 2-28-83; Am. Ord. 2006-0-11, passed 8-14-06)

§ 111.22 LICENSE CLASSIFICATIONS.

(A) The following license classifications shall apply:

(1) A Class A-1 License permits the sale at retail of alcoholic liquor in a restaurant, both over-the-counter, so long as said liquor is to be consumed on the licensed premises, as well as in the original package, so long as the alcoholic liquor is not to be consumed on the licensed premises, where said restaurant derives more than 50% of its income from the sale of food and not alcoholic liquors.

(2) A Class A-2 License permits the sale at retail of alcoholic liquor in a restaurant or other establishment serving food, where more than 50% of the income generated therein is from the sale of alcoholic liquor both over-the-counter, so long as the alcoholic liquor is to be consumed on the licensed premises, as well as in the original package, so long as the alcoholic liquor is not to be consumed on the licensed premises.

(3) A Class B License permits the sale of alcoholic liquor in the original package and not to be consumed on the licensed premises.

(4) A Class C license permits the sale at retail of alcoholic liquor by a

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club, over-the-counter and to be consumed on the licensed premises.

(5) A Class D license permits the sale at retail of beer and wine only in a restaurant, over-the-counter and to be consumed on the licensed premises.

(6) A Class E license permits the sale at retail of beer and wine only in the original package and not to be consumed on the licensed premises.

(7) A Class DE license permits the sale at retail of beer and wine only by a restaurant, over-the-counter and to be consumed on the licensed premises and in the original package and not to be consumed on the licensed premises.

(B) At the time of application for a liquor license, if the applicant is applying for a Class A, 1 or 2, License, said applicant must declare, under oath, whether or not the total sales of alcoholic liquor by the applicant for his business establishment exceeds 50% of applicant's total income for that business establishment within any calendar quarter of the preceding year. Further, the applicant shall, at any other time, provide upon the request of the city, an audit report prepared by an independent certified public accountant at the expense of the applicant for a time period designated by the city, verifying the affidavit of food and alcoholic sales.

(C) Holders of A-2 Licenses, their agents or employees, shall not permit people under the age of 21 years upon the premises unless they are accompanied by a parent or legal guardian at least 21 years of age, or they are employed by license holder and engaged in occupational duties. Further, holders of A-2 Licenses shall post on a conspicuous place on or near the entrance to the business establishment, a notice or warning that entrance to people under the age of 21 is strictly forbidden unless accompanied by a parent or legal guardian.

(D) No person under the age of 21 years shall be upon the premises of a business establishment holding an A-2 liquor license, unless they are accompanied by a parent or legal guardian at least 21 years of age, or they are employed by license holder and engaged in occupational duties. (Ord. 81-0-10, passed 4-27-81; Am. Ord. 83-0-3, passed 2-28-83; Am. Ord. 93-0-4, passed 2-22-93)

(A) Generally. Except as otherwise provided in this section, it shall be unlawful to keep open or permit to be open or to permit the public to remain within or

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to admit the public to any place where alcoholic liquor is sold or is or might be offered for sale between the hours of 1:00 a.m. and 9:00 a.m., Tuesday through Saturday in each week and between the hours of 1:00 a.m. on Sunday and 9:00 a.m. on Monday in each week. A restaurant, hotel, or motel may remain open except as to the retail sale of alcoholic liquor during the proscribed hours.

(B) Exceptions.

(1) On New Year's Eve, licensees may remain open until 2:00 a.m. on New Year's Day. When New Year's Day, January 1, falls on Monday, licensees may open their business establishments at 3:00 p.m. on Sunday (unless another exception provides an earlier time) immediately preceding the Monday, on which New Year's Day, falls and may remain open until 2:00 a.m. on Monday, New Year's Day, at which time the business establishment shall close.

(2) Licensees permitted to sell alcoholic liquor at retail in the original package and not for consumption on the licensed premises may be open between 7:00 a.m. and 9:00 a.m. Monday through Saturday but only for such sales in the original package and not for consumption on the licensed premises.

(3) Licensees permitted to sell alcoholic liquor at retail in restaurants over the counter and for consumption on the licensed premises may be open between 12:01 p.m. and 1:00 a.m. on Monday.

(4) Licensees permitted to sell alcoholic liquor at retail only in the original package and not for consumption on the licensed premises may be open between 12:01 p.m. on Sunday through 1:00 a.m. the following Monday but only for sales in the original package and not for consumption on the licensed premises.

(Ord. 81-0-10, passed 4-27-81; Am. Ord. 83-0-3, passed 2-28-83) Penalty, see § 111.99

ELIGIBILITY AND APPLICATIONS

§ 111.30 PERSONS INELIGIBLE TO BE LICENSED.

No license under this chapter shall be issued to:

(A) A person who is not a resident of the city, except in case of railroad or boat licenses;

(B) A person who is not of good character and reputation in the community

in which he resides;

(C) A person who is not a citizen of the United States;

(D) A person who has been convicted of a felony under any federal or state law, if

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the Local Liquor Control Commissioner determines, after investigation, that such person has not been sufficiently rehabilitated to warrant the public trust;

(E) A person who has been convicted of being the keeper or is keeping a house of ill fame;

(F) A person who has been convicted of pandering or other crime or misdemeanor opposed to decency and morality;

(G) A person whose license issued under this chapter has been revoked for cause;

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

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

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

(K) A corporation unless it is incorporated in the state, or unless it is a foreign corporation which is qualified under the Illinois Business Corporation Act to transact business in the state;

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

(M) A person who has been convicted of a violation of any state law concerning the manufacture, possession, or sale of alcoholic liquor, subsequent to the passage of the Illinois Dram Shop Act or has forfeited his bond to appear in court to answer charges for any such violation;

(N) A person who does not beneficially own the premises for which a license is sought, or does not have a lease thereon for the full period for which the license is to be issued;

(O) Any law enforcing public official, including members of Local Liquor Control Commissions, the Mayor, or members of the City Council, and no such official shall be interested in any way, either directly or indirectly, in the manufacture, sale, or distribution of alcoholic liquor, except

that license may be granted to such official in relation to premises which are not located within the territory subject to the jurisdiction of that official if the issuance of such license is approved by the State Liquor Control Commission;

(P) A person who is not a beneficial owner of the business to be operated by the licensee;

(Q) A person who has been convicted of a gambling offense as proscribed by any of subsections (a) (3) through (a) (10) of Section 28-1 of, or as proscribed by Section 28-3 of, the Criminal Code of 1961, approved July 28, 1961, as heretofore or hereafter amended, or as proscribed by a statute replaced by any of the aforesaid statutory provisions;

(R) A person to whom a federal gaming device stamp or a federal wagering stamp has been issued by the federal government for the current tax period;

(S) A partnership to which a federal gaming device stamp or a federal wagering stamp has been issued by the federal government for the current tax period, or if any of the partners have been issued a federal gaming device stamp or federal wagering stamp by the federal government for the current tax period;

(T) A corporation, if any officer, manager, or director thereof, or any stockholder owning in the aggregate more than 20% of the stock of such corporation has been issued a federal gaming device stamp or a federal wagering stamp for the current tax period;

(U) Any premises for which a federal gaming device stamp or a federal wagering stamp has been issued by the federal government for the current tax period;

(V) Any other provision of the Illinois Dram Shop Act that would make a person ineligible for a license under this chapter.

(Ord. 81-0-10, passed 4-27-81) Penalty, see § 111.99

§ 111.31 APPLICATIONS.

(A) General. Applications for such licenses shall be made to the Local Liquor Control Commissioner. Such applications shall be made in writing, and shall be signed by the applicant, if an individual, or by a duly authorized agent, thereof, if a club or corporation they shall be verified by oath or affidavit, and shall contain the following information and statements:

(1) The name, age, and address of the applicant in the case of an individual, in the case of a copartnership, the person entitled to share in the profits thereof, and in the case of a corporation for profit

or a club, the date of incorporation, the objects for which it was organized, the names and addresses of the officers and directors, and if 50% of the stock of such corporation is owned by one person or his nominee, the name and address of such person.

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(2) The citizenship of the applicant, his place of birth and if a naturalized citizen, the time and place of his naturalization. All partners and 50% or more shareholders shall provide application answers as though they were individuals.

(3) The application shall address § 111.30 (A) through (U) of this chapter as to each applicant, individual, partner, or 50% or more shareholder.

(B) Additional information. All applications shall set forth among other things, and with particularity, the following:

- (1) Complete dimensional data.
- (2) Dining facilities.
- (3) Kitchen facilities.
- (4) Lounge facilities.
- (5) Types of fixtures.
- (6) Dining room and lounge equipment and furnishing.
- (7) Type of decor.
- (8) Parking facilities.
- (9) Estimated number of employees.
- (10) A diagram showing where in any building or on any lot alcoholic liquor will be sold, offered for sale or consumed.
- (11) If applicant is owner or lessee, and if lessee, initial term of lease. A copy of the lease should be attached to the application.

(C) Each application shall be accompanied by a nonrefundable fee of \$50, which shall be applied to the license fee if license is issued.
(Ord. 81-0-10, passed 4-27-81)

§ 111.32 EXAMINATION OF APPLICANT.

The Local Liquor Control Commissioner shall have the right to examine, or cause to be examined, under oath, any applicant for a local license, or for a renewal thereof, or any licensee on whom notice of revocation or suspension has been served as provided by statute, and to examine, or cause to be examined the books and records of any such applicant or licensee, to hear testimony and take proof for his information in the performance of his duties, and for such purpose to issue

subpoenas which shall be effective as provided by law.
(Ord. 81-0-10, passed 4-27-81)

§ 111.33 TERM; DUE DATES; PRORATION; FORFEITURE FOR NONUSE.

(A) All license fees required pursuant to the provisions of this chapter shall be

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payable on or before December 31 of the year prior to the year for which the license fee is being paid. No license shall be effective without the entire license fee having been paid prior to the issuance of the license. The license year shall be January 1 through and including December 31 and there shall be no proration of any license fee.

(B) All applicants who are granted a license under this chapter shall commence operations under such license within 180 days after the issuance of the license. The failure to commence operations as provided herein shall result in the automatic forfeiture of the license granted and the fee paid.

(Ord. 81-0-10, passed 4-27-81; Am. Ord. 88-0-19, passed 7-11-88)

§ 111.34 RECORD OF LICENSES ISSUED.

The Local Liquor Control Commissioner shall keep or cause to be kept a complete record of all licenses issued by him.
(Ord. 81-0-10, passed 4-27-81)

§ 111.35 TRANSFER OF LICENSE.

(A) A license shall be purely a personal privilege, good for not to exceed one year after issuance unless sooner revoked, as in this chapter provided, and shall not constitute property, nor shall it be subject to being encumbered or hypothecated. Such licenses shall not descend by the laws of testate or intestate devolution, it shall cease on the death of the licensee, provided that executors or administrators of the estate of any deceased licensee, when such estate consists in part of alcoholic liquor, may continue the business of the sale or manufacture of alcoholic liquor under order of the appropriate court, and may exercise the privilege of the deceased or insolvent or bankrupt licensee after the death of such decedent, or such insolvency or bankruptcy until the expiration of such license, but not longer than six months, after the death, bankruptcy, or insolvency of such licensee.

A refund shall be made of that portion of the license fees paid for any period in which the licensee shall be prevented from operating under such license in accordance with the provisions of this section.

(B) Any licensee may renew his license at the expiration thereof, provided he is then qualified to receive a license and the premises for which such renewal is sought are suitable for such purposes.

(Ord. 81-0-10, passed 4-27-81)

The renewal privilege herein provided for shall not be construed as a vested right which shall in any case prevent the City Council from decreasing the number of licenses to be issued within his jurisdiction.

(Ord. 81-0-10, passed 4-27-81)

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§ 111.37 ASSIGNMENT OF RENEWAL PRIVILEGE.

(A) A licensee hereunder may assign or convey the privilege or right of renewal or reissue of a license provided for herein to another person, firm, partnership, club, or corporation, in accordance with the procedure hereinafter set forth, who on full compliance with the ordinances, then in force in the city, governing the issuance of such licenses, shall be entitled to a renewal or reissue of such license in his own name, and which holder of a license, in turn, may assign or convey such privilege or right to renewal or reissue of such license on the same terms and conditions as the original owner and holder thereof could do hereunder. However, the privilege or right of renewal or reissue provided in this chapter shall apply only so long as the license in each case shall have been kept in force continually and uninterruptedly in the name of the licensee or his successor in interest, and nothing herein provided shall be deemed to restrict the right of the Local Liquor Control Commissioner to revoke any such license.

(B) All such assignments shall be in writing, signed by the licensee, and shall be filed with the Local Liquor Control Commissioner, who shall keep or cause to be kept a true and complete record of all such assignments. On filing of any such assignment, the Local Liquor Control Commissioner shall endorse thereon the time of filing and on compliance by the assignee with all the laws and ordinances then in force in the city pertaining to the qualifications of an applicant for such license and the surrender of the old license for cancellation, there shall (unless the old license shall have been revoked and not thereafter restored) be issued to the assignee named in such assignment a license for the same place as that specified in the old license, in lieu of the one so surrendered, for the unexpired portion of the period covered by the license so surrendered, on condition however, that such new license shall be issued only on the payment of a fee to the issuing officer of \$100.

(Ord. 81-0-10, passed 4-27-81)

§ 111.38 REVOCATION; SUSPENSION.

(A) The Mayor may suspend or revoke, for cause, any license issued under this chapter for any violation of any provision in this chapter referred to pertaining to the sale of alcoholic liquor, as provided and in the manner provided in ILCS Ch. 235, Act 5 § 7-5 and may impose thereunder a fine as allowed in law in correction for

reasons including as follows:

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(1) Violation of the laws of the United States, the laws of the state, or any of the ordinances of the city;

(2) Knowingly, permitting without protest, any violation of this chapter or any disorderly or immoral practices on the premises where the licensee is licensed to operate under this chapter;

(3) The willful making of any false statement as to a material fact in the application for the license; and

(4) Failure of the licensee for any cause whatsoever to operate and maintain a place of business at the location and on the premises pursuant to the purpose for which the license was issued.

(B) Every act or omission of whatsoever nature constituting a violation of any of the provisions of this chapter by any officer, director, manager, or other agent or employee of any licensee, shall be deemed to be the act of such employer or licensee. The employer or licensee shall be punishable in the same manner as if the act or omission had been done or omitted by the licensee personally.

(C) If the owner of the licensed premises or any person from whom the licensee derives the right to possession of such premises or the agent of such owner or person, shall knowingly permit the licensee to use the licensed premises in violation of this chapter, such person shall be deemed guilty of a violation of this chapter to the same extent as the licensee and shall be subject to the same punishment.

(Ord. 81-0-10, passed 4-27-81)

§ 111.39 CHANGE OF LOCATION.

A liquor license shall permit the sale of alcoholic liquor only in the premises described in the application and license. Such location may be changed only on the written permit to make such change issued by the Mayor, with the advice and consent of the City Council. No change of location shall be permitted unless the proposed new location is a proper one for the retail sale of alcoholic liquor under the statutes of the state and the ordinances of the city.

(Ord. 81-0-10, passed 4-27-81)

§ 111.40 FESTIVAL PERMIT.

The Mayor, with the advice and consent of the City Council, may permit the sale, delivery and consumption of wine and beer, but no other alcoholic liquor, on public streets or any other public place as designated in the permit hereinafter described, for festival events, but only pursuant to the following rules and regulations:

(A) Said permit, to be known as a "Festival Permit," shall only be issued in connection with a bonafide festival within

the jurisdictional limits of the City, and shall only be issued to a not-for-profit corporation, in good standing with the Secretary of State's Office, whose principal place of business or operations is the City of Tuscola.

(B) Said sale, delivery and consumption of wine and beer, pursuant to said Festival Permit, shall only be upon those portions of public property as defined in the specific
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Festival Permit for the festival in question and no other place.

(C) The applicant for said Festival Permit shall present proof of Dram Shop Insurance for the festival before the license is issued, and, further, shall present proof of a license from the State of Illinois authorizing consumption of alcoholic liquor for said festival activity.

(D) The recipient of the Festival Permit shall be responsible for compliance with Tuscola's Alcoholic Beverages Code of Ordinances, in all respects, and shall comply with Illinois State law as found in Illinois Compiled Statutes concerning the sale, delivery and consumption of alcoholic beverages including, but not necessarily limited to, the prohibition upon the sale of alcoholic liquor to any person under the age of 21 years, and the prohibition of the sale or delivery of alcoholic beverage to any intoxicated person or person under legal disability or in need of mental treatment.

(E) Upon a violation of this chapter, and the rules and regulations and laws to which this refers, by the permit holder of a Festival Permit shall result in the non-profit corporation having an 18-month ban placed upon them, from date of violation, during which they shall be ineligible to receive a subsequent Festival Permit. Determination of a violation shall be made by the Mayor under the Mayor's power to revoke and suspend as found in § 111.38 of the City Code of Ordinances, and, further, said permit holder may be subject to fine and/or prosecution as authorized by law and/or ordinance.

(F) Inasmuch as the Festival Permit is pursuant to the activities of a non-profit corporation there shall be no permit fee charge by the City.
(Ord. 96-0-7, passed 8-26-96)

§ 111.99 PENALTY.

Any person, firm, corporation, partnership, or club violating any provisions of this chapter shall be fined not less than \$25, nor more than \$500, for each offense and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. This section shall not be a limitation on any other action or proceeding which may be lawfully brought or conducted.
(Ord. 81-0-10, passed 4-27-81)

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- 112.01 Definitions
- 112.02 License required
- 112.03 License application
- 112.04 Bond required
- 112.05 License fee
- 112.06 Fireworks unlawful
- 112.07 Fireworks display
- 112.08 Fireworks permit application
- 112.09 Restrictions
- 112.10 Fireworks permit fee
- 112.11 Fireworks bond
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- 112.13 Annoying or injurious
amusements
- 112.14 Restrictions
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§ 112.01 DEFINITIONS.

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

"AMUSEMENT." Includes the following:

- (1) Any amusement park, arcade, golf driving range, golf course, miniature or otherwise, public skating rink (ice or roller), "go-kart" tracks, public chance hall, pool or billiard hall, bowling alley, or shooting gallery;
- (2) Any theatre, indoor or outdoor, displaying film, television, or live dramatic performances, and;
- (3) Any fireworks display.

"AMUSEMENT DEVICE." Includes any machine which may be operated in public as a game, entertainment, or amusement, whether or not registering a score, such as marble, pinball, shell ball, electronic video, mechanical grab machines, juke boxes, pool tables, whether coin operated or not, and all other games, operations, or similar devices under whatever name they may be indicated.

"ARCADE." Includes, but is not limited to, any location open to the public upon which are located more than three amusement devices, as defined herein.

"FIREWORKS." Includes any explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or audible effect of a temporary exhibitional nature by explosion, deflagration or detonation, and shall

include blank cartridges, toy cannons in which explosives are used, the type of balloons which require fire underneath to propel the same, firecrackers, torpedos, skyrockets, Roman candles, bombs or other

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fireworks of like construction and any fireworks containing any explosive compound, or any tablets or other device containing any explosive substance, or containing combustible substances producing visual effects. The term "FIREWORKS" shall not include snake or glow worm pellets; smoke devices; sparklers; trick noisemakers known as party poppers, booby traps, snappers, trick matches, cigarette loads and auto burglar alarms; toy pistols, toy canes, toy guns, or other devices in which paper or plastic caps containing 0.25 grains or less of explosive compound are used, provided they are so constructed that the hand cannot come in contact with the cap when in place for the explosion; and toy pistol paper or plastic caps which contain less than 0.25 grains of explosive mixture; the sale and use of which shall be permitted at all times.
(Ord. 82-0-16, passed 11-22-82; Am. Ord. 88-0-23, passed 8-8-88)

§ 112.02 LICENSE REQUIRED.

(A) No person shall own, operate, manage, produce, promote, present, sponsor, or permit, for gain or profit, any amusement without first having obtained a license as herein provided.

(B) No person shall install, keep, maintain, or use any amusement device for which a license has not been issued.
(Ord. 82-0-16, passed 11-22-82) Penalty, see § 112.99

Statutory reference:

Licensing of amusements, see ILCS Ch. 65,

Act 5 § 11-42-5

§ 112.03 LICENSE APPLICATION.

(A) Any person desiring a license for any of the purposes specified in § 112.02, shall file with the Clerk an application in writing setting forth the type of amusement to be covered by such application, the building or location of such amusement, the length of time for which the license is desired, the name and post office address of the owner or operator of such amusement and bond as herein required.

(B) If the application shall be for an amusement device, the applicant shall further state the type of such device and the specific location within a room, building, or other location where such device is to be placed.

(C) When the application and bond are filed, the Clerk shall present them to the City Council at its next meeting and the

Council, at its discretion upon the approval of the bond and payment to the City Clerk of the fee for the license, may grant the license for the purpose specified in § 112.02.
(Ord. 82-0-16, passed 11-22-82) Penalty, see § 112.99

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§ 112.04 BOND REQUIRED.

The applicant for any license specified in this chapter shall execute a bond to the city in the sum of \$500 with good and sufficient surety to be approved by the City Council, conditioned that the applicant will faithfully observe all ordinances of the city and all provisions of this code and will pay all fines and penalties that may be assessed against him for violation thereof, during the term of the license.

(Ord. 82-0-16 passed 11-22-82) Penalty, see § 112.99

§ 112.05 LICENSE FEE.

(A) The annual license fee for an amusement device, as defined in § 112.01, shall be \$10 per year, per device.

(B) The annual license fee for an arcade, as defined in § 112.01, shall be \$30 per year. The license fee provided for by this division shall be in addition to any fees required to be paid under division (A) above.

(C) When any license is issued for less than a year, the fee charged shall be prorated by months for the remainder of the year, provided the month in which such license is issued shall be counted as one full month. All licenses shall be issued to correspond with the city's fiscal year.
(Ord. 82-0-16, passed 11-22-82; Am. Ord. 85-0-16, passed 8-26-85)

§ 112.06 FIREWORKS UNLAWFUL.

Except as otherwise provided in this chapter, it shall be unlawful for any person to possess, use, display, ignite, sell, or offer for sale any fireworks, within the corporate limits of the city.
(Ord. 82-0-16, passed 11-22-82)

§ 112.07 FIREWORKS DISPLAY.

The City Council may, upon due application, issue a permit to a properly qualified person for the discharge of fireworks and for pyrotechnical displays in a public place, or such other places as deemed adequate, and for the possession of fireworks necessary to carry out such display.
(Ord. 82-0-16, passed 11-22-82)

§ 112.08 FIREWORKS PERMIT APPLICATION.

Application for permits shall be submitted to the Clerk in writing and shall state the name of the person, place of residence and age, the place where it is

proposed to give such display of fireworks,
and the experience the applicant has had in
the discharge of fireworks.
(Ord. 82-0-16, passed 11-22-82)

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§ 112.09 RESTRICTIONS.

The Clerk shall upon receipt of the applicant's statement refer the same to the Fire Chief who shall have an inspection made of the premises at the location given in said application where it is proposed to give such display of fireworks. If in the judgment of the Fire Chief it would not be hazardous to surrounding property or dangerous to any person or persons to permit such display of fireworks at such location, he shall approve such application and return same to the City Council. The Fire Chief may recommend to the City Council any restrictions to the permit he believes necessary to safeguard life and property. The City Council may thereafter, in its discretion, issue such permit, with such reasonable restrictions as it deems necessary for the purpose of health, welfare, and safety.

(Ord. 82-0-16, passed 11-22-82)

§ 112.10 FIREWORKS PERMIT FEE.

The fee to be charged for issuance of a fireworks permit shall be set from time to time by the City Council.

(Ord. 82-0-16, passed 11-22-82)

§ 112.11 FIREWORKS BOND.

(A) Upon payment of the required fee, receipt of an indemnity bond or policy in an amount to be set from time to time by the City Council to indemnify the city and to insure against the filing of any and all claims arising through or because of such public display, and approval of the City Council the Clerk shall issue a permit giving the applicant permission to conduct such display of fireworks. Such bond shall be subject to the approval of the City Attorney and shall be filed in the office of the Clerk.

(B) Such permit shall designate the kinds and quantities of fireworks to be used at such display, and no other kinds and no greater quantities of fireworks than therein specified shall be used at such display.

(Ord. 82-0-16, passed 11-22-82) Penalty, see § 112.99

§ 112.12 INDECENT AMUSEMENTS.

No license shall be granted for, or if granted the license shall not be held to authorize, the enacting or performance of any indecent, lewd, or obscene plays, exhibits, or entertainments of any nature or character whatsoever.

(Ord. 82-0-16, passed 11-22-82)

No person shall, in the inhabited part of the city, explode or set off any

firearms, fireballs, firecrackers, torpedos, rockets, or other fireworks, or otherwise pursue any amusement or exercise calculated to impede travel or injure or annoy persons passing along the streets or sidewalks, or frequenting any public place. (Ord. 82-0-16, passed 11-22-82) Penalty, see § 112.99

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§ 112.14 RESTRICTIONS.

(A) No person holding any license as specified in this chapter shall permit any gambling or betting upon the premises so occupied by him.

(B) Any shift or device to evade the provisions of this section shall be deemed a violation thereof.

(Ord. 82-0-16, passed 11-22-82) Penalty, see § 112.99

§ 112.15 OPENING AND CLOSING HOURS.

Every license issued under this chapter shall permit use of the licensed premises for the purposes set forth in such license, only during the licensee's normal and regular business hours. During non-business hours, the licensee shall not permit any person not connected with the operation of the premises to loiter or remain therein.

(Ord. 82-0-16, passed 11-22-82) Penalty, see § 112.99

§ 112.99 PENALTY.

(A) Any person who violates any of the provisions of this chapter shall, upon conviction thereof, be punished as provided in § 10.99.

(B) Any person who is the licensee for any premises regulated by this chapter shall, upon his second conviction for a violation of this chapter, either for the same offense or different offenses, and in addition to the fine assessed, have his license revoked, and all license fees paid to the city shall be retained by the city.

(Ord. 82-0-16, passed 11-22-82)

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- 113.02 Sales falling within this chapter
- 113.03 Exceptions
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- 113.18 Fictitious bids
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- 113.99 Penalty

§ 113.01 DEFINITIONS.

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

"AUCTIONEER." Includes any person who engages in the conducting of auction sales or crying off property at auction (except those who act by virtue of legal process). "AUCTIONEER" includes those who conduct an auction sale or cry off their own property at auction, as well as those who conduct a sale or cry off the property of others.

"LEGAL PROCESS." Any writ, process, or order of any kind issued out of any court.

"PROPERTY." Includes personal property of every kind but not real property, except where a different meaning is specified.
('69 Code, § 15-21)

§ 113.02 SALES FALLING WITHIN THIS CHAPTER.

All sales of property within the city, whether by public outcry to the highest bidder or to the public, or by offering property at a price beyond its value and then lowering the price or increasing the number of articles until someone accepts

the property offered as a purchase, shall
be held and deemed a selling at auction
within the meaning of this chapter.
('69 Code, § 15-39)

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§ 113.03 EXCEPTIONS.

The provisions of this chapter shall not extend to any officer or person executing any process or order of any court in this state, selling any property or effects directed by law to be sold at public vendue, auction, or outcry; nor shall the prohibition extend to property or effects of any deceased person when sold by order of the executor or administrator of the deceased person; nor to the property and effects of any bankrupt or insolvent debtor when sold by order of any court of competent jurisdiction. This chapter is not to be construed so as to apply to or in any way affect regular merchants of the city in the sale of any goods, wares, or merchandise in their stores, by retail, wholesale, or in any other manner, except by auction. This chapter shall not apply to or in any way affect the sale of household furniture and personal effects at the dwelling of the owner, or real estate sold on the premises; nor shall it apply to any sale of used automobiles to licensed automobile dealers.
('69 Code, § 15-40)

§ 113.04 LICENSE AND BOND REQUIRED.

It shall be unlawful for any person to exercise the business or trade of an auctioneer, or sell or offer for sale by way of public vendue, auction, or outcry within the city any goods, wares, merchandise, or other effects whatsoever, without having obtained a license and executed a bond to the city as hereinafter provided.
('69 Code, § 15-22) Penalty, see § 113.99

Cross-reference:

Business licenses, see § 110.05
et seq.

Statutory reference:

Licensing of auctioneers, see ILCS
Ch. 65, Act 5 § 11-42-1

§ 113.05 AMOUNT OF BOND.

No person shall receive a license to sell goods at auction in the city until he has executed to the city a bond in the penal sum of \$1,000, with corporate surety approved by the Mayor, conditioned upon the strict observance of all provisions of this code and all ordinances of the city respecting auctions and auctioneers and for the indemnification of any purchaser at public auction who suffers any loss by reason of misrepresentation at that auction. The above-mentioned bond shall be kept in full force and effect during the period for which the license is granted,

and shall, in addition, be kept in full force and effect for a period of 30 days after the expiration date of the license.
('69 Code, § 15-23)

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§ 113.06 LICENSE FEE.

Any person may become an auctioneer, and be licensed to sell real and personal property at public auction in this city, upon payment into the City Treasury of \$150 for a license for the first five consecutive days and \$50 for each day thereafter, and by complying with the provisions of this chapter relative to the filing of an inventory and bond in the time and manner prescribed.
('69 Code, § 15-24)

§ 113.07 LICENSE APPLICATION.

Application for a license shall be verified, stating the name of the applicant, his residence, the street and number of the proposed place of sale, the length of time for which the license is desired, the date the sale is to begin, whether the applicant has been previously engaged in a like or similar business, and the name of the owner or owners of the merchandise to be auctioned.
('69 Code, § 15-25)

§ 113.08 INVENTORY OF STOCK TO ACCOMPANY APPLICATION.

The license application shall be accompanied by a full and complete inventory of the stock or merchandise to be sold. Three copies of such inventory shall be furnished. The articles enumerated in the inventory shall be numbered, and tags,

corresponding to the numbers so shown in the inventory, shall be placed on each article when offered for sale. No additional stock or merchandise other than that inventoried shall be offered for sale or auctioned at any auction held under any license granted upon the application.
('69 Code, § 15-27)

Statutory reference:

Sale inventory, see ILCS Ch. 815, Act 350

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§ 113.09 APPROVAL OF LICENSE BY CITY COUNCIL.

The application for a license and the inventory required by § 113.08 shall be filed with the City Clerk at least 30 days prior to the granting of the license. The City Council must authorize the issuance of such license by the City Clerk.
('69 Code, § 15-28)

§ 113.10 LICENSE NONTRANSFERABLE; LICENSE TO BE POSTED.

(A) No license issued under the provisions of this chapter shall be transferable, or be held to authorize any person other than the one named therein to sell or cry goods at auction. In no case shall any license be held to

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making a purchase, sign his true name and address opposite which the auctioneer shall write the name of the article purchased as the same appears upon the tag and the sale price thereof and the article shall be delivered to

authorize two persons to sell under it at one time, or to cover more than one place of business, or to authorize auction sales at any other than the regular place of business as set out in the application for license.

(B) The license shall in all cases be posted in a conspicuous place where the sale is to be held.

('69 Code, § 15-26) Penalty, see § 113.99

Statutory reference:

Inventory and license to be posted,
see ILCS Ch. 815, Act 350 § 9

§ 113.11 INSPECTOR OF SALES.

(A) The Mayor shall, upon the filing of the license application, appoint an inspector or inspectors, not to exceed three in number, one of whom shall be in the same or kindred line of business as the applicant. The inspector or inspectors shall be residents of the city and may be city officials or employees or otherwise. It shall be the duty of the inspector or inspectors to inspect and investigate the inventory submitted with the application, and the stock of goods or merchandise offered for sale thereunder. The inspectors shall singly or as a body, as directed by the Mayor, attend the auction sales held under any license and shall report to the Mayor the fact of any merchandise being offered for sale which was not included in the inventory. The inspector or inspectors attending any auction sale shall have with them a copy of the inventory as originally furnished with the application, and shall check or compare each article as offered for sale with the inventory.

(B) For the purpose of the inspection, the inspector or inspectors shall have access to the place where the sale is to be held at any time prior to the opening of the sale. The inspector or inspectors shall not receive any compensation for duties performed hereunder prior to the opening of such sale, but shall each be compensated at the rate of \$5 per day for attendance at any sale held under any license granted hereunder; provided, that no city employee attending such sale hereunder shall be entitled to or receive any extra compensation above his regular salary or wage.
('69 Code, § 15-29)

§ 113.12 SALE BOOK TO BE KEPT.

At every auction sale within the city there shall be kept a sale book in which each purchaser shall immediately after

the purchaser with the tag intact and attached thereto.
('69 Code, § 15-32)

§ 113.13 OFFERING MERCHANDISE NOT LISTED IN INVENTORY.

Any licensee who offers for sale at any auction sale any goods or merchandise not included in the inventory filed with the application for the license for such sale, shall, upon conviction, be fined as provided in § 10.99; provided, that the fine shall not be less than \$10 for each offense. Upon conviction, the Mayor shall immediately declare the license forfeited and no further sales shall be held thereunder. No refund shall be made to any licensee on account of any license fee paid in advance upon such conviction and forfeiture of the license. No appeal taken from any conviction hereunder shall stay such forfeiture so declared pending the final determination of the appeal.
('69 Code, § 15-33)

Statutory reference:

Substitution, addition of merchandise,
see ILCS Ch. 815, Act 350 § 10

§ 113.14 MERCHANDISE TO BE PROPERTY OF AUCTIONEER.

No merchandise shall be sold by any licensed auctioneer which has not been in the possession of the auctioneer for a period of at least 30 days and which has not been stored or kept at the location at

which the auction is to be held, as set out in the application, for a similar period of 30 days prior to the filing of the application. If the property to be sold is owned by a person other than the auctioneer, the property must have been owned by the person for a similar period of time prior to the filing of the application for an auctioneer's license.
('69 Code, § 15-34) Penalty, see § 113.99

§ 113.15 SALE OF WATCHES, PLATES, OR JEWELRY.

It shall be the duty of every auctioneer who offers for sale any watch, plate, or jewelry of any kind, to announce in a loud voice to the persons present whether the merchandise is gold, gold plate, silver, silverplate, or base metal. This announcement shall be made before proceeding to sell the merchandise. Every auctioneer who offers for sale any watch, plate or other jewelry, without making such announcement shall be punished as provided by law.
('69 Code, § 15-35) Penalty, see § 113.99

Statutory reference:

Fraudulent sales of gold, silver,
see ILCS Ch. 720, Act 290 §§ 1 and 2

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§ 113.16 SUBSTITUTIONS FOR ARTICLES
PURCHASED.

Any auctioneer who exhibits and offers for sale at auction any article, and induces its purchase by any bidder, and who afterwards substitutes any article in lieu of that offered to and purchased by the bidder, shall forfeit his license and be punished as provided in § 10.99.
('69 Code, § 15-36)

§ 113.17 MISREPRESENTATION OF MERCHANDISE.

Any auctioneer or person being present when any article of property is offered for sale, who knowingly, with intent to induce any person or persons to purchase the article or any part thereof, makes any false representation as to the quality of the article or articles offered for sale, or as to the poverty or circumstances of the owner or pretended owner of such article or articles, shall, on conviction thereof be fined as provided in § 10.99. If such false representation is made by the auctioneer, or by any other person with the auctioneer's knowledge, consent, or connivance, the license of that auctioneer shall be forfeited.
('69 Code, § 15-37)

§ 113.18 FICTITIOUS BIDS.

No person shall act as a bidder or what is commonly known as a "capper," "booster" or "shiller" at any auction or place, or offer or make any false bid to buy or pretend to buy any article sold or offered for sale at any auction.
('69 Code, § 15-38)

§ 113.19 HOURS OF SALE.

No auctioneer shall sell or offer for sale any goods, wares, or merchandise, between the hours of 5:00 p.m. and 8:00 a.m. the following morning on weekdays, and at no time on Sundays.

§ 113.99 PENALTY.

Whoever sells or attempts to sell at public auction within the city any goods, chattels, or personal property without having obtained a license and executed a bond as above required, or whoever violates any other provisions of this chapter, or in any particular willfully fails or refuses to comply with any of its terms, conditions, or requirements, where no fine is otherwise particularly provided for, shall be punished as provided in § 10.99; provided, such fine shall not be less than \$10.
('69 Code, § 15-41)

Section

Statutory reference:

Community antenna television system,
see ILCS Ch. 65, Act 5 § 11-42-11

- 114.01 Purpose
- 114.02 Short title
- 114.03 Definitions
- 114.04 Qualifications of grantee;
grant of authority
- 114.05 Construction requirements
- 114.06 Technical standards
- 114.07 Franchise payments; annual
report
- 114.08 Books and records of grantee
- 114.09 Insurance and indemnity
- 114.10 Use of city streets
- 114.11 Services to be provided by
grantee
- 114.12 Rates
- 114.13 Rights of individuals
- 114.14 Compliance with local, state,
and federal law
- 114.15 Revocation of franchise
- 114.16 Restrictions against assignment
or transfer
- 114.17 Rights reserved to city
- 114.18 Failure of city to enforce
franchise no waiver of terms
- 114.19 Acceptance by written
instrument
- 114.20 Limitations on grantee's
recourse
- 114.21 Tampering with CATV equipment
- 114.22 Surety bond
- 114.23 Local office or agent;
complaint procedures

- 114.99 Penalty

§ 114.01 PURPOSE.

It is the purpose of this chapter to provide for the granting of franchises to construct, maintain, and operate CATV systems in the city, and to set forth the obligations and rights of the city and grantee accompanying said grant. (Ord. 94-0-6, passed 9-12-94)

§ 114.02 SHORT TITLE.

This chapter shall be known, and may be cited as the "Tuscola CATV Franchise Ordinance." (Ord. 94-0-6, passed 9-12-94)

§ 114.03 DEFINITIONS.

For the purpose of this chapter, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "SHALL" is always mandatory and not merely directory.

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Cross-reference:

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"BASIC SERVICE." The lowest priced level of service which includes the retransmission of local television broadcast signals (as authorized).

"CABLE SYSTEM" or "CATV SYSTEM." A system of antennas, cables, wires, lines, fiber optic cables, towers, waveguides or other conductors, converters, equipment or facilities, used for distributing video programming to home subscribers, and/or producing, receiving, amplifying, storing, processing, or distributing audio, video, digital or other forms of signals.

"CHANNEL" or "CABLE CHANNEL." A portion of the electromagnetic frequency spectrum which is used in a cable system and which is capable of delivering either one NTSC video signal, a number of audio, digital or other nonvideo signals, or some combination of such signals.

"CITY." The City of Tuscola, Illinois, including areas annexed during the term of the franchise granted hereby.

"CITY COUNCIL." The present governing body of the city or any successor to the legislative powers of the present Council.

"CONVERTER." An electronic device which converts signals to a frequency not susceptible to interference within the television receiver of a subscriber, and by an appropriate channel selector also permits a subscriber to view all signals delivered at designated dial locations.

"FRANCHISE." The right, privilege and authority granted by this chapter to construct, maintain and operate a CATV system through use of streets of the city.

"GRANTEE." Any person, firm, corporation or partnership to whom a franchise shall be granted hereunder.

"GRANTOR." The city as represented by the City Council or any delegate acting within the scope of its jurisdiction.

"GROSS RECEIPTS." Those revenues derived from the monthly service fees paid by subscribers of the city for basic service and multi-channel tier cable television service, including the transmission of broadcast signals and access origination channels; "GROSS RECEIPTS" shall not include any revenues derived from installation fees, disconnect and reconnect fees, reimbursement of expenses in the operation of any access channel, advertising, leasing of cable channels, individual programs or individual signals for which a separate charge is

made, furnishing other communication and nonbroadcast services, either directly or as a carrier for another party, or any other income derived from the system.

"MAYOR." The existing or succeeding chief administrative officer of the city, or his designate.

"PERSON." Any person, firm, partnership, association, corporation, company or organization of any kind.

"STREET." The surface of and the space above and below any public street, road, highway, freeway, lane, path, public way, alley, court, sidewalk, boulevard, parkway, drive or any easement or right-of-way now or hereafter held by the city, or dedicated for use by the city, use by the general public, or use compatible with cable system operations.

"SUBSCRIBER." Any person or entity receiving for any purpose the CATV service of a grantee herein.

"USER." A person utilizing a channel for purposes of production and/or transmission of material, as contrasted with receipt thereof, in a subscriber capacity.
(Ord. 94-0-6, passed 9-12-94)

§ 114.04 QUALIFICATIONS OF GRANTEE; GRANT OF AUTHORITY.

(A) Prior to granting an initial franchise hereunder, the City Council shall conduct a public proceeding pursuant to public notice concerning a grantee's application for a franchise hereunder, which proceeding shall afford all interested parties an opportunity to participate in, and comment upon, the legal character, financial, technical and other qualifications of the grantee, and the adequacy and feasibility of its arrangements for the construction of a cable television system in the city. Within 30 days after the close of the public proceeding, if the City Council finds that a proposed grantee possesses all necessary qualifications and that its construction arrangements are adequate and feasible, the city shall grant to grantee, the right, privilege and franchise to construct, operate and maintain a CATV system in the streets of the city for a period of 15 years, this time period to begin from the date of grant, subject to the rights, obligations, conditions and restrictions as hereinafter provided.

(B) A franchise granted by the city under the provisions of this chapter shall permit constructing, operating and maintaining a cable system in the city, including the right to erect, install, construct, repair, replace, reconstruct and retain in, on, over, under, upon, across and along the streets and other public property such lines, cables, fiber optics, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances,

pedestals, attachments and other property and equipment as are necessary and appropriate to the operation of the cable system. It shall be unlawful for any person to construct, install or operate a cable system in the city within any street or within any other right-of-way within the city without a properly granted franchise awarded pursuant to the provisions of this chapter, which franchise is in full force and effect.

(C) The right to use and occupy said streets for the purpose herein set forth shall not be exclusive. The city reserves the right to grant a similar use of said streets to any person at any time during the period of franchise. If the city elects to grant an additional cable television franchise, in an area where a franchise has already been granted to a cable television operator, to any applicant that was not authorized to provide cable television service within the city prior to the effective date of this chapter, it shall do so only after a public hearing noticed in a newspaper of general circulation, where all of the following have been considered:

(1) Whether there will be significant positive or negative impacts on the community being served.

(2) Whether there will be an unreasonable adverse economic or aesthetic impact upon public or private property within the area.

(3) Whether there will be an unreasonable disruption or inconvenience to existing users, or any adverse effect on future use, of utility poles, public easements, and the public rights-of-way.

(4) Whether the franchise applicant has the technical and financial ability to perform.

(5) Whether there is any impact on the franchising authority's interest in having an additional provider of cable service.

(6) Whether other societal interests generally considered by franchising authorities will be met.

(7) Whether the operation of an additional cable system in the community is economically feasible.

(8) Such other additional matters, both procedural and substantive, as the franchising authority may determine to be relevant.

The city shall not grant any additional franchise more favorable or less burdensome than any franchise granted to another grantee to serve the same area.

(D) (1) A franchise granted hereunder may be renewed if:

(a) The grantee has substantially complied with the material terms of the existing franchise and with

(b) The quality of the grantee's service, including signal quality, response to consumer complaints, and billing practices, but without regard to the mix, quality, or level of cable services or other services provided over the cable system has been reasonable in light of community needs;

(c) The grantee has the financial, legal, and technical ability to provide the services, facilities, and equipment set forth in the grantee's proposal; and

(d) The grantee's proposal is reasonable to meet the future cable-related community needs and interests, taking into account the cost of meeting such needs and interests. The city may not declare grantee's proposal unreasonable and deny renewal, nor may community needs be established, on the basis of facilities, equipment, or services which another party has indicated it is willing to provide.

(2) In any renewal proceeding, the grantee shall be afforded adequate notice and the grantee and the city, or its designee, shall be afforded fair opportunity for full participation, including the right to introduce evidence, to require the production of evidence, and to question witnesses. A transcript shall be made of any such proceedings.

(3) A proceeding under this division shall be completed within 12 months of its commencement, within which time the city shall issue a written decision granting or denying the proposal for renewal based upon the record of such proceeding, and transmit a copy of such decision to the grantee. Such decision shall state the reason therefor.

(4) Any denial of a proposal for renewal shall be based on one or more adverse findings made with respect to the factors described in division (1), pursuant to the record of the proceeding under division (2). The city may not base a denial of renewal on a failure to comply with the material terms of the franchise under division (1) or on events considered under division (1) unless the city has provided grantee notice and the opportunity to cure as provided in this chapter, or in any case in which city has waived its rights to object, or the grantee has given the city written notice of a failure to cure and the city fails to object within a reasonable time after receipt of such notice.

(5) The grantee is expressly reserved its rights of appeal under federal and state law. In addition to such rights, this franchise shall remain in effect at all times during which a renewal proceeding or appeal remains pending.

(6) Notwithstanding the provisions of divisions (D)(1) through (6), the grantee may submit a proposal for the

renewal of franchise, and the city may, after affording the public adequate notice and opportunity for comment, grant or deny such proposal at any time (including after proceedings pursuant to this section have commenced). The denial of a renewal pursuant to this division shall not affect action on a renewal proposal that is submitted in

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accordance with divisions (D) (1) through (5) above.

(7) The city may not, upon the expiration of this franchise, or otherwise, acquire an ownership interest in the cable system, or require a sale of the cable system to any other person, unless the city or such other person acquires the ownership interest at not less than fair market value for the cable system as a going concern.

(E) This chapter and any franchise awarded pursuant to the terms of this chapter shall relate to and cover the entire present territorial limits of the city and any area hereafter annexed thereto during the term of the franchise. The grantee agrees to and shall install and furnish CATV service to all residents of the city, including all residents in any territory subsequently annexed to the city and referenced in § 114.15(A) (4). (Ord. 94-0-6, passed 9-12-94)

(E) In the event it is necessary temporarily to move or remove any of grantee's wires, cables, poles, or other facilities placed pursuant to this franchise, in order lawfully to move a large object, vehicle, building or other structure over the

§ 114.05 CONSTRUCTION REQUIREMENTS.

(A) The grantee shall obtain required permits from the city before commencing construction involving the opening or disturbance of any street or public property. The city shall cooperate with the grantee and use its best efforts in granting any permits required. The grantee shall arrange its lines, cable and other appurtenances, on any street or public property, in such a manner as to cause no unreasonable interference with the usual and customary use of said street or other public property. The grantee shall not trespass on any private property and shall obtain all required licenses, consents, or easements before commencing construction on any private property.

(B) Methods of construction, installation, and maintenance of the grantee's cable system shall comply with the National Electrical Safety Code to the extent that such Code is consistent with local law affecting the construction, installation, and maintenance of electric supply and communication lines.

(C) Any and all streets or other public property which are disturbed or damaged during the construction, operation or maintenance of the cable system shall be promptly repaired by the grantee, at its expense and to a condition reasonably comparable to its condition prior to the disturbance or damage.

(D) The grantee may cut or trim trees and vegetation owned or controlled by the city and interfering with National

streets of the city, upon 30 days' prior notice by the city to grantee, the grantee shall move at the expense of the person requesting the temporary removal such of his facilities as may be required to facilitate such movement.

(F) The grantee shall at all times take reasonable precautions for preventing failures and accidents which are likely to cause damage or injury to the public, to employees of the grantee, and to public or private property.

(G) All lines, equipment, and facilities within the service area shall at all times be kept and maintained in a safe and suitable condition and in good order and repair. All lines shall either be buried or strung aboveground in accordance with the provisions of division (H) hereof and in no event shall such lines be left to permanently lay along the ground in easement or public right-of-way areas.

(H) In all other cases, the grantee shall be eligible for relocation compensation to the same extent as the city compensates any other utility companies. It is presently agreed and understood that grantor does not compensate utility companies at the present time for relocation expenses within grantor's right-of-way or easement areas.

(I) All future installations of cable or wires by grantee shall be buried

underground; except, however, that in areas where the utility and telephone company, or either of them, utilize aboveground cable or wire to provide their services, grantee may also use aboveground cable or wire to provide its services. In all areas where both the utility and telephone companies have removed their aboveground cable or wire, have removed their poles, and have buried their cable or wire underground, grantee shall also within one year from the date that the utility and telephone companies have taken the foregoing action, be required to bury its cable or wire underground.

(Ord. 94-0-6, passed 9-12-94)

§ 114 06 TECHNICAL STANDARDS.

(A) The grantee shall construct, install, operate and maintain its cable system in a manner consistent with FCC technical standards. In addition, the grantee shall provide to the city, upon request, a written report of the results of the grantee's annual proof of performance tests conducted pursuant to FCC standards and requirements.

(B) The grantee shall continue, through the term of the franchise, to maintain FCC technical standards. Should the city find that the grantee has failed to maintain FCC technical standards, and should the city specifically enumerate those standards with which grantee is not in compliance, the grantee shall make such improvements as are necessary to meet those standards.

(C) The grantee shall furnish any and all compliance data forwarded by grantee to the FCC within 30) days of filing the same with the FCC.

(Ord. 94-0-6, passed 9-12-94)

§ 114.07 FRANCHISE PAYMENTS; ANNUAL REPORT.

(A) The grantee shall pay to the city for the use of the streets and other facilities of the city in the operation of the CATV system and for the municipal supervision thereof a fee in the amount of 3% of the monthly gross receipts to be paid on a quarterly basis, during each year, during the 15 years in which any franchise granted pursuant to this chapter is in effect. The grantee shall file with the city within 45 days after January 1 of each year during the period this franchise shall be in force, a financial statement showing in detail the annual gross receipts of a grantee during the preceding quarterly period. It shall be the duty of a grantee to pay to the city at the time of filing such statement the franchise fee prescribed herein. A grantee shall also file within 90 days following the conclusion of each fiscal year of grantee an annual report prepared by a certified public accountant, showing the yearly total gross receipts and payments to the city. Upon written request from the city, the grantee shall file with the city in its annual report a current list of its stockholders holding 5% or more of the outstanding stock of grantee.

(B) In the event any franchise granted pursuant to this chapter should be terminated or forfeited prior to the end of the basic 15-year term, grantee shall immediately submit to the city a financial statement prepared as before required, showing the grantee has paid to the city the required percentages of gross receipts, and grantee shall pay to the city not later than 30 days following the termination of any franchise, a like percentage of such gross receipts.

(C) In the event that any payment is not made on or before the applicable date fixed in divisions (A) and (B) above, interest on such payments shall apply from such date at the yearly rate of 8%, plus cost of collection.

(D) The city shall have the right to inspect grantee's records showing the gross receipts from which its franchise payments are computed pursuant to division (A) of this section. The right of audit and recomputation of any and all amounts paid under this franchise shall be always accorded to the city until the third

anniversary of any payment, after which such payment shall be deemed accepted as payment in full. No acceptance of any payment by the city shall be construed as a release of or an accord or satisfaction of any claim the city might have for further or additional sums payable under the terms of this chapter or for any other performance or obligation of a grantee hereunder.

(E) Payments of compensation made by a grantee to the city pursuant to the provisions of this chapter shall not be considered in the nature of a tax but shall be in addition to any and all taxes which are now or hereafter required to be paid by any law of the United States, the State of Illinois or the city.

(Ord. 94-0-6, passed 9-12-94)

§ 114.08 BOOKS AND RECORDS OF GRANTEE.

Upon prior written notice, but in no event more than twice in any calendar year, grantee shall permit examination by any duly authorized representative of the city, of all franchise property and facilities, together with any appurtenant property and facilities of grantee situated within or without the city, and all records relating to the franchise, provided they reasonably relate to the scope of the city's rights under this chapter, subject to city's written agreement to maintain confidential, trade secret or proprietary information, and further subject to grantee's right to protect information not subject to discovery under standards of civil litigation.

(Ord. 94-0-6, passed 9-12-94)

§ 114.09 INSURANCE AND INDEMNITY.

(A) At all times during the term of any franchise granted hereunder, and for such period thereafter as a grantee owns property in the city, a grantee shall obtain, pay all premiums for and file with the Mayor or his designee at least ten days before construction of the cable system commences, a certificate of insurance or other proof evidencing the payment of premiums for the following:

(1) A general comprehensive public liability insurance policy indemnifying, defending and saving harmless the city, its officers, boards, commissions, agents, or employees, from any and all claims by any person whatsoever on account of injury to or death of a person occasioned by the operations of the grantee under franchise herein granted or alleged to have been so caused or occurred with a minimum liability of \$500,000 per bodily injury or death to any one person and \$1,000,000 for bodily injury or death of any two or more persons in any one occurrence, said policies are to include injury coverage.

(2) Property damage insurance indemnifying, defending and saving harmless the city, its officers, boards, commissions, agents and employees from and against all claims by any person whatsoever for property damage occasioned by the

operation of the grantee under the franchise herein granted or alleged to have been so caused or occurred with a minimum liability of \$250,000 for property damage to any one person and \$500,000 for property damage to two or more persons in any one occurrence.

(B) All of the foregoing insurance

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contracts shall be in form satisfactory to the City Attorney and shall be issued and maintained by companies authorized to do business in the State of Illinois, acceptable to the Mayor or his designee and carrying a rating of A+:AAAAA in Best's Insurance Guide, last published. Said insurance contracts shall require 30 days written notice of any cancellation to both the city and the grantee herein.

(C) The grantee shall also, at its sole cost and expense, fully indemnify, defend and hold harmless the city, its officers, boards, commissions and employees against any and all claims, suits, actions, liability and judgments for damages (including but not limited to expenses for reasonable legal fees and disbursements and liabilities assumed by the city in connection therewith):

(1) Arising out of any claim for invasions of the right of privacy, for defamation of any person or the violation or infringement of any copyright, trademark, trade name, service mark or patent, or of any other right of any person (excluding claims arising out of or relating to city programming); and

(2) Arising out of a grantee's failure to comply with the provisions of any federal, state, or local statute, ordinance or regulation applicable to the grantee in its business hereunder.

(D) The foregoing indemnity is conditioned upon the following: The city shall give a grantee prompt notice of the making of any claim or the commencement of any action, suit or other proceeding covered by the provisions of this section. Nothing herein shall be deemed to prevent the city from cooperating with the grantee and participating in the defense of any litigation by its own counsel at its sole cost and expense.
(Ord. 94-0-6, passed 9-12-94)

§ 114.10 USE OF CITY STREETS.

(A) All transmission and distribution structures, lines and equipment erected by the grantee within the city shall be located so as not to interfere with the proper use of streets and places, and to cause minimum interference with the rights or reasonable convenience of property owners who adjoin any of the said streets and places, and not to interfere with existing public utility installations. The energized cable may be located underground or on existing public utility poles.

(B) In the case of any disturbance of

pavement, sidewalk, driveway, or other surfacing the grantee shall, at its own expense, and in the manner approved by the city, replace and restore all paving, sidewalk, driveway or other surface of any street disturbed. When wires or other equipment are placed underground on private property the land surface, including

six months from the date of said occurrence;

plantings and trees, shall be restored substantially to its previous condition.

(C) If at any time during the period of franchise the city shall lawfully elect to alter, or change the grade or location of any street, grantee shall, upon reasonable notice by the city, remove, relay and relocate its wires, cables, and underground conduits, manholes and other fixtures at its own expense, and in each instance comply with the requirement of the city.

(D) The grantee shall not place conduits or other fixtures above or below ground where the same will interfere with any gas, water hydrant or other fixtures placed in any street and shall be so placed as to comply with all ordinances of the city.

(E) The grantee may be required by the city to permit joint use of its property and appurtenances located in the streets by utilities insofar as such joint use may be reasonably practicable and upon payment of reasonable rental therefor; provided that in the absence of agreement regarding such joint use, the City Council shall provide for arbitration of the terms and conditions of such joint use and the compensation to be paid therefrom, which award shall be final.

(F) The grantee shall, on request of any person holding a moving permit issued by the city, temporarily move its wires or fixtures to permit the moving of buildings, the expense of such temporary removal, to be paid by the person requesting the same, and the grantee shall be given not less than 48 hours advance notice to arrange for such temporary changes.

(G) The grantee shall have the authority to trim any trees upon and overhanging the streets and public places of the city so as to prevent the branches of such trees from coming in contact with the wires and cables of the grantee, except that at the option of the city, such trimming may be done by it, or under its supervision and direction, at the expense and liability of the grantee.

(H) Following grantee's commencement of service through and over its CATV system, grantee shall promptly remove from the streets where its properties are located all or any part of the facilities so located when one or more of the following conditions occur:

(1) If grantee ceases to provide a substantial amount of the services required in this chapter for a continuous period of

(2) If grantee fails to construct said cable system as hereinabove and hereafter provided;

(3) The franchise is terminated or revoked pursuant to notice as provided herein. Provided that grantee shall be entitled to receive notices in writing from

general citizens on the basis of race, color, religion, national origin, age or sex.

the city delivered to the local office of the grantee setting forth one or more of the occurrences hereinabove enumerated or such other occurrence, and shall have 30 days in which to cure such complaint or to submit a plan acceptable to the grantee for the cure of such complaint.
(Ord. 94-0-6, passed 9-12-94)

(B) The grantee shall adhere to the applicable equal employment opportunity requirements of the FCC and applicable state regulations, as now written or as amended from time to time.

(C) The grantee agrees that it will not,

§ 114.11 SERVICES TO BE PROVIDED BY GRANTEE.

(A) The grantee shall render efficient service in accordance with such rules and regulations as promulgated by the Federal Communications Commission and other federal and state regulatory agencies.

(B) The grantee shall provide a uniform, strong signal, free from distortion and interference, and shall not interrupt services unless absolutely necessary.

(C) If requested in writing by the City Council within three years following the granting of a franchise, said cable system shall provide at least one public access channel; provided, however, the grantee may drop a programming channel if such request is made.

(D) The grantee shall provide all reasonable technical and programming assistance to all parties programming on the grantee's cable system.

(E) In the event of an emergency as declared by the Mayor, or disaster, the grantee shall upon request of the Mayor make available its facilities to the city for emergency or disaster and shall provide such personnel as necessary to properly operate under the circumstances.

(F) The grantee shall respond to all service calls and correct malfunctions in its equipment within the time periods stated in § 114.23(A).
(Ord. 94-0-6, passed 9-12-94)

§ 114.12 RATES.

The city may regulate grantee's rates for the provision of basic cable service as permitted by federal law; provided, however, that any such regulation shall be prospective rather than retroactive in its application.
(Ord. 94-0-6, passed 9-12-94)

§ 114.13 RIGHTS OF INDIVIDUALS.

(A) The grantee shall not deny service, deny access, or otherwise discriminate against subscribers, channel users, or

and will not permit others to, undertake any surveillance of persons and will not attempt, nor cause others to undertake any studies of audience size, program utilization, set use, or similar research without the written consent of the affected persons, nor will any electronic devices be attached to the cable system which would serve such a function without the consent of the affected persons.
(Ord. 94-0-6, passed 9-12-94)

§ 114.14 COMPLIANCE WITH LOCAL, STATE AND FEDERAL LAW.

(A) The grantee shall construct, operate and maintain the CATV system subject to the supervision of all of the authorities of the city who have jurisdiction in such matters and in strict compliance with all laws and ordinances.

(B) If at any time the powers of the City Council or any agency or official of the city are transferred by law to any other board, authority, agency or official this board, authority, agency or official shall have the power, rights and duties previously vested under this chapter or by law in the Council or any agency or official of the city.
(Ord. 94-0-6, passed 9-12-94)

§ 114.15 REVOCATION OF FRANCHISE.

(A) In addition to all other rights and powers pertaining to the city by virtue of this chapter or otherwise, the city reserves the right to terminate and cancel any franchise granted hereunder and all privileges of a grantee hereunder in the event that a grantee fails to remedy any of the following events of default within 30 days following written notice thereof sent by certified mail to the grantee by the City Attorney:

(1) Violates any material provision of this chapter, or any rule, order or determination of the city made pursuant to this chapter, except where such violation, other than of division (2) below, is without fault or through excusable neglect;

(2) Becomes insolvent, unable or unwilling to pay its debts, or is adjudged a bankrupt;

(3) Attempts to evade any of the provisions of this chapter or practices any fraud or deceit upon the city; or

(4) Fails to have service available to 100% of the residential structures, which are within the city as of the date of acceptance of this chapter and on areas

annexed to the city after acceptance of this chapter, fails to have service available within a reasonable time to 100% of the residential structures in all areas of the city where there at least 50 residential units per line mile; provided that said period may be extended by the city if the

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public interest. The consent of the city to such transfer shall not be unreasonably denied or delayed.

grantee is diligently pursuing construction and the delay is not caused by any fault of the grantee or strikes, natural disaster or other occurrences over which grantee would have no control.

(B) Such termination and cancellation shall be by ordinance duly adopted after 60 days' notice to the grantee and shall in no way effect any of the city's rights under this chapter or any provision of law. In the event that such termination and cancellation depends upon a finding of fact, as made by the Council, it shall be reviewable under the provision of the Administrative Review Act of the State of Illinois. Before the franchise may be terminated and cancelled under this section, a grantee must be provided with an opportunity to be heard before the Council, to defend its conduct and show that no such uncured event of default exists.

(C) Whenever this chapter shall set forth any time for any act to be performed by or on behalf of grantee, such time shall be deemed of the essence and any failure of a grantee to perform within the time allotted shall always be sufficient grounds for the city to revoke any franchise granted hereunder.
(Ord. 94-0-6, passed 9-12-94)

§ 114.16 RESTRICTIONS AGAINST ASSIGNMENT OR TRANSFER.

(A) The grantee shall not assign, or transfer control of, the franchise without the prior consent of the Council, which consent will not be unreasonably denied. The Council shall render its decision within 45 days from the date on which consent is requested. Any attempt to assign the franchise without the consent of the Council shall be null and void. No such consent shall be required for an assignment: to any affiliate of the grantee which is owned or controlled by the grantee or any person controlling, controlled by or under common control with the grantee, in each case as of the effective date of the grantee's franchise; or in trust, mortgage or other hypothecation, in whole or in part, to secure an indebtedness.

(B) The transferee shall be required to establish that it possesses the legal, financial and technical qualifications to operate and maintain the cable system and comply with all franchise requirements for the remainder of the term of the franchise. If the transferee demonstrates that it possesses such qualifications, the city shall transfer and assign the rights and obligations of such franchise as in the

(C) Any financial institution having a pledge of the franchisee or its assets for the advancement of money for the construction and/or operation of the franchise shall have the right to notify the city that it or its designee satisfactory to the city shall take

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control of and operate the cable system, in the event of a grantee default in its financial obligations. Further, said financial institution shall also submit a plan for such operation within 30 days of assuming such control that will insure continued service and compliance with all franchise requirements during the term the financial institution exercises control over the system. The financial institution shall not exercise control over the system for a period exceeding one year unless extended by the city in its discretion and during said period of time it shall have the right to petition the city to transfer the franchise to another grantee.
(Ord. 94-0-6, passed 9-12-94)

§ 114.17 RIGHTS RESERVED TO CITY.

(A) The right is hereby reserved to the city to adopt, in addition to the provisions contained herein and in existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of the police powers; provided, that such regulations, by ordinance or otherwise, shall be reasonable and shall not conflict with or diminish in any way any of city's rights herein granted.

(B) In addition to the specific rights of inspection contained in this chapter, the city shall also have the right to make such inspections as it shall find necessary to insure compliance with the terms of this chapter and other pertinent provisions of law.

(C) The Tuscola Committee on CATV, composed of members appointed by the Mayor with the advise and consent of the City Council shall be a continuing body whose purpose is to oversee the development of CATV in the city and provision of services by grantee.

(D) Said Committee may recommend to the City Council the hiring of a consultant to work with said Committee in attaining the above ends. Said consultant shall serve as a liaison between the said Committee and grantee and shall be available by telephone and shall meet with said Committee to ensure that the provisions of this chapter are carried out.
(Ord. 94-0-6, passed 9-12-94)

§ 114.18 FAILURE OF CITY TO ENFORCE FRANCHISE NO WAIVER OF TERMS.

The grantee shall not be excused from complying with any of the terms and conditions of any franchise granted hereunder by any failure of the city upon

any one or more occasions to insist upon or to seek compliance with any such terms or conditions.
(Ord. 94-0-6, passed 9-12-94)

§ 114.19 ACCEPTANCE BY WRITTEN INSTRUMENT.

(A) This chapter and its terms and
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provisions shall be accepted by grantee by written instrument executed and acknowledged by it as a deed is required to be, and filed with the City Clerk within 20 days after passage of an ordinance granting franchise to such grantee. Such written instrument shall state and express the acceptance of this chapter and its terms, conditions and provisions and said grantee shall agree in said instrument to abide by, to observe and perform same, and declare that statements and recitals herein are correct and that it has made and does make this agreement, statements and admissions in this chapter recited to have been made.

(B) Any formal acceptance of a franchise hereunder and of the terms and conditions by the grantee as herein provided shall be in form approved by the City Attorney. The instrument of acceptance or an executed counterpart thereof, shall be filed for record in the office of the County Clerk at the grantee's expense within 30 days after the same is filed with the City Clerk. The recorded copies of such acceptance shall be obtained and preserved by the City Clerk. (Ord. 94-0-6, passed 9-12-94)

§ 114.20 LIMITATIONS ON GRANTEE'S RECOURSE.

(A) A grantee expressly acknowledges that upon accepting the franchise granted hereunder, it did so relying upon its own investigation and understanding of the power and authority of the city to grant a franchise hereunder. By the acceptance of a franchise hereunder a grantee agrees that it will not at any time set up against the city in any claim or proceeding any condition or term of this chapter as unreasonable, arbitrary or void or that the city had not power or authority to make such terms or conditions of this chapter in their entirety.

(B) A grantee by acceptance of the franchise granted hereunder acknowledges that it has not been induced to enter into such franchise by any understanding or promise or other statement whether verbal or written by or on behalf of the city or by any other third person concerning any term or condition of said franchise not expressed herein.

(C) A grantee further acknowledges by acceptance of the franchise granted hereunder, that it has carefully read the terms and conditions hereof and is willing to and does accept all reasonable risks of the meaning of such terms and conditions. (Ord. 94-0-6, passed 9-12-94)

A person who willfully or maliciously damages, or causes to be damaged, any wire, cable, conduit, apparatus or equipment of a grantee, or who taps, tampers with, or connects any wires or device to a wire, cable, conduit or equipment of a grantee with intent to obtain a signal or impulse therefrom without authorization of the grantee, shall be fined up to \$500. (Ord. 94-0-6, passed 9-12-94)

§ 114.22 SURETY BOND.

(A) A grantee shall maintain, and by its acceptance of a franchise hereunder specifically agrees that it will maintain throughout the term of a franchise granted hereunder, a faithful performance bond running to the city, with a good and sufficient surety approved by the city in the penal sum of \$10,000 conditioned that the grantee shall well and truly observe, fulfill and perform each term and condition of the franchise granted hereunder and of the grantee's proposal and that in case of any breach, the city shall be entitled to recover from the principal and sureties thereof the amount of all damages including all costs and attorney's fees incurred by the city, proximately resulting from the failure of grantee to well and faithfully observe and perform any and all of the provisions of this franchise.

(B) No recovery by the city of any sum by reason of the bond required herein shall be any limitation upon the liability of a grantee to the city, except that any sum received by the city by reason of the bond required herein shall be deducted from any recovery which the city might have against a grantee.

(Ord. 94-0-6, passed 9-12-94)

§ 114.23 LOCAL OFFICE OR AGENT; COMPLAINT PROCEDURES.

(A) A grantee shall maintain a local business office within the city limits. Inquiries or complaints shall be received during normal business hours, 9:00 a.m. to 5:00 p.m., Monday through Friday at the local business office or by a toll free telephone number. All complaints and inquiries will be investigated, responded to or acted upon as promptly as practical, and unless circumstances otherwise require, within three days of their receipt; except, however, that all service interruptions will be investigated, responded to or acted upon within 24 hours of the grantee's receipt of complaint or inquiry. The grantee shall, by appropriate means, such as a card or brochure, as subscribers are connected or reconnected to the cable system, furnish information about the procedures for making inquiries and/or complaints; that is, the name, address and local phone number of the grantee's employee or agent and of the city's agent to whom such inquiries or complaints may be directed. The grantee shall maintain a maintenance service log indicating the date and time complaints are received and resolved, and the nature of the complaint and resolution. This log shall be made available for reasonable inspection by the

(B) The city appoints its Mayor as the official with primary responsibility for the continuing administration of this franchise and implementation of these complaint procedures, and its agent to receive inquiries or complaints about the grantee's

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operations. The above complaint procedures may be supplemented or amended as deemed necessary during the term of this franchise by regulations adopted by the city and grantee.

(Ord. 94-0-6, passed 9-12-94)

§ 114.99 PENALTY.

(A) If, after receipt of written notice by the registered agent of a grantee from the city, a grantee fails or refuses within a reasonable time to correct any violation of this chapter or to perform any duty or obligation imposed upon it by this chapter, the city may recover from a grantee for such violations, failure or refusal to perform, a penalty of not less than \$100 nor more than \$500 in a civil action instituted in the circuit court. Each day's violation after reasonable time for correction, shall constitute a separate offense.

(B) In addition to the remedies prescribed in division (A) above, the city may seek relief by way of injunction or mandamus against a grantee to compel observance of the requirements of this chapter to prevent a failure in performance by a grantee of any of the provision hereof.

(C) The remedies prescribed in division (B) above shall be instituted upon a duly adopted resolution of the City Council directing the City Attorney to take appropriate action.

(D) The remedies prescribed in this section are cumulative and in addition to the penalty of revocation which is authorized by § 114.15.
(Ord. 94-0-6, passed 9-12-94)

Section

- 115.01 Definition
- 115.02 Registration required
- 115.03 Bond required
- 115.04 Registration fee
- 115.05 Issuance and duration of certificate
- 115.06 Record of registrations
- 115.07 Maintenance certificate

- 115.99 Penalty

§ 115.01 DEFINITION.

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

"ELECTRICAL CONTRACTOR." Any person engaged in the business of installing or altering by contract, electrical equipment for the utilization of electricity for light, heat, or power, not including radio apparatus or equipment for wireless reception of sounds and not including apparatus, conductors, and other equipment installed for or by public utilities, including common carriers, under the jurisdiction of the state Commerce Commission for use in operation as public utilities.

('69 Code, § 8-2)

Statutory reference:

Electrical contractors, see ILCS Ch. 65,

Act 6 § 11-33-1

§ 115.02 REGISTRATION REQUIRED.

(A) Any person desiring to engage in the business of electrical contractor or serviceman shall make a written application for certificate of registration on a form provided by the Electrical Commission. This application shall be filed with the City Clerk, together with an application fee of \$100. If the applicant is thereafter issued a certificate of registration, the fee paid shall pay for the certificate of registration for the current year or fraction of a year, and the certificate shall expire on March 31 of each year.

(B) Applications shall not be accepted from any person who has not attained the age of 18 years; all applicants must have a minimum of two years experience relating to the work of electrical contracting or service.

(C) The City Clerk shall refer all applications for a certificate of registration to the Electrical Commission.

The Electrical Commission shall make such investigation of the applicant as is deemed necessary to ascertain the fitness and qualifications of each applicant, and thereafter shall, without delay, transmit to

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the City Council for final action thereon, its recommendation to issue or deny a certificate of registration to the applicant.

('69 Code, § 8-34) (Ord. 69-0-12, passed 10-13-69; Am. Ord. 70-0-2, passed 4-27-70; Am. Ord. 2002-0-5, passed 5-13-02)
Penalty, see § 115.99

Cross-reference:

Electrical Inspection Department,
see § 32.01 et seq.

Statutory reference:

Registration of electrical
contractors, see ILCS Ch. 65, Act 5
§ 11-33-1

§ 115.03 BOND REQUIRED.

Each applicant for registration as an electrical contractor shall post bond in the amount of \$5000 with the City Electrician conditioned upon faithful performance and observance of the ordinances, laws, and codes related to the applicant's work.

('69 Code, § 8-35) (Am. Ord. 2002-0-5, passed 5-13-02) Penalty, see § 115.99

§ 115.04 REGISTRATION FEE.

The fee for registration as an electrical contractor shall be \$100 per annum or part of a year in advance, which sum shall be paid by the applicant to the City Clerk. The Electrical Commission shall not consider any application until the payment of this fee is made.

('69 Code, § 8-36) (Am. Ord. 2002-0-5, passed 5-13-02)

Statutory reference:

Registration fees, see ILCS Ch. 65, Act 5
§ 11-33-1

§ 115.05 ISSUANCE AND DURATION OF CERTIFICATE.

Upon receipt of the application therefor and posting of the bond and payment of the fee as required by this chapter, and upon approval by the City Council, the Electrical Commission shall register the applicant as an electrical contractor or serviceman, and shall issue to the applicant a certificate of registration which will authorize the applicant to engage in such business during the fiscal period in which it is issued. The certificate of registration shall expire on March 31 next following its issuance.

('69 Code, § 8-37)

§ 115.06 RECORD OF REGISTRATIONS.

The Electrical Commission shall keep a suitable record of all registrations under
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this chapter.
('69 Code, § 8-38)

§ 115.07 MAINTENANCE CERTIFICATE.

(A) A maintenance certificate shall be issued under the authority of this chapter to a person or firm to do their own normal maintenance or repair work as deemed necessary to maintain normal operations and used exclusively by them to conduct their business.

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(B) All new work done under this certificate is subject to the electrical code of the city. The location of all buildings, premises, or property where electrical work is to be installed, altered, repaired, or maintained, shall be recorded with the Electrical Inspector. ('69 Code, § 8-40) (Ord. 69-0-12, passed 10-13-69)

(C) The maintenance certificate shall be applied for and processed in the same manner as for an electrical contractor or serviceman registration.

Cross-reference:

Electrical code, see Ch. 151

§ 115.99 PENALTY.

If, in the opinion of the Electrical Inspector, any registered electrical contractor or serviceman willfully or repeatedly violates any of the provisions of this chapter, the Electrical Inspector shall submit charges against the offending registered electrical contractor or serviceman to the Electrical Commission. The Electrical Commission shall immediately conduct a fair hearing, after which, if found guilty by a majority vote, the registered electrical contractor or serviceman shall be deemed guilty of violating this chapter and the applicable certificate of registration shall be deemed null and void. Any unexpired registration fee shall be retained by the city. No person whose registration has been hereunder declared null and void may apply for a new registration for a period of a year after such declaration. The provisions of this section are in addition to those of § 10.99.
('69 Code, § 8-39)

Section

- 116.01 License fee
- 116.02 Agent to render account
- 116.03 Agent to pay fee
- 116.04 Default
- 116.05 Use of proceeds

- 116.99 Penalty

§ 116.01 LICENSE FEE.

All corporations, companies, and associations not incorporated under the laws of this state which are engaged in the city in effecting or soliciting fire insurance, shall pay to the City Treasurer on July 15 of each year a sum equal to 2% of the gross receipts of premiums received by the corporation, company, or association, or their agency or agents, for business effected or transacted for fire insurance within the corporate limits of the city for the year ending the previous July 1. The above-named sum shall be as a tax or license fee upon all corporations, companies, or associations transacting such business within the corporate limits of the city.

('69 Code, § 9-33) Penalty, see § 116.99

Statutory reference:

Foreign fire insurance companies,
see ILCS Ch. 65, Act 5 § 11-10-1

§ 116.02 AGENT TO RENDER ACCOUNT.

Every person acting as agent or otherwise, for or upon behalf of any corporation, company, or association upon which an assessment is made pursuant to the provisions of this chapter shall, on or before July 15 of every year render to the City Clerk a full, true, just, and complete account, verified under oath, of all the premiums which, during the year ending on July 1 preceding his report, have been received by him or any other person for him, in behalf of any such corporation, company, or association, and shall fully and specifically set out in his report the amount or amounts received for fire insurance.

('69 Code, § 9-34) Penalty, see § 116.99

§ 116.03 AGENT TO PAY FEE.

The agent of a foreign fire insurance company shall at the time of making the report described in § 116.02, pay to the City Treasurer 2% of the gross receipts of the corporation, company, or association, obtained as premiums for effecting or issuing fire insurance within the corporate limits of the city as specified in § 116.01.

('69 Code, § 9-35) Penalty, see § 116.99

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§ 116.04 DEFAULT.

If the accounts required are not rendered on or before the day designated, or if the tax or license fee remains unpaid after that day, it shall be unlawful for such corporation, company, or association to transact any business of fire insurance in the corporate limits of the city until the requirements have been fully and completely complied with; provided, this provision shall not relieve any corporation, company, or association from the payment of any loss upon any risk that may be taken in violation of this requirement or of payment of the 2% fee due and owing the city.
(ILCS Ch. 65, Act 5 § 11-10-1) ('69 Code, § 9-36)

§ 116.05 USE OF PROCEEDS.

Any and all sums received under the provisions of this chapter shall form and constitute a fund to be kept separate by the City Treasurer for the maintenance, use, and benefit of the Fire Department of the city.
('69 Code, § 9-37)

Statutory reference:

Foreign fire insurance companies,
see ILCS Ch. 65, Act 5 § 11-10-1

§ 116.99 PENALTY.

If any corporation, company, or association fails to render the account or report herein designated by the day required, or if the rates as a tax or license fee mentioned in this chapter remain unpaid after July 15, such corporation, company, or association shall be fined as provided by law.
('69 Code, § 9-38)

Section

- 117.01 Definition
- 117.02 License required
- 117.03 Rate of percentage allowed
- 117.04 Notice in English
- 117.05 Signed memorandum; contents
- 117.06 Record requirements
- 117.07 Inspection
- 117.08 Daily report
- 117.09 Receiving property from minor
- 117.10 Property from intoxicated person or thief
- 117.11 Sale, redemption, or removal of property
- 117.99 Penalty

§ 117.01 DEFINITION.

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

"PAWNBROKER." Any person engaged in the business of receiving property in pledge or as security for money or other thing advanced to the pawner or pledger. ('69 Code, § 15-80) (Ord. 64-0-9, passed 8-3-64)

Statutory reference:

Pawnbroker defined, see ILCS Ch. 205, Act 510 § 1

§ 117.02 LICENSE REQUIRED.

(A) It shall be unlawful to engage in the business of pawnbroker in the city without having secured a license therefor. ('69 Code, § 15-81) (Ord. 64-0-9, passed 8-3-64)

(B) The license fee for engaging in the business of pawnbroker in the city shall be \$100 per year. ('69 Code, § 15-82) (Ord. 64-0-9, passed 8-3-64)
Penalty, see § 117.99

Cross-reference:

Business licenses, see § 110.05 et seq.

Statutory reference:

City licensing of pawnbroker, see ILCS Ch. 65, Act 5 § 11-42-5

§ 117.03 RATE OF PERCENTAGE ALLOWED.

(A) It shall be unlawful for any pawnbroker to charge or collect a greater benefit or percentage upon money advanced, and for the use and forbearance thereof, than the rate of 3% per month. Nothing herein shall be construed so as to conflict with the law pertaining to usury and the person receiving money so advanced may hold such moneys to pay any fees in addition to interest as herein provided.

(B) Each pawnbroker, when making a loan under this section, must disclose in printed form on the pawn contract the following information to the persons receiving the loan:

(1) The amount of money advanced, which must be designated as the amount financed;

(2) The maturity date of the pawn, which must be at least 30 days after the date of the pawn;

(3) The total pawn interest and service charge payable on the maturity date, which must be designated as the finance charge;

(4) The total of payments that must be paid to redeem the pledged goods on the maturity date, which must be designated as the total of payments; and

(5) The annual percentage rate, computed according to the regulations adopted by the Board of Governors of the Federal Reserve System under the Federal Truth in Lending Act.

(C) Each pawnbroker may contract for and receive a monthly finance charge including interest and fees not to exceed one-fifth of the loan amount as set forth herein, for appraising, investigating title, storing and insuring the collateral, closing the loan, making daily reports to local law enforcement officers including enhanced computerized reporting, complying with regulatory requirements, and for other expenses and losses of every nature whatsoever and for all other services. Such fees, when made and collected, shall not be deemed interest for any purpose of law. (ILCS Ch. 205, Act 510 § 2) ('69 Code, § 15-83) (Ord. 64-0-9, passed 8-3-64)

§ 117.04 NOTICE IN ENGLISH.

Every pawnbroker shall at all times have and keep § 117.03 printed in the English language and framed and posted in a prominent and conspicuous position in his place of business, so that it shall be plainly legible and visible to all persons depositing or pledging property with the pawnbroker.

(ILCS Ch. 205, Act 510 § 3) ('69 Code, § 15-84) (Ord. 64-0-9, passed 8-3-64)

§ 117.05 SIGNED MEMORANDUM; CONTENTS.

Every pawnbroker shall, at the time of making any advancement or loan, deliver to the person pawning or pledging any property a memorandum or note signed by him containing an accurate account and description, in the English language, of all the goods, articles, or other things pawned or pledged, the amount of money, value of thing loaned thereon, the time of pledging the property, the rate of interest to be paid on the loan and the name and residence of the person making the pawn or pledge.

(ILCS Ch. 205, Act 510 § 4) ('69 Code, § 15-85) (Ord. 64-0-9, passed 8-3-64)
Penalty, see § 117.99

§ 117.06 RECORD REQUIREMENTS.

(A) Every pawn and loan broker shall keep a standard record book that has been approved by the sheriff of the county, in which shall be printed, typed or written in ink at the time of each and every loan or taking of a pledge, an accurate account and description in the English language of all the goods, articles, and other things pawned or pledged; the amount of money, value or thing loaned thereon; the time of pledging the property; the rate of interest to be paid on such loan; and the name and residence of the person making such pawn or pledge. Such entry shall include the serial number or identification number of items received which bear such number. Except for items purchased from dealers possessing a federal employee identification number who have provided a receipt to the pawnbroker, every pawnbroker shall also record in his book, an accurate account and description in the English language, of all goods, articles and other things purchased or received for the purpose of resale or loan collateral by the pawnbroker from any source, not in the course of a pledge or loan, the time of such purchase or receipt and the name and address

of the person or business which sold or delivered such goods, articles or other things to the pawnbroker. No entry in this book shall be erased, mutilated, or changed.

(B) Every pawnbroker shall require two forms of identification to be shown him by each person pledging or pawning any goods, articles or other things to the pawnbroker. One of the two forms of identification must be his or her residence address. These forms of identification shall include, but not be limited to, any of the following: driver's license, social security card, utility bill, employee or student identification card, or a civic, union or professional association membership card.

(C) A pawnbroker may maintain the records required by subsection (A) above in computer form if the computer form has been approved by the police department.

(D) Records, including reports to the Commissioner, maintained by pawnbrokers shall be confidential and no disclosure of pawnbroker records shall be made except disclosures authorized by state law or ordered by a court of competent jurisdiction. No record transferred to a government official shall be improperly disclosed, provided that use of those records as evidence of a felony or misdemeanor shall be a proper purpose.

(E) Pawnbrokers and their associations may lawfully give appropriate governmental agencies computer equipment for the purpose of transferring information pursuant to state law.

(ILCS Ch. 205, Act 510 § 5) ('69 Code, § 15-86) (Ord. 64-0-9, passed 8-3-64)
Penalty, see § 117.99

§ 117.07 INSPECTION.

(A) The record book or computer records specified in § 117.06, as well as every article or other thing of value so pawned or pledged, shall at all times be open to the inspection of the Commissioner, the sheriff of the county, his deputies or any members of the police force of any city in the county in which the pawnbroker does business. In addition, the Commissioner shall be authorized to inspect the books or records of any business he or she has reasonable cause to believe is conducting pawn transactions and should be licensed by this chapter.

(B) The book or computer records, pawn tickets, or any other records required by the Commissioner under this chapter or any rule promulgated in accordance with this chapter shall be maintained for a period of three years after the date on which the record or ticket was prepared. These records and tickets shall be open to inspection of the Commissioner at all times during the three-year period.

(ILCS Ch. 205, Act 510 § 6) ('69 Code, § 15-87) (Ord. 64-0-9, passed 8-3-64)

§ 117.08 DAILY REPORT.

It shall be the duty of every pawnbroker to make out and deliver to the sheriff of the county on each day before the hour of 12:00 noon, a legible and correct copy from the record book required in § 117.06, that lists all personal property and any other valuable thing received on deposit or purchased during the preceding day, including the exact time when received or purchased, and a description of the person or persons by whom left in pledge, or from whom the items were purchased. Such report may be made by computer printout or input memory device if the format has been approved by the local law enforcement agency.

(ILCS Ch. 205, Act 510 § 7) ('69 Code, § 15-88) (Ord. 64-0-9, passed 8-3-64)

§ 117.09 RECEIVING PROPERTY FROM MINOR.

No pawnbroker shall take or receive any pawn or pledge for any advancement or loan any property of any kind from any minor, or the ownership of which is in, or which is claimed by, any minor, or which may be in the possession or under the control of any minor.

(ILCS Ch. 205, Act 510 § 8) ('69 Code, § 15-89) (Ord. 64-0-9, passed 8-3-64)
Penalty, see § 117.99

§ 117.10 PROPERTY FROM INTOXICATED PERSON OR THIEF.

No pawnbroker shall take any article in pawn or pledge from any person appearing to be intoxicated, nor from any person known to be a thief or to have been convicted of larceny. When any person is found to be the owner of stolen property which has been pawned, such property shall be returned to the owner thereof without the payment of the money advanced by the pawnbroker thereon or

any costs or charges of any kind which the pawnbroker may have placed upon the article.

(ILCS Ch. 205, Act 510 § 9) ('69 Code, § 15-90) (Ord. 64-0-9, passed 8-3-64)
Penalty, see § 117.99

§ 117.11 SALE, REDEMPTION, OR REMOVAL OF PROPERTY.

No personal property received on deposit or pledge, or purchased by any pawnbroker, shall be sold or permitted to be redeemed or removed from the place of business of the pawnbroker for the space of 48 hours after the delivery of the copy and statement required by § 117.08 to be delivered to the officer or officers named therein. If the pawner or pledger fails to repay the loan during the period specified on the pawn ticket, the pawnbroker shall automatically extend a grace period of 30 days from the default date on the loan during which the pawnbroker shall not dispose of or sell the personal property pledged. The parties may agree to extend or renew a loan upon terms agreed upon by the parties, provided the terms comply with the requirements of state law.

(ILCS Ch. 205, Act 510 § 10) ('69 Code, § 15-91) (Ord. 64-0-9, passed 8-3-64)
Penalty, see § 117.99

§ 117.99 PENALTY.

Every pawnbroker found guilty of the violation of the provisions of this chapter shall be punished as provided in § 10.99. For the first offense, the fine shall not be less than \$20 and for each subsequent offense not less than \$50.

('69 Code, § 15-92) (Ord. 64-0-9, passed 8-3-64)

Statutory reference:

Violation of pawnbroker regulations,
see ILCS Ch. 205, Act 510 § 11

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Section

- 118.01 License required
- 118.02 Application requirements
- 118.03 License fees
- 118.04 General prohibitions

§ 118.01 LICENSE REQUIRED.

(A) No person shall hawk or peddle any goods, wares, merchandise, or other article either on foot, with motor vehicle, or wagon, or from an enclosed stand, without having obtained from the city a license to do so. No license shall be required for any person to hawk or peddle newspapers or any produce, raised, grown, or manufactured by such person. ('69 Code, § 15-65)

(B) No person shall solicit door-to-door in residential areas in the city without first obtaining a license from the city. The license will be valid from 9:00 a.m. to sunset, seven days per week, with no soliciting being allowed outside of those hours. (Ord. 91-0-1, passed 2-11-91)

Cross-reference:

- Business licenses, see § 110.05 et seq.
- Peddling from vehicles prohibited, see § 72.13

Statutory reference:

- City's authority to license peddlers, see ILCS Ch. 65, Act 5 § 11-42-5
- Farm producer may sell without license, see ILCS Ch. 505, Act 70 §

§ 118.02 APPLICATION REQUIREMENTS.

(A) Every person wishing to obtain a license for the purpose of hawking, soliciting, or peddling shall make application to the City Clerk stating what articles, wares, merchandise, or business he desires to hawk, peddle, or solicit, and for what length of time he wishes to hawk, peddle, or solicit, and upon payment, if required, to the Clerk of the fees required, the licenses shall be issued.

(B) The Clerk shall furnish to each person obtaining a license to peddle from a wagon, motor vehicle, or cart, a metal peddler's number which shall be placed upon the wagon, motor vehicle, or cart, in such manner as to be exposed to view. A new number shall be obtained for each municipal year; provided only one person shall sell under any license and only one person shall be entitled to use one wagon, vehicle, or cart. ('69 Code, § 15-66) (Ord. 91-0-1, passed 2-11-91)

§ 118.03 LICENSE FEES.

The fees charged for licenses shall be as follows:

(A) For hawking or peddling jewelry, silverware, or gold plate ware or merchandise, there shall be paid a license fee of \$5 per day.

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(B) For hawking or peddling salve, liniment, electric appliances, dry goods, notions, clothing, gents' furnishings, goods, or shoes, there shall be paid a license fee of \$5 per day or \$25 per week.

(C) For hawking or peddling stationery, picture books, and publications other than newspapers, there shall be paid a license fee of \$4 per day or \$20 per week.

(D) For hawking or peddling lemonade, sodas, or other refreshments, there shall be paid a license fee of \$5 for one day, \$15 per week, or \$30 per month.

(E) For hawking or peddling fruits, vegetables, groceries, meats, poultry, or fish, there shall be paid a license fee of \$5 per day provided that where the license is issued for six months, the fee shall be \$50.

(F) For hawking, peddling or selling popcorn, peanuts, ice cream, fruit, or refreshments of any kind from a stand or where any portion of the street, alley, or sidewalk of the city is used to conduct such business, there shall be paid a license fee of \$5 per day, \$10 per week, or \$20 per month.

(G) For hawking or peddling any and all articles not herein enumerated and specified, there shall be paid a license fee of \$6 per day, \$25 per week, \$35 per month, or \$100 per year.
('69 Code, § 15-67)

(H) There shall not be a fee for the hawking, soliciting or peddling of articles, wares or merchandise from a person or persons representing bona fide not-for-profit organizations duly licensed and incorporated under the laws of the state; nor shall there be a fee for persons representing organizations soliciting persons' opinions for comparison tallies or support tallies to be used by the soliciting organizations. (Ord. 91-0-1, passed 2-11-91)

§ 118.04 GENERAL PROHIBITIONS.

It shall be unlawful for a hawker, solicitor, peddler, itinerant vendor, or one of similar occupation to enter any private dwelling without being admitted, or to insist upon the showing or sale of his goods or wares to any person after being requested not to do so, or to annoy any person by importunities to purchase, or to obstruct any sidewalk or street by the opening of his goods or wares.
('69 Code, § 15-69) (Ord. 91-0-1, passed

"FOOD." Includes beverages, other than alcoholic liquor.
('69 Code, § 10-11)

Section

- 119.01 Definitions
- 119.02 License required
- 119.03 Applications
- 119.04 License fees
- 119.05 License revocation
- 119.06 Condition of premises
- 119.07 Animals or fowl prohibited
- 119.08 Pest control
- 119.09 Inspection
- 119.10 Inspection report
- 119.11 Storage and refrigeration of food
- 119.12 Wholesomeness of food or drink
- 119.13 Adulterated food
- 119.14 Cleanliness and health of employees
- 119.15 Toilet facilities
- 119.16 Lavatory facilities
- 119.17 Water supply
- 119.18 Utensils and equipment
- 119.19 Cleaning of equipment
- 119.20 Storage of utensils
- 119.21 Waste disposal

§ 119.01 DEFINITIONS.

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

"RESTAURANT." Any place where food or drink (other than alcoholic liquor) is prepared or served to the public for consumption on the premises.

§ 119.02 LICENSE REQUIRED.

It shall be unlawful to operate a restaurant in the city without having obtained a license and without full compliance with the provisions of this code.
('69 Code, § 10-12) Penalty, see § 10.99

Cross-reference:

Business licenses, see § 110.05 et seq.

Statutory reference:

City's authority to license restaurants, see ILCS Ch. 65, Act 5 § 11-42-5

§ 119.03 APPLICATIONS.

(A) Applications for licenses shall be made in writing to the City Clerk on a form furnished by him, and shall comply with the general provisions of Chapter 110.

(B) All applications for a license to conduct a restaurant shall be referred to the Health Officer, who shall make or cause to be made an investigation of the premises

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to be used, and report his finding thereon concerning compliance with this code, recommending or advising against the issuance of the license. Upon recommendation the Clerk shall issue the license and upon advising against he shall deny the application.
('69 Code, § 10-13)

§ 119.04 LICENSE FEES.

(A) The annual license fee shall be as follows:

(1) Food dispensers offering service accommodations for 10 persons or less and operators of taverns and clubs dispensing only sandwiches - \$25

(2) Food dispensers offering service accommodations for 11 persons and not more than 30 persons - \$40

(3) Food dispensers offering service accommodations for 31 persons or more - \$50

(B) "SERVICE ACCOMMODATIONS" as used in this section means the seating place where a patron or customer to be served can be seated or, in lieu of seating space, two lineal feet of counter space which may be used or occupied by one patron or customer to be served while standing, provided, that for the purpose of computing the number of "SERVICE ACCOMMODATIONS" at a counter where no fixed seats or stools are provided, each such counter shall be considered as a separate unit and any fractional part of two lineal feet at a side or end shall be excluded.
('69 Code, § 10-14)

§ 119.05 LICENSE REVOCATION.

Upon recommendation of the Health Officer, any restaurant license may be revoked by the Mayor for repeated violation of the provisions of this chapter or for any substantial violation of any ordinance provision relating to the conduct of the business, the condition of the premises, the article sold, or to the license required. Revocations may be appealed to City Council.
('69 Code, § 10-15)

§ 119.06 CONDITION OF PREMISES.

The premises of all restaurants shall be kept clean and free of litter or rubbish. None of the operations connected with a restaurant shall be conducted in any room used as living or sleeping quarters. Adequate lockers or dressing rooms shall be provided for employees' clothing and shall

be kept clean. Soiled linens, coats, and aprons shall be kept in containers provided for this purpose.
('69 Code, § 10-16) Penalty, see § 10.99

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§ 119.07 ANIMALS OR FOWL PROHIBITED.

No animals or fowl shall be kept or allowed in any room in which food or drink is prepared or stored; except seeing-eye dogs for the blind.
('69 Code, § 10-17) Penalty, see § 10.99

§ 119.08 PEST CONTROL.

All means necessary for the elimination of flies, roaches, and rodents shall be used.
('69 Code, § 10-18)

§ 119.09 INSPECTION.

(A) At least once every six months the Health Officer shall inspect every restaurant located within the city. In case the Health Officer discovers the violation of any item of sanitation, he shall make a second inspection after the lapse of such time as he deems necessary for the defect to be remedied. Any violation of the same requirement of this chapter found on the second inspection shall authorize immediate revocation of the license.

(B) The person operating the restaurant shall, upon request of the Health Officer, permit access to all parts of the establishment and shall permit copying any or all records of food purchased.
('69 Code, § 10-19)

§ 119.10 INSPECTION REPORT.

One copy of the inspection report shall be posted by the Health Officer upon an inside wall of the restaurant, and this inspection report shall not be defaced or removed by any person except the Health Officer. Another copy of the inspection report shall be filed with the records of the Health Department.
('69 Code, § 10-20)

Cross-reference:

Health department, see § 32.10 et seq.

§ 119.11 STORAGE AND REFRIGERATION OF FOOD.

(A) All food and drink shall be stored, displayed, and served so as to be protected from dust, flies, vermin, depredation and pollution by rodents, unnecessary handling, droplet infection, overhead leakage, and other contamination.

(B) All readily perishable food and drink shall be kept at or below 50°F. except when being prepared or served. Waste water from refrigeration equipment shall be properly disposed of.
('69 Code, § 10-21) Penalty, see § 10.99

§ 119.12 WHOLESOMENESS OF FOOD OR DRINK.

(A) All food and drink shall be clean, wholesome, free from spoilage, and so prepared as to be safe for human consumption.

(B) All milk, fluid milk products, ice cream, and other frozen desserts served shall be from approved sources. Milk and fluid milk products shall be served in the individual original containers in which they were received from the distributor or from a bulk container equipped with an approved dispensing device. This requirement shall not apply to cream, which may be served from the original bottle or from a dispenser approved for such service.

(C) All oysters, clams, and mussels shall be from approved sources, and if shucked shall be kept until used in the containers in which they were placed at the shucking plant.
('69 Code, § 10-22) Penalty, see § 10.99

§ 119.13 ADULTERATED FOOD.

Samples of food, drink, and other substances may be taken and examined by the Health Officer as often as necessary for the detection of unwholesomeness or adulteration. The Health Officer may condemn and forbid the sale of, or cause to be removed or destroyed any food or drink which is unwholesome or adulterated.
('69 Code, § 10-23)

§ 119.14 CLEANLINESS AND HEALTH OF EMPLOYEES.

(A) All persons engaged in handling or coming in contact with food intended for sale for human consumption shall keep themselves clean, both as to person and clothing. ('69 Code, § 10-24)

(B) It shall be unlawful for any person who is afflicted with or a carrier of any infectious or contagious disease to handle or be engaged in the care or preparation of any food for human consumption. It shall be unlawful to permit such person to be employed in or about any premises where food is stored, prepared or sold, or to permit any such person to deliver food. ('69 Code, § 10-25)
Penalty, see § 10.99

Cross-reference:

Health requirement for employees of liquor establishments, see § 111.13

Statutory reference:

Contagious disease, see ILCS Ch. 410,

§ 119.15 TOILET FACILITIES.

Every restaurant shall be provided with adequate and conveniently located toilet facilities for its employees, conforming with the requirements of this code. In restaurants hereafter constructed, toilet rooms shall not open directly into any room in which food, drink or utensils are handled or stored. The doors of all toilet rooms shall be self-closing. Toilet rooms shall be kept in a clean condition, in good repair, and well lighted and ventilated. Hand-washing signs shall be posted in each toilet room used by employees. ('69 Code, § 10-26) Penalty, see § 10.99

Statutory reference:

Toilet rooms, see ILCS Ch. 410, Act 650 § 5

§ 119.16 LAVATORY FACILITIES.

Adequate and convenient hand-washing facilities shall be provided, including hot and cold running water, soap, and approved sanitary towels. The use of a common towel is prohibited. No employee shall resume work after using the toilet room without washing his hands. ('69 Code, § 10-27) Penalty, see § 10.99

Statutory reference:

Lavatories, see ILCS Ch. 410, Act 650 § 5
Washing hands, see ILCS Ch. 410, Act 650 § 8

§ 119.17 WATER SUPPLY.

Running water under pressure shall be easily accessible to all rooms in which food is prepared or utensils are washed, and the water supply shall be adequate and of a safe, sanitary quality. ('69 Code, § 10-28)

§ 119.18 UTENSILS AND EQUIPMENT.

All multi-use utensils and all show and display cases or windows, counters, shelves, tables, refrigeration equipment, sinks, and other equipment or utensils used in connection with the operation of a restaurant shall be so constructed as to be easily cleaned and shall be kept in good repair. Utensils containing or plated with cadmium or lead shall not be used; provided, that solder containing lead may be used for jointing. ('69 Code, § 10-29) Penalty, see § 10.99

§ 119.19 CLEANING OF EQUIPMENT.

(A) All equipment, including display cases or windows, counters, shelves, tables, refrigerators, stoves, hoods, and sinks, shall be kept clean and free from dust, dirt, insects and other contaminating material. All cloths used by waiters,

chefs, and other employees shall be clean. Single-service containers shall be used only once.

(B) All multi-use eating and drinking utensils shall be thoroughly cleaned and effectively subjected to an approved bactericidal process after each usage. All multi-use utensils used in the preparation or serving of food and drink shall be thoroughly cleaned and effectively subjected to an approved bactericidal process immediately following the day's operation. Drying cloths, if used, shall be clean and shall be used for no other purpose.

(C) No article, polish, or other substance containing any cyanide preparation or other poisonous material shall be used for the cleansing or polishing of utensils.
('69 Code, § 10-30) Penalty, see § 10.99

Statutory reference:

Care of food establishments,
see ILCS Ch. 410, Act 650 § 2

§ 119.20 STORAGE OF UTENSILS.

After bactericidal treatment, utensils shall be stored in a clean, dry place protected from flies, dust, and other contamination, and shall be handled in such a manner as to prevent, as far as practicable, contamination. Single-service utensils shall be purchased only in sanitary containers, shall be stored therein in a clean, dry place until used, and shall be handled in a sanitary manner.
('69 Code, § 10-31) Penalty, see § 10.99

§ 119.21 WASTE DISPOSAL.

All wastes shall be properly disposed of, and all garbage and trash shall be kept in suitable receptacles, in such manner as not to become a nuisance.
('69 Code, § 10-32) (Penalty, see § 10.99

Cross-reference:

Garbage and trash, see § 136.25 et seq.
Health nuisances, see § 136.31

Section

- 120.01 Definition
- 120.02 License required
- 120.03 Application requirements
- 120.04 License fee
- 120.05 Qualifications of applicant
- 120.06 Registration of motor and license numbers
- 120.07 Liability insurance required
- 120.08 City stickers
- 120.09 Lettering and numbering vehicles
- 120.10 Vehicle equipment
- 120.11 Use of taxicab in commission of crime
- 120.12 Chauffeur's license required
- 120.13 Driver's conduct; duties
- 120.14 Posting of rates
- 120.15 Refusal of passenger to pay

§ 120.01 DEFINITION.

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

"TAXICAB." Any vehicle used to carry passengers for hire but not operating on a fixed route.
('69 Code, § 26-1) (Ord. 64-0-4, passed 5-4-64)

§ 120.02 LICENSE REQUIRED.

It shall be unlawful to engage in the business of operating a taxicab in the city without having secured a license therefor.
('69 Code, § 26-2) (Ord. 64-0-4, passed 5-4-64) Penalty, see § 10.99

Cross-reference:

Business licenses, see § 110.05 et seq.

Statutory reference:

City's authority to license taxicab drivers, see ILCS Ch. 65, Act 5 § 11-42-6

§ 120.03 APPLICATION REQUIREMENTS.

Application for a license to engage in the business of operating a taxicab shall be made in writing to the City Clerk, and shall state thereon the name of the applicant, the intended place of business, and the number of taxicabs to be operated. If the applicant is a corporation, the names and addresses of the president and secretary thereof shall be given.
('69 Code, § 26-3) (Ord. 64-0-4, passed 5-4-64)

§ 120.04 LICENSE FEE.

The annual fee, payable in advance, for a license to engage in the taxicab business shall be \$30 plus \$5 for each taxicab operated. Whenever the number of cabs

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operated is increased during the license year, the licensee shall notify the City Clerk of the change and shall pay the additional fee. Such fee shall be in lieu of any other vehicle fee required. ('69 Code, § 26-4) (Ord. 64-0-4, passed 5-4-64)

No taxicab shall be operated unless it bears a state license duly issued. No cab shall be operated unless it is equipped with proper brakes, lights,

§ 120.05 QUALIFICATIONS OF APPLICANT.

No license to engage in the taxicab business shall be issued to or held by any person who is not a person of good character or who has been convicted of a felony; nor shall a license be issued to or held by any corporation if any officer thereof would be ineligible for a license under the foregoing conditions. ('69 Code, § 26-5) (Ord. 64-0-4, passed 5-4-64)

§ 120.06 REGISTRATION OF MOTOR AND LICENSE NUMBERS.

The licensee shall notify the City Clerk of the motor number and state license number of each cab operated and of the corresponding city tag or sticker number. ('69 Code, § 26-6) (Ord. 64-0-4, passed 5-4-64)

§ 120.07 LIABILITY INSURANCE REQUIRED.

No taxicab shall be operated unless it is covered by a bond or public liability policy as required by law. ('69 Code, § 26-7) (Ord. 64-0-4, passed 5-4-64)

§ 120.08 CITY STICKERS.

The City Clerk shall issue suitable tags or stickers for the number of cabs covered by each license. Such tag or sticker shall be displayed in a prominent place on each taxicab while it is in use and may be transferred to any taxicab put into service to replace one withdrawn from service. ('69 Code, § 26-8) (Ord. 64-0-4, passed 5-4-64)

§ 120.09 LETTERING AND NUMBERING VEHICLES.

Each taxicab, while operated, shall have on each side, in letters readable from a distance of 20 feet, the name of the licensee operating it. If more than one cab is operated by a licensee, each cab shall be designated by a different number, and this number also shall so appear on each side of the cab. ('69 Code, § 26-9) (Ord. 64-0-4, passed 5-4-64)

§ 120.10 VEHICLE EQUIPMENT.

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('69 Code, § 26-16) Penalty, see § 10.99

tires, horn, muffler, rear vision mirror, and windshield wipers in good condition. It shall be the duty of the Chief of Police to inspect every taxicab as often as may be necessary to enforce the provisions of this section.

('69 Code, § 26-10) (Ord. 64-0-4, passed 5-4-64)

§ 120.11 USE OF TAXICAB IN COMMISSION OF CRIME.

It shall be unlawful to knowingly permit any taxicab to be used in the perpetration of a crime or misdemeanor. ('69 Code, § 26-11) (Ord. 64-0-4, passed 5-4-64) Penalty, see § 10.99

§ 120.12 CHAUFFEUR'S LICENSE REQUIRED.

No person shall drive a taxicab, or be hired or permitted to do so, unless he is duly licensed as a chauffeur. ('69 Code, § 26-12) (Ord. 64-0-4, passed 5-4-64) Penalty, see § 10.99

§ 120.13 DRIVER'S CONDUCT; DUTIES.

(A) It shall be unlawful for any driver of a taxicab while on duty to drink any intoxicating liquor, to use any profane or obscene language, to shout or call to prospective passengers, or to disturb the peace in any way. ('69 Code, § 26-13)

(B) It shall be the duty of every driver of a taxicab to obey all traffic rules established by this code, state statute, or ordinance of the city. ('69 Code, § 26-14)

(C) It shall be the duty of the driver of any taxicab to accept as a passenger any person who seeks to use the taxicab, provided such person is not intoxicated and conducts himself in an orderly manner. No person shall be admitted to a taxicab occupied by a passenger without the consent of the passenger. ('69 Code, § 26-15)

(D) The driver shall take his passenger to his destination by the most direct available route from the place where the passenger enters the cab. ('69 Code, § 26-15) (Ord. 64-0-4, passed 5-4-64) Penalty, see § 10.99

§ 120.14 POSTING OF RATES.

The charges for taxicab service shall be conspicuously posted in the cab and shall be on file in the office of the City Clerk. No extra charge shall be made for baggage or parcels the size of which permits them to be carried in the cab.

§ 120.15 REFUSAL OF PASSENGER TO PAY.

It shall be unlawful for a passenger to fail or refuse to pay the lawful fare at the termination of a trip.
('69 Code, § 26-17) Penalty, see § 10.99

Section

- 121.01 Registration of contractors
- 121.02 Application for registration
- 121.03 Registration fee
- 121.04 Issuance of certificate; bond
- 121.05 Renewal of certificate; term
- 121.06 Records
- 121.07 Homeowner doing own work

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§ 121.01 REGISTRATION OF CONTRACTORS.

It shall be unlawful for any person to engage in the business of installing gravity warm-air heating plants or forced warm-air heating plants with the necessary appurtenances without being registered as a warm-air furnace heating and installing contractor in the manner hereinafter set forth.
('69 Code, § 5-52) Penalty, see § 121.99

§ 121.02 APPLICATION FOR REGISTRATION.

Any person desiring to engage in the business of warm-air furnace heating and installing contractor shall apply for registration to the Building Commissioner.
('69 Code, § 5-54)

§ 121.03 REGISTRATION FEE.

The contractor must be listed as a heating contractor and the fee for registration as a warm-air furnace heating and installing contractor shall be \$10, which shall be paid by the applicant to the City Clerk in advance, upon filing of the application.
('69 Code, § 5-53)

§ 121.04 ISSUANCE OF CERTIFICATE; BOND.

Upon the filing of the application for registration as a warm-air furnace heating and installing contractor in proper form and the payment of registration fee fixed herein, the Building Commissioner shall register the applicant as a warm-air furnace heating and installing contractor and shall issue to the applicant a certificate of registration which will authorize the applicant to engage in such business for the year in which it is issued; providing, that the applicant has filed with the City Clerk an indemnifying bond in an amount to be determined by the City Council.
('69 Code, § 5-55)

§ 121.05 RENEWAL OF CERTIFICATE; TERM.

Any registrant may renew his registration upon the payment of an annual

fee of \$10. The certificate of registration renewal issued shall expire on December 31 of the year in which it is issued.

('69 Code, § 5-56)

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INSTALLING CONTRACTORS

§ 121.06 RECORDS.

The City Clerk shall keep a suitable record of all registrations.

('69 Code, § 5-57)

§ 121.07 HOMEOWNER DOING OWN WORK.

The owner or occupant of a single dwelling house may, with the assistance of any member of his family or household, personally carry on in the house any work governed by the warm-air heating code without a certificate of registration; provided the owner shall obtain a permit for such work and shall call for inspection as provided.

('69 Code, § 5-58)

§ 121.99 PENALTY.

Any person who engages in the business of a warm-air furnace heating and installing contractor without obtaining a certificate of registration as provided, or who violates any of the provisions of this chapter shall be fined not less than \$50.

('69 Code, § 5-59)

TUSCOLA

WARM-AIR FURNACE HEATING AND
INSTALLING CONTRACTORS

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Section	"PERSON." Any natural individual, firm, partnership, association, joint stock company, joint adventure, public or private corporation, or a receiver, executor,
122.01 Title	
122.02 Definitions	
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§ 122.01 TITLE.

This chapter shall be referred to as the city Hotel/Motel Tax and the tax herein imposed shall be in addition to all other occupation or privilege taxes imposed by the state.

(Ord. 95-0-10, passed 9-11-95)

§ 122.02 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

"HOTEL." Any building or buildings in which the public may, for a consideration, obtain living quarters, sleeping or housekeeping accommodations. The term includes inns, motels, tourist homes or courts, lodging houses, rooming houses and apartment houses.

"OPERATOR." Any person operating a hotel.

"OCCUPANCY." The use or possession, or the right to the use or possession, of any room or rooms in a hotel for any purpose, or the right to the use or possession of the furnishings or to the services and accommodations accompanying the use and possession of the room or rooms.

"ROOM" or "ROOMS." Any living quarters, sleeping or housekeeping accommodations.

"PERMANENT RESIDENT." Any person who occupied or has the right to occupy any room or rooms in a hotel for at least 30 consecutive days.

"RENT" or "RENTAL." The consideration received for occupancy, valued in money, whether received in money or otherwise, including all receipts, cash, credits and property or services of any kind or nature.

"CITY." The City of Tuscola, Douglas

HOTEL/MOTEL TAX

trustee, guardian or other representative appointed by order of any court.
(Ord. 95-0-10, passed 9-11-95)

§ 122.03 TAX IMPOSED.

A tax is imposed upon persons engaged in the business of renting, leasing or letting rooms in a hotel in the City, at a rate of 6% of the gross rental receipts from such renting, leasing, or letting, excluding, however, from gross rental receipts, the proceeds of such renting, leasing or letting to permanent residents of that hotel. Persons subject to said tax may reimburse themselves for their tax liability for such tax by separately stating such tax as an additional charge, which charge may be stated in combination, in a single amount, with state tax imposed under "The Hotel Operators' Occupation Tax Act."
(Ord. 95-0-10, passed 9-11-95; Am. Ord. 96-0-15, passed 11-25-96; Am. Ord. 2008-0-5, passed 2-25-08)

§ 122.04 USE OF TAX FUNDS BY CITY.

The amounts collected by the city pursuant to this chapter shall be expended by the city solely to promote tourism and conventions within the city. No funds received pursuant to this chapter shall be used to advertise for or otherwise promote new competition in the hotel/motel business. Not less than 15% of the amounts collected shall be expended for the study, preparation, and implementation of a professionally prepared, community-based, comprehensive marketing strategy designed to attract visitors to the city.
(Ord. 95-0-10, passed 9-11-95; Am. Ord. 2008-0-5, passed 2-25-08) Penalty, see § 122.99

§ 122.05 EXEMPTIONS.

(A) Nothing in this chapter shall be construed to authorize the city to impose a tax upon the privilege of engaging in any business which under the Constitution of the United States may not be made the subject of taxation by the state.

(B) Persons engaged in the business of renting, leasing or letting rooms in a hotel only to permanent residents are exempt from the provisions of this chapter.
(Ord. 95-0-10, passed 9-11-95)

§ 122.06 BOOKS AND RECORDS.

Every operator shall keep separate books or records of his business as an operator so as to show the rents and occupancies taxable under this chapter

separately from his transactions not taxable hereunder. If any such operator fails to keep such separate books or records, he shall be liable to tax at the rate designated in § 122.03 of this chapter upon the entire proceeds from his hotel.
(Ord. 95-0-10, passed 9-11-95) Penalty, see § 122.99

(D) Notwithstanding any other provision in this chapter concerning the time within which an operator may file his return, in the case of any operator who ceases to

§ 122.07 RETURN OF TAXPAYER; PAYMENT OF TAX.

(A) Except as provided hereinafter in this section, on or before the last day of each calendar month, every person engaged in the business of renting, leasing or letting rooms in a hotel in this city during the preceding calendar month shall file a return with the City Clerk stating:

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(1) The name of the operator;

(2) His residence address and the address of his principal place of business and the address of the principal place of business (if that is a different address) from which he engages in the business of renting, leasing or letting rooms in a hotel in this city;

(3) Total amount of rental receipts received by him during the preceding calendar month from renting, leasing or letting rooms during such preceding calendar month;

(4) Total amount of rental receipts received by him during the preceding calendar month from renting, leasing or letting rooms to permanent residents during such preceding calendar month;

(5) Total amount of other exclusions from gross rental receipts allowed by this chapter;

(6) Gross rental receipts which were received by him during the preceding calendar month and upon the basis of which the tax is imposed;

(7) The amount of tax due;

(8) The amount of penalty due, if any; and

(9) Such other reasonable information as the city may require.

(B) If the Illinois Department of Revenue has authorized the operator to file returns on a quarter annual basis or annual basis as provided for in ILCS Ch. 35, Act 145, Section 6 of "The Hotel Operators' Occupation Tax Act", the operator may file returns and pay tax liability to the city at the same time that he is required to file his returns and pay his tax liability to the state.

(C) Such quarter annual and annual returns, as to form and substance, shall be subject to the same requirements as monthly returns.

required by this section is not filed when and as required, the taxpayer shall be liable for a penalty equal to 1% of the tax due from such taxpayer under this chapter

engage in a kind of business which makes him responsible for filing returns under this chapter, such operator shall file a final return under this chapter with the City Clerk not more than one month after discontinuing such business.

(E) Where the same person has more than one hotel located within the city, such person shall file separate returns for each such hotel.

(F) In his return, the operator shall determine the value of any consideration other than money received by him in connection with the renting, leasing or letting of rooms in the course of his business and he shall include such value in his return. Such determination shall be subject to review and revision by the city in the manner hereinafter provided for the correction of returns.

(G) Where the operator is a corporation, the return filed on behalf of such corporation shall be signed by the president, vice-president, secretary or treasurer or by the properly accredited agent of such corporation.

(H) The person filing the return herein provided for shall, at the time of filing such return, pay to the City Clerk the amount of tax herein imposed. All moneys received by the City Clerk for taxes herein imposed shall be promptly deposited in a separate account designated as Tuscola Tourism Fund.

(I) The city may, upon separate written notice to a taxpayer, require the taxpayer to prepare and file with the City Clerk on a form prescribed by the city within not less than 60 days after receipt of the notice an annual information return for the tax year specified in the notice. Such annual return to the city shall include a statement of gross receipts as shown by the operator's last state income tax return. If the total receipts of the business as reported in the state income tax return do not agree with the gross receipts reported to the city for the same period, the operator shall attach to his annual information return a schedule showing a reconciliation of the two amounts and the reasons for the difference. The operator's annual information return to the city shall also include any additional reasonable information which the city deems would be helpful in determining the accuracy of the monthly, quarterly or annual tax returns by such operator as hereinbefore provided for in this section.

(J) If the annual information return

during the period to be covered by the annual return for each month or fraction of a month until such return is filed as required with the penalty to be assessed and collected in the same manner as any other penalty provided for in this chapter.

(K) If the monthly, quarter annual, or annual tax return and payment of tax is not filed and paid when due, the taxpayer shall be liable for a penalty equal to 1½% per month or a fraction thereof of the delinquent tax then due from the taxpayer until such return is filed and tax paid with the penalty to be assessed and collected in the same manner as any other penalty provided for in this chapter.

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(L) The chief executive officer, proprietor, owner or highest ranking manager shall sign the annual return to certify the accuracy of the information contained therein. Any person who willfully signs the annual return containing false or inaccurate information shall be guilty of perjury and punished accordingly. The annual return form prescribed by the city shall include a warning that the person signing the return may be liable for perjury.

(M) The foregoing portion of this section concerning the filing of an annual information return shall not apply to an operator who is not required to file an income tax return with the United States Government.

(Ord. 95-0-10, passed 9-11-95) Penalty, see § 122.99

§ 122.08 TAX COLLECTION; ENFORCEMENT.

The corporate authorities of the city shall have all powers necessary to enforce the collection of the tax imposed and collected by the city pursuant to this chapter including but not limited to subpoena power and the power to create and enforce liens. No such lien shall affect the rights of bona fide purchasers, mortgagees, judgment creditors or other lienholders who acquire their interests in such property prior to the time a notice of such lien is placed on record in the office of the Recorder of Deeds of Douglas County. Any such lien placed on record shall only act as a lien upon property located within the corporate boundaries of the city. In creating a lien pursuant to this section, the procedures for its notice and enforcement shall be the same as those provided for in the Retailers' Occupation Tax Act, as now or hereafter amended, for state tax liens, and the Recorder of Deeds with whom a notice of such lien is filed shall treat such lien as a state tax lien

§ 122.09 CREATION OF TOURISM COMMITTEE.

(A) Concurrent with the adoption of this chapter, there is created a Tourism Committee to oversee and approve the administration and expenditure of taxes imposed pursuant to this chapter. The Committee shall consist of seven members to be appointed by the Mayor with the approval of the City Council. The committee shall be constituted as follows: at least one member shall be a member of the Tuscola Chamber of Commerce, at least one member shall be an owner or operator of a retail business in the city, at least two members shall be owners or operators of motels, hotels, or bed and breakfast operations within the city, at least one member shall be a member of the Tuscola City Council, and the remaining three members shall be citizens of the city at large. The term for each member shall be for one year and shall commence on June 1 of each year.

(B) The Committee shall meet periodically during the year at times set by the Committee. The Committee shall elect from its members a chairperson, vice-chairperson, and secretary. The chairperson shall be responsible for presiding over the meetings. In the absence of the chairperson, the vice-chairperson shall preside. The secretary shall be responsible for keeping and maintaining the minutes of the Committee meetings.

(C) All meetings of the Committee shall be open to the general public and a notice of each meeting shall be given by publishing a notice of the date, place, and time of the meeting in one or more newspapers published in the city at least seven days but not more than 14 days prior to the date of the meeting which notice shall state the general purpose of the meeting and that it is open to the general public. A majority of the Committee shall constitute a quorum. The Committee shall determine how funds collected pursuant to this chapter shall be expended provided that such expenditures shall be limited to promoting tourism and conventions within the city. No funds shall be used to advertise for or otherwise promote new competition in the hotel/motel business. Not less than 15% of the amounts collected shall be expended for the study, preparation, and implementation of a professionally prepared, community-based, comprehensive marketing strategy designed to attract visitors to the city.

(D) All expenditures authorized by the Committee shall only be approved at a duly called meeting with a published notice to the general public as heretofore provided,

(E) The Committee shall report on or before the first Monday in February of each year to the City Council. Such report shall be in writing and shall specify the purposes for which the disbursements were made during the prior calendar year and shall also contain an itemized statement of all receipts and disbursements made during the prior calendar year.

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(Ord. 95-0-10, passed 9-11-95; Am. Ord. 2003-0-3, passed 2-10-03; Am. Ord. 2008-0-5, passed 2-25-08)

§ 122.99 PENALTY.

Any person, firm or corporation violating any provision of this chapter shall be fined not less than \$25 nor more than \$500 for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(Ord. 95-0-10, passed 9-11-95)

