

ORDINANCE NO. _____, SERIES 2018

AN ORDINANCE AMENDING § 72.083, § 72.085(A), AND REPEALING §§ 115.350-369 AND REPLACING THEM WITH A REVISED §§ 115.350-363 OF THE LOUISVILLE METRO CODE OF ORDINANCES (LMCO) TO IMPROVE UPON THE REGULATIONS OF ITINERANT VENDORS, PEDDLERS AND SOLICITORS

SPONSORED BY: COUNCIL MEMBERS COAN, SEXTON SMITH, REED, AND MULVIHILL

WHEREAS, itinerant vendors have become an increasingly popular and diverse part of urban economies across the United States; and

WHEREAS, research reveals that cities have, at best, made incremental strides in regulating the complexities of the itinerant vendor industry, including issues such as parking, noise, traffic, safety, and waste disposal; and

WHEREAS, locally, vendors face complex and confusing rules and regulations concerning licensing, permitting, and administrative processes; and

WHEREAS, Louisville/Jefferson County Metro Government seeks to work effectively with the industry to serve the public health, safety, and welfare of the citizens of Jefferson County; and

WHEREAS, in an effort to anticipate market trends and future policy considerations, Louisville/Jefferson County Metro Government is reviewing and updating the law governing itinerant vendors, peddlers, and solicitors.

NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (“THE COUNCIL”) AS FOLLOWS:

SECTION I: The Council hereby amends LMCO § 72.083 to read as follows:

(A) It shall be a parking violation for any vehicle to be or remain parked within a metered parking space while the parking meter for such parking space displays red indicator that denotes time expired.

(B) It shall be a parking violation for any vehicle to be or remain parked within a metered parking space while the parking meter for such parking space displays the a yellow indicator which denotes meter is operable.

(C) The fact that a vehicle is parked in a metered parking space with a yellow or red violation indicator displayed in the parking meter shall be prima facie evidence that the vehicle is parked in violation of this section.

(D) It shall be a parking violation to park at a meter beyond the maximum time allotted and specified, "feeding the meter" is prohibited.

(E) An official parking permit issued by PARC shall only allow the holder of the parking permit to park at a meter without paying, and will be subject to all other restrictions imposed on the parking site. An official parking permit issued by PARC does not allow parking in any zone or in any fashion in which parking is prohibited under this chapter.

(F) It shall be a parking violation for any vehicle to be or remain parked within a metered parking space while the parking meter for such parking space is otherwise inoperable, or does not accept payment during the hours within which it should accept payment.

(G) Unless there is compliance with LMCO § 115.356, it shall be a parking violation for any vehicle or conveyance to be or remain parked within a metered parking space for the purpose of selling, vending, or otherwise conducting a transactional business.

SECTION II: The Council hereby amends LMCO § 72.085(A) to read as follows:

The Assistant Director of PARC is authorized to issue a permit for parking meter hoods to be used to cover parking meters temporarily as an aid to carrying on actual construction or maintenance work, civic functions, or traffic control, ~~or vending of wares pursuant to valid permit issued by authority of § 115.350.~~

SECTION III: The Council hereby repeals LMCO §§ 115.350–115.369 and replaces it with LMCO §§ 115.350–115.363 to read as follows:

Itinerant Vendors, Peddlers, and Solicitors

- 115.350 Itinerant Vendors, Peddlers, and Solicitors
- 115.351 License Required
- 115.352 License Application
- 115.353 License Application Review and General Standards
- 115.354 License Revocation or Suspension
- 115.355 Permit Required for Public Place Stationary Vending
- 115.356 Permitted Public Places for Stationary Vending
- 115.357 Stationary Vendor Standards
- 115.358 Mobile Vendor Standards
- 115.359 Peddler Standards
- 115.360 Health Regulations
- 115.361 Authority to Sell and Unauthorized Use of a Registered Trademark
- 115.362 Appeal
- 115.363 Severability

§ 115.350 ITINERANT VENDORS, PEDDLERS, AND SOLICITORS.

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

ITINERANT VENDOR. Any person, firm, partnerships or corporation, whether as owner, agent, consignee, or employee, whether a resident of the Louisville Metro or not, who engages in a business of selling and delivery of goods, wares, food or merchandise of any kind or description, who conducts such a business outside of a permanent structure affixed to real property. A person, firm or corporation so engaged shall not be relieved from complying with the provisions of this chapter merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such temporary business in connection with, as part of, or in the name of any local dealer, trader, merchant or auctioneer.

MOBILE VENDOR. An itinerant vendor who conducts business from a vehicle or other conveyance traveling upon public streets, alleys, or other public ways within Louisville Metro.

PEDDLER. Any person who goes from house to house or from business to business in Louisville Metro selling or taking orders for or offering to sell or take orders for goods, wares and merchandise for present or future delivery or for services to be performed immediately or in the future whether such person has, carries or exposes a sample of such goods, wares and merchandise or not and whether he/she is collecting advance payments on such sales or not.

PUBLIC PROPERTY or ***PUBLIC PLACE*** means any place, property or premises dedicated to public use, owned by Louisville Metro, occupied by Louisville Metro as a

lessee, or occupied by Louisville Metro by reason of an easement, including, but not limited to streets, parks or parking lots so owned or occupied.

PRIVATE PROPERTY. All property not included within the definition of public property or public place.

STATIONARY VENDING ZONE. An area designated and permitted by the Department of Public Works as a location where stationary vendors may operate during hours and days of the week set by the Department of Public Works.

STATIONARY VENDOR. An itinerant vendor who conducts business from a vehicle, or other conveyance upon privately or publicly owned property, but not while traveling on a public street, sidewalk, alley or other public way within Louisville Metro.

§ 115.351 LICENSE REQUIRED.

(A) It shall be unlawful for any itinerant vendor or peddler to engage in business within Louisville Metro except when licensed as a stationary or mobile vendor or peddler as defined in § 115.350(A) and in compliance with the provisions of this chapter.

(B) Unless otherwise exempted, every itinerant vendor or peddler, before commencing business within Louisville Metro, shall make application in writing and under oath to the Department of Codes and Regulations and shall pay the required license fees.

(C) A separate license shall be required for each vehicle or conveyance engaged by an itinerant vendor.

(D) The Director of the Department of Codes and Regulations may set and enforce rules and regulations deemed necessary for the orderly and complete administration of this chapter which are not inconsistent with any of the provisions of this chapter. A copy of the administrative regulations as promulgated by the Director of the Department of

Codes and Regulations shall be available for public inspection in the offices of the Department of Codes and Regulations.

(E) The Director of the Department of Codes and Regulations is authorized to establish and promulgate a reasonable schedule and classifications of fees for licenses and permits as shall be issued pursuant to this chapter.

(F) The license requirements of this chapter shall not be construed to apply to the following:

(1) The selling of personal property at wholesale to dealers in such articles; to newspaper carriers or newspaper vendors (provided that the location and design of all vending machines is approved by the Director of Public Works and Assets); to merchants or their employees in delivering goods in the regular course of business; to drug retail persons calling on physicians, pharmacists, veterinarians and hospitals; to vendors of milk and other products distributed or sold to regular customers on established routes; or to sales upon private property by farmers and gardeners of the produce of their farms and gardens.

(2) The selling or soliciting for the sale of goods at a trade fair, flea market, or sales exhibition sponsored by a sales exhibition promoter or on property owned or operated by the State Fair Board or Commonwealth of Kentucky.

(3) The selling or offering for sale or distribution from interior private pedestrian circulation areas of shopping centers or malls of products to pedestrians which are traversing such zones or patrons of retail stores.

(4) No license is required for those persons operating yard sales, garage sales, bake sales or other similar types of activities from their own residentially zoned property,

or from property on which they legally reside or from property owned by a charitable organization. These activities must be temporary in nature and must comply with all Louisville Metro ordinance provisions and Land Development Code provisions. (See Land Development Code Section 4.4.4 Garage Sales)

(5) No license is required for any member or members of a religious, charitable, health, welfare, educational, political or youth service organization, who is acting as a peddler by selling or offering to sell goods or services to raise funds for the work of such organization and for no other purpose. The Director of the Department of Codes and Regulations may require any organization or individual claiming exemption to appear and present evidence in support of said membership and purpose.

§ 115.352 LICENSE APPLICATION.

(A) Any person, firm, or corporation desiring to secure a license as an itinerant vendor or peddler shall make written application, under oath, on a form provided by the Department of Codes and Regulations. Such application shall contain at least the following information:

(1) The name and permanent home address and telephone number and full local address and telephone number of the applicant.

(2) If not self-employed, the name, address and telephone number of the employer or parent organization the applicant is representing and copies of credentials or documents verifying that relationship.

(3) The nature or character of the goods, wares, merchandise or services to be offered by the applicant.

(4) The place or places where the applicant proposes to engage in business.

(5) A listing of all criminal convictions of the applicant for the past five years, and a listing of all primary residences for the past five years.

(6) A statement of whether applicant has previously been denied a license under this chapter or if applicant has had previous license suspended or revoked and, if so, the reasons or the circumstances surrounding the denial, suspension or revocation.

(7) Applicant must provide proof of his or her tax identification number from the Metro Revenue Commission.

(B) In addition to written application, an itinerant vendor shall provide the following:

(1) A copy of applicant's driving record from the Commonwealth of Kentucky or any other State where applicant has resided in the past five years.

(2) A listing of the vehicle license number, vehicle description, vehicle identification number, vehicle registration papers and proof of insurance of all vehicles from which the applicant proposes to conduct business.

(C) In addition to written application, the Department of Codes and Regulations may require a stationary vendor on private property to provide the following:

(1) A notarized written authorization from the business owner to conduct the applicant's business at the place so noted on the application.

(2) A drawing of a scale not greater than 50 feet per inch and not less than ten feet per inch, which drawing shall depict the following information:

- (a) The portion of the property to be occupied by the vending operation;
- (b) The portion of the property to be used for automobile parking and the number of automobiles accommodated in said area;
- (c) The location of driveways providing ingress and egress to the property;

(d) The location of existing building and structures located on the property noting the use of each building or structure so identified.

(D) Each applicant shall be required to complete the entire application form and abide by any request for information made by the Department of Codes and Regulations under this chapter. The failure to complete the form and provide all requested information may result in denial of the license.

(E) It shall be unlawful for any individual to intentionally provide false information or to intentionally omit requested information on an application for any license or permit governed by this chapter.

(F) Unless otherwise exempted, all applications shall be accompanied with the required fee(s) as specified in the schedule of fees established by the Director of the Department of Codes and Regulations.

§ 115.353 LICENSE APPLICATION REVIEW AND GENERAL STANDARDS.

(A) License Application Review:

(1) Upon receipt of such license application, the Director of Department of Codes and Regulations shall refer the application to the Louisville/Jefferson County Metro Revenue Commission for its certification that applicant is in compliance with the occupational license tax registration and filing requirements.

(2) The Director of the Department of Codes and Regulations has the authority to deny or revoke any license if there is:

(a) A history of criminal convictions provided pursuant to LMCO § 115.352(6) demonstrating a proclivity toward crimes of a pecuniary, sexual, or violent nature,

- (b) A unsatisfactory history of traffic violations,
- (c) The discovery of facts supporting lack of business responsibility or discovery of any legitimate reason that the applicant presents a risk to citizens if permitted to engage in activities as a peddler or vendor,
- (d) Noncompliance with any applicable Louisville Metro ordinance or regulation, or provision of state law, rules or regulations, or
- (e) Any nonpayment of any civil penalties for previous violations of this chapter.

(B) General Standards for Licenses:

(1) No license shall be transferable nor shall such license authorize the activities licensed by any person other than the person to whom it is issued.

(2) Every person to whom a license is issued shall conform at all times with all applicable Louisville Metro Governmental requirements, including without limitation, public health and safety ordinances and regulations; local zoning codes and regulations; local occupational license tax ordinances and regulations; and any other applicable regulation or code provisions.

(3) Every person to whom a license is issued shall at all times while engaged in business have the applicable license in their possession and shall produce the same at the request of any Louisville Metro official or at the request of any individual to whom the licensee is exhibiting his or her goods or services or selling or attempting to sell same.

(4) Licenses issued under this chapter shall be valid for the time period specified thereon. Renewal shall be required upon expiration of said license if the applicant wishes to continue such activity.

(5) Issuance of a license under this chapter shall not excuse any license holder from compliance with any other applicable ordinance or law.

§ 115.354 LICENSE REVOCATION OR SUSPENSION.

A license issued pursuant to this chapter may be suspended or revoked by the Director of the Department of Codes and Regulation subject to appeal pursuant to this section. A license may be suspended or revoked for the following reasons:

(A) Fraud, misrepresentation or false statement contained in the application for a license.

(B) Fraud, misrepresentation or false statement made in connection with the selling of goods or offer of services.

(C) Any facts or conditions which would justify the denial of the original application.

(D) Any violation of this chapter or other applicable Louisville Metro ordinance or regulation provision or state law, rule or regulation.

(E) Any felony or misdemeanor conviction for offenses listed in § 115.353(A)(1)(a).

(F) Conducting the business of vending or peddling under this chapter in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

(G) This section shall be self-executing and the suspension or revocation shall be effective immediately. The Director of the Department of Codes and Regulation shall give notice of the suspension or revocation of the license and sufficient notice shall be given if either hand-delivered or mailed to the licensee at his/her local address as listed on the licensee's application.

(H) It is unlawful for any person whose license has been suspended or revoked to continue in the business of vending or peddling or to keep the license issued to him/her in his/her possession and control, and the same shall immediately be surrendered to the Director of the Department of Codes and Regulations or his/her designee.

§ 115.355 PERMIT REQUIRED FOR PUBLIC PLACE STATIONARY VENDING.

(A) To operate as a stationary vendor in a public place within Louisville Metro, a person, firm, or corporation must obtain a permit from the Department of Codes and Regulations.

(B) Permits for stationary vending activities which occur solely on or within Louisville Waterfront Park or on avenues, streets, roads, drives or sidewalks adjacent to the boundaries of Louisville Waterfront Park must be obtained from the Louisville Waterfront Development Corporation prior to performing such activities. Permits for stationary vending activities which occur solely on or within Metro park lands or on avenues, streets, roads, drives or sidewalks adjacent to the boundaries of a Metro park must be obtained from the Director of Metro Parks prior to performing such activities. The Louisville Extreme Park is a Metro park and is specifically included for purposes of this provision as requiring a permit for vending activities to be obtained from the Director of Metro Parks for vending activities at the park or vending activities conducted on East Witherspoon, North Clay Street, North Hancock Street or North Franklin Street.

(C) Permits for stationary vending activities within Stationary Vending Zones established by the Department of Public Works as set forth in LMCO § 115.356 must be obtained from the Department of Public Works.

(D) The Director of the Department of Codes and Regulations and/or the Director of Metro Parks, and/or the Director of Public Works may impose conditions that impact the operation of issued permits, as deemed necessary for health and safety, and/or to mitigate the impact of vending on an area, and may restrict or prohibit vending in certain locations. The Director of the Department of Codes and Regulations, and/or the Director of Metro Parks, and/or the Director of Public Works may limit the number of vendors at any one location or within an area, or limit the number of operators, sales persons, or others engaged in the act of vending at the requested or approved location.

(E) As a condition of issuance, the vendor agrees to indemnify, hold harmless, and defend the Louisville Metro Government and its representatives against liability and/or loss arising from activities connected with and/or undertaken pursuant to the permit. Louisville Metro is not liable for any business loss, property loss, or other damage that may result from use of the permit, or suspension or revocation of the Permit, and no vendor shall maintain any claim or action against Louisville Metro, its officials, officers, employees, or agents on account of any suspension or revocation.

(F) Any permit issued under this chapter shall be posted conspicuously on the vehicle or conveyance.

(G) No permit shall be transferable nor shall such permit authorize the activities permitted by any person other than the person to whom it is issued.

(H) The permit issued under this section shall be valid for the time period specified thereon. Renewal is required upon expiration of said permit for continued operation.

(I) Unless otherwise exempted, all applications for permits shall be accompanied with the required fee(s) as specified in the schedule of fees established by the Director of the Department of Codes and Regulations.

(J) The following organizations and their representatives shall comply with all permitting requirements but shall be exempt from a permit fee if all proceeds from sales are returned to their organizations:

(1) Organizations holding valid charitable solicitation permits.

(2) Bona fide publicly recognized evangelical, missionary, or other religious organizations.

(3) Any college, university, or school accredited by any state department of education.

(4) Any bona fide publicly recognized national or regional youth organization.

(5) Any community or neighborhood group with nonprofit status or the Director of the Department of Codes and Regulations' approval. The Director may require any organization or individual claiming exemption to appear and present evidence in support of the claim.

§ 115.356 PERMITTED PUBLIC PLACES FOR STATIONARY VENDING.

(A) The Director of the Department of Public Works shall establish Stationary Vending Zones throughout Louisville Metro. A copy of Stationary Vending Zone locations shall be available at the office of the Department of Public Works.

(B) Any person, firm, or corporation may petition the Department of Public Works for an existing Stationary Vending Zone to be extended and/or a new Stationary Vending Zone to be created. The Director of the Department of Public Works shall establish an

application process with the authority to require an administrative fee. Applications will be available at the office of the Department of Public Works.

(C) Stationary vending from metered parking locations is prohibited, except as permitted within Stationary Vending Zones.

(D) No vendor shall be permitted to operate in a Residential Zoned District as defined in the Land Development Code. This limitation shall not apply to or within the boundaries of a community fair permitted by Metro Louisville.

(E) No vehicle located on private property shall be operated closer than 20 feet from any building or structure on adjoining property, unless express written approval has been granted from the owner of the adjoining property.

(F) No vendor shall operate closer than 100 feet of a Metro Louisville permitted community fair, without the written permission of the event organizers.

(G) Notwithstanding anything in this chapter to the contrary, the following provisions of this section shall apply to the Immediate Arena Clean Zone, consisting of the portions of Louisville Metro within the zone and during the times designated in subsection (H) of this section.

(H) The "Immediate Arena Clean Zone" shall be in effect at all times and shall encompass the area within the following boundaries:

(1) Northern boundary: the sidewalk along the southern side of River Road, including such sidewalk;

(2) Eastern boundary: the middle of Second Street;

(3) Southern boundary: the sidewalk along the southern side of Main Street, including such sidewalk and the facades of properties adjacent thereto; and

(4) Western boundary: the sidewalk along the eastern side of Third Street, including such sidewalk.

(I) No person, firm, partnership, limited liability company, corporation or other legal entity, whether as owner, agent, consignee or employee, whether a resident of the Louisville Metro or not, shall sell or vend merchandise, including food or beverage or erect temporary signage within the Immediate Arena Clean Zone during its effective timeframe, without the written permission of the Louisville Arena Authority or the Kentucky State Fair Board.

(J) It shall be unlawful for any person, firm, partnership, limited liability company or corporation, whether as owner, agent, consignee or employee, whether a resident of the Louisville Metro or not, to engage in the activities described in subsection (H).

(K) In addition to complying with subsections (H) and (I), all persons operating within the Immediate Arena Clean Zone shall obtain a permit and written approval from the appropriate Metro agency.

§ 115.357 HEALTH REGULATIONS.

All vendors or peddlers selling food and/or drinks which are not pre-packaged shall obtain a permit from the Louisville Metro Department of Health before a license will be issued and shall comply with all laws, rules and regulations regarding food handling, and all vehicles used for the sale of food shall comply with all the laws, rules and regulations respecting such vehicles as established by the Louisville Metro Department of Health and/or as set forth in Louisville Metro Code of Ordinances.

§ 115.358 STATIONARY VENDOR STANDARDS.

All vendors licensed under this section shall conform to the following standards:

(A) All operators and employees of stationary vendors must be 18 years or older. ~~or~~ If an operator or employee is between the age of 14 and 17, a valid work permit must be submitted.

(B) No vendor shall operate closer than 50 feet from flammable combustible liquid or gas storage and dispensing structures.

(C) No vendor upon private property shall operate in any minimum required parking space. If enough parking cannot be provided, the vendor may not operate at the site.

(D) No signs or signage shall be permitted other than that which can be contained on the vehicle, conveyance or temporary stand utilized to sell food or merchandise.

(E) No vendor shall utilize music or other noises in the sale of goods or services, which music or noise may be considered to be unreasonably loud, harsh or excessive and in violation of Chapter 99.

(F) No vendor shall operate a generator which exceeds decibel levels of 70dBA. The vendor shall provide the manufacturer's specs on decibels range generated by his or her generator(s) to Codes and Regulations when obtaining a permit for the vehicle for which the generator(s) is to be used.

(G) All generators, or other fuel sources to include propane tanks, must be permanently or semi-permanently affixed to the vendor's vehicle. Vendors operating from temporary stands or other conveyances are not required, but are encouraged, to permanently or semi-permanently affix their fuel source to the temporary stand or other conveyance. No fuel cans, generators, propane tanks or other items pertaining to the fuel system of a vehicle, temporary stands or other conveyances shall be permitted on a public street, sidewalk, alley, or public way within Louisville Metro.

(H) No vendor shall obstruct or cause to be obstructed the passage of any sidewalk, street, avenue, alley or any other public place, by causing people to congregate at or near the place where vending items are being sold or offered for sale.

(I) All lighting must be permanently or semi-permanently affixed to the vending facility. No lighting shall be permitted to shine on or into any public right-of-way or other private property, or cause any glare that could be considered a public hazard, nuisance or distraction to vehicular movement, neighboring business operations, or residential uses. No flashing or strobe lighting shall be permitted.

(J) All vendors shall place at least one 30-gallon garbage receptacle upon the site of business for customer use.

(K) All merchandise, goods, wares or food shall only be displayed or offered for sale from the vendor's vehicle, other conveyance or temporary stand.

(L) All vehicles, other conveyances or temporary stands shall be equipped with at least one 2A-40 BC fire extinguisher.

(M) At the conclusion of business activities the vendor shall clean all debris, trash and litter generated by the vendor's business activities.

(N) No portion of a vendor's inventory, sales equipment, or any other structure or equipment used in the sales or solicitation process shall be left overnight upon any public right of way within Louisville Metro.

(O) All vehicles shall be maintained and kept in good operating order and visual appearance, including the removal of graffiti.

§ 115.359 MOBILE VENDOR STANDARDS.

All mobile vendors licensed under this chapter shall conform to the standards pertaining to stationary vendors in Section 115.359 and, also, the following standards:

(A) No mobile vendor shall park, stand, or stop for the purpose of selling or vending within 1,000 feet of any hospital, public or private school grounds during the hours of regular school session, classes, or school related events in said public or private school, except when authorized by said hospital, school, or building used for religious worship when services are being conducted therein.

(B) No mobile vendor shall park, stand, stop or allow a vehicle to remain in any place than is necessary to transact immediate business. In no event shall the operation stand longer than 10 minutes in any given location. At the expiration of the 10 minutes, a mobile vendor must begin moving to a location at least 250 feet from the first location.

(C) Mobile vending is only permitted during daylight hours as defined by KRS 150.010(6).

§ 115.360 PEDDLER STANDARDS.

(A) A peddler must be 18 years or older or if between the age of 14 and 17, inclusive, must submit proof of a valid work permit.

(B) A peddler shall conduct himself or herself at all times in an orderly and lawful manner.

(C) No peddler shall enter a home, residence, apartment complex or business under pretenses other than for peddling.

(D) No peddler shall engage or attempt to engage in the business of peddling at any home, residence, apartment complex or business that prominently displays a "No

Peddlers”, “No Solicitors”, or “No Trespassing” sign or any other similar sign that communicates the occupants’ desire to not be contacted by peddlers.

(E) No peddler shall remain in a home, residence, apartment complex or business or on the premises thereof after the owner or occupant thereof has requested any such person to leave.

(F) All orders taken by a peddler shall be in writing in duplicate stating the name as it appears on the license and address of both the peddler and his or her employer, the terms of the order, the amount paid in advance, and one copy shall be given to the purchaser.

(G) No peddler shall engage or attempt to engage in the business of peddling or soliciting prior to 9:00 a.m. or one half hour before official sunset time, or at any time on a Sunday or on a state or national holiday.

(H) This chapter is not the exclusive method of regulating peddlers or solicitors.

§ 115.361 AUTHORITY TO SELL AND UNAUTHORIZED USE OF A REGISTERED TRADEMARK.

(A) All vendors or peddlers shall have lawful authority to possess and to sell any and all wares, services, goods or merchandise offered for sale.

(B) It shall be unlawful for any person to knowingly, without the consent of the registrant, to:

(1) Sell, or offer for sale or possess, with intent to sell, any advertising, goods or services containing any reproduction, counterfeit, copy or colorable imitation of a mark registered under KRS 365.560 through KRS 365.625, or under 15 USC Section 1051 through 15 USC Section 1127; or,

(2) Reproduce, counterfeit, copy or colorably imitate any such mark and apply such reproduction, counterfeit, copy or colorable imitation to labels, signs, prints, packages, wrappers, receptacles, or advertisements intended to be used upon or in conjunction with the sale or other distribution of such goods or services.

(C) Any investigator of the Department of Codes and Regulations may, upon probable cause, without warrant seize goods, labels, signs, prints, packages, wrappers, receptacles or advertisements which contain any reproduction, counterfeit, copy or colorable imitation of a mark registered under KRS 365.560 through KRS 365.625, or under 15 USC Section 1051 through 15 USC Section 1127, and hold them subject to the order of the court before which the owner or one in possession of the property has been charged with violation of this section.

§ 115.362 APPEALS.

(A) Any person, entity, or business aggrieved by the denial, suspension, or revocation of a license or permit shall have the right to appeal to the Director of the Department of Codes and Regulations within ten business days of receipt of said notice of ~~such~~ denial, suspension or revocation. The notice of appeal must be written with basis for said appeal and hand delivered to the Director or sent certified mail, return receipt requested. Unless a timely notice of appeal is received, the decision of the Director of the Department of Codes and Regulations shall be final.

(B) Upon receipt of an appeal, Department of Codes and Regulations shall schedule a time and date for the appeal to be heard before the Code Enforcement Board.

§ 115.363 SEVERABILITY.

Each section and provision of this chapter is hereby declared to be independent sections and provisions and, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of said chapter, or the application thereof to any person or business, is held to be invalid, the remaining sections or provisions and the application of such sections or provisions to any person or business other than those to which it is held invalid, shall not be affected thereby, and it is hereby declared that such sections and provisions would have been passed independently of such section or provision so known to be invalid. Additionally, should any license or permit procedure in this chapter be deemed invalid, the substantive regulations, restrictions, and standards contained herein shall not be affected thereby.

SECTION IV: This Ordinance shall take effect 90 days after its passage and approval.

H. Stephen Ott
Metro Council Clerk

David James
President of the Council

Greg Fischer
Mayor

Approval Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

BY: _____