Louisville Metro Government

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Title: AN ORDINANCE AMENDING § 72.083, § 72.085(A), AND REPEALING §§ 115.350-369 AND REPLACING THEM WITH A REVISED §§ 115.350-362 OF THE LOUISVILLE METRO CODE OF ORDINANCES (LMCO) TO IMPROVE UPON THE REGULATIONS OF ITINERANT VENDORS, PEDDLERS AND SOLICITORS (AS AMENDED).

Sponsors: Barbara Sexton Smith (D-4), Brandon Coan (D-8), Pat Mulvihill (D-10), Markus Winkler (D-17)

Indexes:

Code sections:

Attachments: 1. O-374-18 V.7 FAM 102419 Amending LMCO Regulations of Itinerant Vendors Peddlers and Solicitors.pdf, 2. O-374-18 V.6 CAM 101519 Amending LMCO Regulations of Itinerant Vendors Peddlers and Solicitors.pdf, 3. O-374-18 PROPOSED CAM 101519 sd 101419.pdf, 4. O-374-18 V.5 CAM 081319 Amending LMCO Regulations of Itinerant Vendors Peddlers and Solicitors.pdf, 5. O-374-18 PROPOSED FAM 082219 CM Mulvihill Amendment to O-374-18 sd 082219.pdf, 6. O-374-18 PROPOSED FAM 082219 Includes Amendment to Penalty Section.pdf, 7. O-374-18 V.4 CAM 071619 Amending LMCO Regulations of Itinerant Vendors Peddlers and Solicitors.pdf, 8. O-374-18 V.3 051419 Removed D16 CAM Amending LMCO Regulations of Itinerant Vendors Peddlers and Solicitors.pdf, 9. O-374-18 V.3 051419 CAM Amending LMCO Regulations of Itinerant Vendors Peddlers and Solicitors.pdf, 10. O-374-18 ATTACH LMCO 115.350-362 redlined 051719.pdf, 11. O-374-18 ATTACH Tracked changes to LMCO 72.083 and 72.085 sd 052019.pdf, 12. O-374-18 V.2 041619 CABS Amending LMCO Regulations of Itinerant Vendors Peddlers and Solicitors.pdf, 13. O-374-18 Amendment by Substitution RED-LINE DRAFTsd 041519.pdf, 14. O-374-18 V.1 101118 Amending LMCO Regulations of Itinerant Vendors Peddlers and Solicitors.pdf, 15. O-374-18 PROPOSED CABS Amending LMCO Regulations of Itinerant Vendors Peddlers and Solicitors.pdf, 16. ORD 162 2019.pdf

Date	Ver.	Action By	Action	Result
10/24/2019	6	Metro Council	amended	
10/24/2019	6	Metro Council	passed	Pass
10/15/2019	5	Public Works Committee	untabled	Pass
10/15/2019	5	Public Works Committee	amended	Pass
10/15/2019	5	Public Works Committee	amended	Pass
10/15/2019	5	Public Works Committee	amended	Pass
10/15/2019	5	Public Works Committee	amended	Pass
10/15/2019	5	Public Works Committee	amended	Pass
10/15/2019	5	Public Works Committee	recommended for approval	Pass
9/17/2019	5	Public Works Committee	tabled	Pass
8/27/2019	5	Public Works Committee	recommended for approval	Pass
8/22/2019	5	Metro Council	referred	
8/22/2019	5	Metro Council	referred	Pass

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8/13/2019	4	Public Works Committee	recommended for disapproval	
8/13/2019	4	Public Works Committee	recommended for disapproval	Pass
7/16/2019	3	Public Works Committee	untabled	Pass
7/16/2019	3	Public Works Committee	amended	Pass
7/16/2019	3	Public Works Committee	tabled	Pass
6/18/2019	3	Public Works Committee	untabled	
6/18/2019	3	Public Works Committee	tabled	
6/4/2019	3	Public Works Committee	untabled	Pass
5/14/2019	2	Public Works Committee	amended	Pass
5/14/2019	2	Public Works Committee	recommended for approval	
4/30/2019	2	Public Works Committee	held	
4/25/2019	2	Metro Council	re-introduced	
4/16/2019	1	Public Works Committee	amended	Pass
4/16/2019	1	Public Works Committee	tabled	Pass
4/16/2019	1	Public Works Committee	untabled	Pass
3/26/2019	1	Public Works Committee		
3/12/2019	1	Public Works Committee		
2/26/2019	1	Public Works Committee		
2/12/2019	1	Public Works Committee		
12/4/2018	1	Public Works, Facilities, Transportation and Accessibility Committee		
11/13/2018	1	Public Works, Facilities, Transportation and Accessibility Committee	tabled	
10/30/2018	1	Public Works, Facilities, Transportation and Accessibility Committee		
10/16/2018	1	Public Works, Facilities, Transportation and Accessibility Committee	recommended for approval	
10/16/2018	1	Public Works, Facilities, Transportation and Accessibility Committee	tabled	
10/11/2018	1	Metro Council	assigned	

ORDINANCE NO. _____, SERIES 2019

AN ORDINANCE AMENDING § 72.083, § 72.085(A), AND REPEALING §§ 115.350-369 AND REPLACING THEM WITH A REVISED §§ 115.350-362 OF THE LOUISVILLE METRO CODE OF ORDINANCES (LMCO) TO IMPROVE UPON THE REGULATIONS OF ITINERANT VENDORS, PEDDLERS AND SOLICITORS (AS AMENDED).

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

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

WHEREAS, locally, vendors face complex 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, the growth of the itinerant vendor industry raises issues such as parking, noise, traffic, safety, and waste disposal; 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 has 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 is ~~for such parking space displays the a yellow indicator which denotes meter~~ inoperable or otherwise does not accept payment during the hours within which it should accept payment.

~~(C) The fact that a vehicle is parked in a metered parking space with 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~~C) It shall be a parking violation to park at a meter beyond the maximum time allotted and specified, and "feeding the meter" is prohibited.

(~~E~~D) 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.~~

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, traffic control, or any commercial activity~~, or vending of wares pursuant to valid permit issued by authority of § 115.350~~or vending of wares pursuant to valid permit issued by authority of LMCO § 115.350. ___*(1)* No person, firm or corporation shall be issued a permit for more than two parking meter hoods on any block as an aid to commercial vending activity. In the event a properly permitted, hooded parking meter is occupied by an unauthorized vehicle, or otherwise inaccessible to the authorized permittee, the permittee may park at any alternative, non-hooded meter for the duration of the permit, LMCO § 72.083(C) notwithstanding.

(2) No more than 25% of parking meters on any block shall be reserved for commercial *vending activity within the central traffic district, or in any business district*, unless there has been filed with the Assistant Director of PARC an application for the establishment of a commercial activity zone by any person firm or corporation. The Assistant Director of PARC shall establish an application process with the authority to require an administrative fee. Applications will be available at the office of PARC.

In deciding all such applications, the Assistant Director of PARC shall consider primarily the relationship of the commercial activity zone applied for and the public safety and convenience.

(3) Commercial activity zones shall be established for a period of not exceeding one year and the Assistant Director of PARC shall have the power either to renew the commercial activity zone or to cancel it at any time or cause deemed sufficient to him or her in the exercise of a reasonable and sound discretion.

(4) A copy of commercial activity zone locations shall be available at the office of PARC.

SECTION III: The Council hereby repeals LMCO §§ 115.350-115.369 and replaces it with LMCO §§ 115.350-115.362 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 Health Regulations

115.357 Stationary Vendor Standards

115.358 Mobile Vendor Standards

115.359 Peddler Standards

115.360 Authority to Sell and Unauthorized Use of a Registered Trademark

115.361 Appeal

115.362 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 Louisville/Jefferson County 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 while 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/Jefferson County selling or taking orders for or offering to sell or take orders for goods, wares or 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 or merchandise or not and whether he/she is collecting advance payments on such sales or not.

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

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.

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/Jefferson County 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/Jefferson County, 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 To newspaper carriers or newspaper vendors (provided that the location and design of all vending

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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) For mobile vendors and peddlers, aA listing of all criminal convictions in the past five years of the applicant and all employees actually engaged in the act of vending or peddling 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) 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.

(D) 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.

(E) 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(5) demonstrating a proclivity toward crimes of a pecuniary, sexual, or violent nature,

(b) An unsatisfactory 12-month history of ~~traffic~~ hazardous moving violations resulting in the loss of 6 or more cumulative driver's license points,

(c) The discovery of any legitimate reason that the applicant presents a risk to citizens if permitted to engage in activities as a peddler or vendor, or

(d) 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, and fire protection 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 of conditions which would justify the denial of the original application.

(D) 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.

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

(F) 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.

(G) 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) No stationary 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 Louisville Metro, nor shall it apply when a stationary vendor is operating as a contracted caterer in conjunction with a private event.

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

(D) Stationary vending activities on or within Louisville Metro avenues, streets, roads or drives shall be limited to the curb side and not the roadway side of any vehicle, and shall be prohibited at diagonal parking places and within any part of an alley.

(E) Permits for stationary vending activities which occur on or within Metro park lands, including 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. Permits for stationary vending activities which occur on or within Louisville Waterfront Park, including sidewalks adjacent to the boundaries of Louisville Waterfront Park, must be obtained from the Louisville Waterfront Development Corporation prior to performing such activities.

(F) Notwithstanding anything in this chapter to the contrary, no person, firm, partnership, limited liability company, corporation or other legal entity, whether as owner, agent, consignee or employee, whether a resident of Louisville/Jefferson County or not, shall sell or vend merchandise, including food or beverage or erect temporary signage within the Immediate Arena Clean Zone without the written permission of the Louisville Arena Authority or the Kentucky State Fair Board. 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.

(G) 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, restrict, prohibit or impose conditions on vending in certain locations as deemed necessary for health and safety.

(H) 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.

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

(J) 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.

(K) 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.

(L) 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.

(M) 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.

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

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

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

(54) 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 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 or conveyances used for the sale of food shall comply with all the laws, rules and regulations respecting such vehicles or conveyances as established by the Louisville Metro Department of Health and/or as set forth in Louisville Metro Code of Ordinances.

§ 115.357 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 private property owner shall allow a vendor to operate in any minimum required parking space.No vendor upon private property shall operate in any minimum required parking space. If enough parking cannot be provided, the property owner shall not allow the vendor to may not operate at the site.

(D) No vendor 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.

(E) No signs or signage shall be permitted other than that which can be contained on the vehicle or conveyance utilized to sell food or merchandise, except for one temporary freestanding sign not to exceed six (6) square feet of surface area per face. The sign shall not have more than two faces,

extend more than four feet above the ground on which it is placed or be illuminated or contain any electrical component. The sign shall not obstruct the passage of any sidewalk, street, avenue, alley or any other public place.

(F) 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.

(G) 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 or conveyance for which the generator(s) is to be used.

(HG) All generators, or other fuel sources to include propane tanks, must be permanently or semi-permanently affixed to the vendor's vehicle or other conveyance. No generators, propane tanks or other fuel sources shall be permitted on a public street, sidewalk, alley, or public way within Louisville Metro.

(IH) 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.

(JI) 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.

(KJ) All vendors shall be equipped with at least one garbage receptacle sufficient to accommodate customer use.

(LK) All merchandise, goods, wares or food shall only be displayed or offered for sale from the

vendor's vehicle or conveyance.

(ML) All vehicles and conveyances shall be equipped with at least one 2A-40 BC fire extinguisher.

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

(ON) 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.

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

§ 115.358 MOBILE VENDOR STANDARDS.

All mobile vendors licensed under this chapter shall conform to the standards pertaining to stationary vendors in Section 115.357 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, building used for religious worship when services are being conducted therein or public or private school grounds during the hours of regular school session, classes, or school related events, except when authorized by said hospital, religious institution or school.

(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).

§ 115.359 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 subsequent to one half hour before official sunset time, or at any time on a Sunday or on a state or national holiday.

§ 115.360 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.

§ 115.361 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~~seven 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, the Department of Codes and Regulations shall schedule a time and date within ~~21~~30 calendar days, with agreement from the appellant, for the appeal to be heard before the Code Enforcement Board. The Code Enforcement Board shall hold a hearing in accordance with LMCO §§ 32.275 et seq.

§ 115.362 SEVERABILITY.

Each section and provision of this chapter is hereby declared to be independent sections and provisions and, not withstanding 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: The Council hereby amends LMCO § 115.999(H) to read as follows:

(H)(1) Any vendor or peddler engaging in business within Louisville Metro without a valid license issued pursuant to §§ 115.350 through 115.366115.362 shall be guilty of a misdemeanor. The penalty for which misdemeanor shall be a fine of not more than $500 and/or incarceration of not more than 30 days. Every day upon which such violation shall occur, or upon which such violation shall continue is a separate offense.

(2) Any person, firm or corporation violating any of the provisions of §§ 115.350 through 115.366115.362, other than § 115.350(B), shall be subject for the first offense to a $100 penalty, the second offense shall be subject to a $300 penalty and the third offense in any two-year period shall be subject to a $500 penalty and the vendor or peddler shall be ineligible for a license under the subchapter for a period of 90 days.

SECTION V: 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: _____

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