

**TITLE XI: BUSINESS REGULATIONS**

Chapter

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## CHAPTER 110: BUSINESS AND TRADE LICENSES

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necessity of procuring a license or permit from the City if such license is required by this code. ('88 Code, Title VII, Ch. 71, § 7.2) Penalty, see § 10.99

### § 110.03 APPLICATION FOR LICENSE.

Each person required to procure a license from the City shall make application for said license to the City Clerk in the form and manner prescribed by him and shall state under oath such facts as may be required for, or applicable to, the granting of such license, including the following:

(A) The full names, business addresses and residence addresses of all owners, proprietors, officers, managers and local employees of applicant's business; the names and addresses of each officer, if the applicant is a corporation.

(B) The place or places in the City where it is proposed to maintain applicant's business, and the length of time during which it is proposed that such business be conducted.

(C) The nature, character and quality of the goods, wares, merchandise or services to be sold or offered for sale by applicant in the City.

(D) The nature and kind of business which applicant proposes to conduct and the manner of operating same.

(E) A list of all assumed, trade or firm names under which applicant intends to do business.

(F) The nature and character of advertising done or proposed to be done in order to attract customers.

(G) Whether or not the applicant or person conducting or managing applicant's business has been convicted of a crime, misdemeanor or the violation of any provision of this code or other ordinance of the City, and if so, full particulars in connection therewith.

('88 Code, Title VII, Ch. 71, § 7.3) Penalty, see § 10.99

### § 110.01 BUSINESS LICENSES REQUIRED.

No person shall, directly or indirectly, operate, conduct, maintain or manage any business or premises for which any license or permit is required by any provision of this chapter or code without first procuring a license or permit from the City in the manner prescribed in this chapter.

('88 Code, Title VII, Ch. 71, § 7.1) Penalty, see § 10.99

### § 110.02 STATE LICENSE NOT EXEMPTION.

The fact that a license or permit has been granted to any person by the state to engage in the operation, conduct, maintenance or management of any business or premises shall not exempt such person from the

**§ 110.04 LICENSE YEAR.**

The license year shall terminate on June 30 at 12:00 midnight next after the issuance of such license. In all cases where the provisions of this code permit the issuance of licenses for periods of less than one year, the expiration date shall be indicated on the face of the license.

('88 Code, Title VII, Ch. 71, § 7.4)

**§ 110.05 STATE LICENSE LAWS; COMPLIANCE PREREQUISITE.**

No license or permit required by this chapter or code shall be issued to any person who is required to have a license or permit from the state until such person shall submit evidence of such state license or permit and proof that all fees appertaining thereto have been paid.

('88 Code, Title VII, Ch. 71, § 7.5)

**§ 110.06 COMPLIANCE WITH CODE.**

No license shall be granted to any applicant therefor until such applicant has complied with all of the provisions of this chapter and code pertaining to the business for which application for the license is made, nor shall any license be granted where the approval of any officer of the City is required prior to the issuance thereof until such approval is made.

('88 Code, Title VII, Ch. 71, § 7.6)

**§ 110.07 PAYMENT OF FEES.**

No license shall be issued until the fees as set forth in § 110.19 shall be paid by the applicant to

the City Clerk.

('88 Code, Title VII, Ch. 71, § 7.7)

**§ 110.08 EXEMPTION.**

No license fee shall be required from any person exempt from payment of the fee by state or federal

law. Such persons shall comply with all other provisions of this chapter. The City Clerk shall, in all such cases, issue to such persons licenses which are

clearly marked as to said exemption and the reason therefor.

('88 Code, Title VII, Ch. 71, § 7.8)

**§ 110.09 REFUSAL TO ISSUE LICENSE; REVOCATION, CAUSES.**

Licenses requested under this chapter may be refused by the City Clerk or City Manager and licenses issued may be revoked by the City Clerk or City Manager at any time, for any of the following causes:

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

(B) Fraud, misrepresentation or false statement made in the operation of a business.

(C) Any violation of this code.

(D) Conducting a business in an unlawful manner or in such manner as to constitute a breach of the peace or to constitute a menace to the health, morals, safety or welfare of the public.

(E) The failure or inability of an applicant to meet and satisfy the requirements and provisions of this code.

('88 Code, Title VII, Ch. 71, § 7.9)

**§ 110.10 NOTICE OF SUSPENSION OR REVOCATION.**

Written notice of suspension or revocation stating the cause or causes therefor shall be delivered to the licensee personally or mailed to his address stated in his application for license.

('88 Code, Title VII, Ch. 71, § 7.10)

**§ 110.11 HEARING BY CITY COMMISSION.**

(A) Any person whose license is revoked or suspended or any person whose request for a license is refused shall have the right to a hearing before the City Commission provided a written request therefor is filed with the City Clerk within ten days following the delivery or mailing of notice of revocation or suspension or within ten days following such refusal.

(A) The City Commission may reverse any refusal to issue a license or any revocation of a license, and

the City Commission may grant or reinstate any license. No person shall operate any business during anytime when his license or permit therefor has been suspended, revoked or canceled.  
(’88 Code, Title VII, Ch. 71, § 7.11)

**§ 110.12 RENEWAL OF LICENSE.**

Unless otherwise provided herein, an application for renewal of a license shall be considered in the same manner as an original application.  
(’88 Code, Title VII, Ch. 71, § 7.12)

**§ 110.13 CARRYING LICENSE; DISPLAY; REQUIREMENTS.**

No licensee shall fail to carry any license issued in accordance with the provisions of this chapter or code upon his person at all times when engaged in the operation, conduct or maintenance of any business for which the license was granted; except that where such business is operated, conducted or maintained at a fixed place or establishment, said license shall be displayed at all times in some conspicuous place in his place of business; and he shall produce the same for examination when applying for a renewal thereof or when requested to do so by any City police officer or by any person representing the issuing authority.  
(’88 Code, Title VII, Ch. 71, § 7.13) Penalty, see § 10.99

**§ 110.14 DISPLAY OF LICENSE ON DEVICE OR VEHICLE.**

No licensee shall fail to display conspicuously on each vehicle or mechanical device or machine required to be licensed by this chapter such tags or stickers as are furnished by the City Clerk and required by this chapter or code.  
(’88 Code, Title VII, Ch. 71, § 7.14) Penalty, see § 10.99

**§ 110.15 EXPIRED OR DUPLICATE LICENSE; DISPLAY.**

No person shall display any expired, suspended or revoked license or any license for which a duplicate has been issued.  
(’88 Code, Title VII, Ch. 71, § 7.15) Penalty, see § 10.99

**§ 110.16 LICENSES NONTRANSFERABLE.**

No license or permit issued under the provisions of this code shall be transferable, unless specifically so provided herein.  
(’88 Code, Title VII, Ch. 71, § 7.16) Penalty, see § 10.99

**§ 110.17 PROVISIONS COMPLEMENTARY AND SUPPLEMENTAL.**

The general provisions of this chapter, together with other relevant provisions of any other chapter of this code, or the general provisions hereafter authorized, or required by state law, and any and all thereof relative to licenses, permits, businesses, premises or anything connected therewith, shall each be construed to be complementary and supplemental to each other so far as relevant, and where not otherwise provided or inconsistent herewith, constitute a part of the regulations and conditions applicable generally to any particular license or permit in the same manner as though these provisions were fully written into each separate chapter.  
(’88 Code, Title VII, Ch. 71, § 7.17)

**§ 110.18 PENALTY FEE.**

Any business requiring a yearly business license will be charged a penalty fee of 25% of normal fee after 15 days from date of license expiration; 50% after 30 days and double the license fee after 60 days if such business was in business on June 30 preceding the license year.  
(’88 Code, Title VII, Ch. 71, § 7.18) (Ord. 187-4-84, passed 4-3-84)

**§ 110.19 LICENSE FEE AND BOND SCHEDULE.**

(A) *Schedule established.* The fee required to be paid and the amount of any bond required to be posted to obtain any license to engage in the operation, conduct, or carrying on of any trade, profession, business or privilege for which a license is required by the provisions of this code shall be as hereinafter provided in this chapter. No license shall be issued to any applicant unless he first pays to the City Clerk the fee and posts a bond in the amount required for the type of license desired.

(B) *Fees for licenses.* Fees for licenses shall be as prescribed in the following schedule under the

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business, trade, occupation or privilege to be licensed. Bonds, where required, shall be in the amounts listed beneath the license fee prescribed for such business.

(C) License fee and bond schedule.

<b>Type of Business</b>	<b>Fee</b>	<b>Type of Business</b>	<b>Fee</b>
Amusement and riding and moving devices		Another amusement device of the same type may be substituted for a licensed device and upon application to the City Clerk he shall issue a license for the substituted device without payment of any additional fee.	
Annual fee	\$ 25	Coin Operated Automatic Car Washes	
Less than a year		Per car capacity, per year, or any part thereof	\$ 5
First day	5	Concert, Plays and Lecture Halls	
Each subsequent day	2	Annual fee	25
Each device usually found in amusement parks, operated for profit, including but not limited to, ferris wheels, merry-go-rounds, whirligigs and roller coasters. Whenever operated by the same management show, as any carnival, circus and the like, otherwise licensed under this code, such license shall be deemed to include and be in lieu of the license fees enumerated under this heading.		Per day	5
Auctioneers (Ch. 115)		Excludes school and church activities or concerts, exhibitions, entertainments, musicales, and the like, sports, games, contests, fairs, festivals, and the like, by residents or by civic, fraternal, charitable, benevolent organizations, resident in the City.	
Annual fee	25	Dance Halls, Dancing Schools (Ch. 118)	
Per day	5	Annual fee	30
Bond	2,000	Explosive and Ammunition Shops	
Bowling Establishment (Ch. 117)		Annual fee	20
Annual fee per bowling lane	5	Furniture movers	
Circus, Menagerie, Carnival, Exhibition, Side Show		Annual fee	15
First day	50	Household and office furniture in use; excluding deliveries of merchants selling same. Covered vans or vehicles shall be equipped with standard furniture moving pads and equipment. Proof required of cargo insurance.	
Each subsequent day	30	Each vehicle	1,000
Bond, conditioned to indemnify the City or others for any property damage and clearing premises	300	Public liability insurance	10,000
Coin-Operated Amusement Arcades		Property damage	1,000
License fee		Name, address and license number required on both sides of each vehicle in letters at least three inches high and one inch wide. License shall be on display in vehicle or in possession of driver.	
First year	100		
Each yearly renewal thereafter	45		
Coin-Operated Amusement Devices (Ch. 116)			
Distributors			
Annual fee	50		
Operators, each machine			
Annual fee	10		
Owners, each machine			
Annual fee	12		

**Business and Trade Licenses**

<i>Type of Business</i>	<i>Fee</i>	<i>Type of Business</i>	<i>Fee</i>
Junk Dealers (Ch. 113)		such license shall be deemed to include	
Bond	\$ 500	and be in lieu of the license fee	
Buying and selling junk, using only		required for a shooting gallery.	
Pushcart		Taxicabs (Ch. 114)	
Annual fee	5	Annual fee	\$ 80
Truck or other vehicle			
Annual fee	25		
Markings required on each vehicle;		Whenever more than one taxicab license	
name and address of licensee in letters		is issued to the same licensee, the	
at least five inches high.		licensee shall pay \$20 per annum	
		for each taxicab excluding the first.	
Locksmiths		Driver's permit	
Annual fee	10	Annual fee	20
Bond	1,000	Renewal fee	10
Pawnbrokers		Each licensee shall satisfy § 114.04	
Annual fee	125	by depositing with the City Clerk	
Bond	3,000	one or more policies of insurance as	
Peddlers (Ch. 111)		required by said section, with the	
Per day	5	policy limits of \$100,000 per person	
Per week	10	and \$300,000 per occurrence for	
Per month	20	personal injury and \$100,000 per	
Per year	70	occurrence for property damage liability.	
Subject to restriction of the use of such		Theaters, Stage and Screen (Ch. 118)	
streets as may be designated by		Annual fee	25
the Chief of Police.			
Pool and Billiard Rooms (Ch. 117)		It shall be unlawful to exhibit	
Annual fee per pool or billiard table	5	any obscene, indecent, immoral or	
Public Entertainments Not Otherwise		vulgar presentation. The Commission	
Specified Herein (See exclusion under		may request, before presentation,	
concerts, plays and lecture halls)		a showing of any motion picture	
First day	5	and it may be banned from exhibition	
Plus, each subsequent day	1	if determined to be obscene,	
		indecent, immoral or vulgar.	
Roller Skating Rink (Ch. 118)		Transient merchants (Ch. 111)	
Annual fee	50	Farm Products — Produce	
Shooting Gallery		Per day for the first 4 days	5
Annual fee	25	From the 5th day to the 30th day	25
		From the 30th day for the	
Issuance of license subject to approval		balance of the term	30
of Police and Fire Chiefs. Whenever		Gems and Precious Metal Dealers	
operated by the same management as any		Per day up until 5 days	10
show, carnival, circus and the like,		Per week	20
otherwise licensed as herein provided,		Annual fee	50

<i>Type of Business</i>	<i>Fee</i>
Other Merchants	
For stock under \$1,000	
Per day	\$ 10
Per week	25
Per month	50
Per year	100
Plus for each \$1,000 of stock or part thereof over \$1,000	
One month or less	10
Over one month	20
Vehicles for Hire	
Driverless vehicle, seating capacity for more than 7 persons	
Annual fee	20
Wood Sales Lots	
Annual fee	20
('88 Code, Title VII, Ch. 72, §§ 7.31 - 7.36) (Ord. 188-4-84, passed 4-3-84; Am. Ord. 381-3-95, passed 3-20-95; Am. Ord. 475-02-01, passed 2-5-01)	

## CHAPTER 111: PEDDLERS AND TRANSIENT MERCHANTS

### Section

- 111.01 Definitions
- 111.02 License required
- 111.03 Veteran's exemption
- 111.04 Closing out sales

merchant in the City without first having procured a license from the Clerk as herein provided. No license shall be granted except upon approval of the Chief of Police.  
(’88 Code, Title VII, Ch. 73, § 7.52) Penalty, see § 10.99

### § 111.01 DEFINITIONS.

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

**PEDDLER.** Any person who goes about from place to place, selling or offering for sale, goods, wares, merchandise and all kinds of property, traveling on foot or in vehicles, and selling from house to house or by crying his wares from the street. Such term shall include “hawker” and “huckster.”

**TRANSIENT MERCHANT.** Any person engaged temporarily in the retail sale of goods, wares or merchandise, in any place in this City and who, for the purpose of conducting such business, occupies or uses any lot, building, room, structure of any kind. Such term shall include: “itinerant merchants,” “itinerant vendors” and persons engaged in selling goods, wares or merchandise at retail in this City and who are not on the tax rolls of this City; and any person who commences a business of selling goods, wares and merchandise at retail within the City after the first day of January in any year and who is not assessed on the tax roll for that year and who occupies or uses the licensed premises for a period of less than 180 days shall be deemed a “transient merchant” within the meaning of this chapter.  
(’88 Code, Title VII, Ch. 73, § 7.51)

### § 111.02 LICENSE REQUIRED.

It shall be unlawful for any person to engage in business as a peddler, route salesman or transient

### § 111.03 VETERAN'S EXEMPTION.

Every honorably discharged member of the Coast Guard, soldier, sailor or Marine of the military or naval service of the United States, who is a resident of this state and a veteran of any war in which the United States of America has been or shall be a participant, shall have the right to hawk, vend or peddle his own goods, wares and merchandise within this City, by procuring a license for that purpose as herein prescribed. Application for such license shall be made to the City Clerk in the form and manner prescribed in this chapter and upon presentation to the City Clerk of a certificate of honorable discharge from the Coast Guard, Army, Navy, or Marine Corps of the United States, which certificate shall show that the applicant is a veteran of any war in which the United States has been or shall be a participant, a veteran's license shall be issued by the Clerk to the applicant without cost. Such license shall be personal to the licensee and any assignment or transfer thereof shall be void.  
(’88 Code, Title VII, Ch. 73, § 7.53)

### § 111.04 CLOSING OUT SALES.

No transient merchant shall advertise, represent or hold out to the public any sale as being the sale of a bankrupt's stock, creditor's, administrator's, executor's sale or closing out sale; or sale of merchandise damaged by fire, water or otherwise unless at the time of making application for a license as herein required he states under oath all the facts relative to the sale he proposes to conduct, including the name and addresses of the persons from whom the merchandise to be sold was purchased and a full description of all of the goods, wares and merchandise to be sold. The Clerk shall thereupon issue the license for the type of

sale specified in the application.

('88 Code, Title VII, Ch. 73, § 7.54) Penalty, see §  
10.99

***Cross-reference:***

*Closing out auctions, see § 115.03*

**CHAPTER 112: PAWNBROKERS**

Section

- 112.01 License required
- 112.02 Bond
- 112.03 Records required

**§ 112.01 LICENSE REQUIRED.**

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

**PAWNBROKER.** Any person, corporation, or member or members of a co-partnership or firm, who loans money on deposit or pledge of personal property, or other valuable thing, other than securities or printed evidence of indebtedness, or who deals in the purchasing of personal property or other valuable thing on condition of selling the same back again at a stipulated price.

**SECONDHAND DEALER.** Any person, corporation, or member or members of a co-partnership or firm whose principal business is that of purchasing, storing, selling, exchanging and receiving secondhand personal property of any kind or description, but excluding consignment sales, antique shops, and the sale of donated goods; also excepting new articles, wares, or merchandise purchased at wholesale from manufacturers, wholesale distributors or jobbers for retail sale to customers, motor vehicles, old rags, waste paper, books, magazines, tapestries, antiques and household furniture.

(B) No person shall engage in the business of a pawnbroker or secondhand dealer without first procuring a license therefore. No such license shall be granted except upon the approval of the Director of Public Safety.

(88 Code, Title VII, Ch. 74, § 7.71; Am. Ord. 508-02-03, passed 2-3-03) Penalty, see § 10.99

**§ 112.02 BOND.**

Before any such license is issued, the applicant shall furnish a surety bond or cash bond in the minimum amount of \$5,000 and in a form to be approved by the City Clerk, which bond shall be conditioned upon the faithful observance of all laws of the state and provisions of this code during the license term. Any person aggrieved by the action of any such licensee shall have a right of action on the bond for the recovery of damages or to enforce any lawful right. Such bond shall remain in full force and effect for a period of 90 days after the expiration or cancellation of any such license or after the termination of any action upon such bond. Any cash bond posted with the City shall be returned to the license holder without interest 90 days after the expiration or cancellation of any such license, or after termination of any action against such bond, whichever is later.

(88 Code, Title VII, Ch. 74, § 7.72; Am. Ord. 508-02-03, passed 2-3-03) Penalty, see § 10.99

**§ 112.03 RECORDS REQUIRED.**

No licensee shall fail to keep a daily record of all persons with whom he does business and of all property coming into his possession together with a record of the disposition of each article, nor shall any licensee fail to report same weekly to the Director of Public Safety on forms prescribed by the Director of Public Safety. The Director of Public Safety shall at all times have access to such daily record.

(88 Code, Title VII, Ch. 74, § 7.73; Am. Ord. 508-02-03, passed 2-3-03) Penalty, see § 10.99



## CHAPTER 113: JUNK DEALERS

### Section

- 113.01 License required
- 113.02 Application for license
- 113.03 Police inspection
- 113.04 Purchases, restrictions

City Department or the City Commission.  
(‘88 Code, Title VII, Ch. 75, § 7.92) (Ord. 189-4-84,  
passed 4-3-84)

### § 113.03 POLICE INSPECTION.

Each licensee shall on demand of any officer of the Police Department show all goods bought or received by the licensee in the junk dealer's business.

(‘88 Code, Title VII, Ch. 75, § 7.93) (Ord. 189-4-84,  
passed 4-3-84) Penalty, see § 10.99

### § 113.01 LICENSE REQUIRED.

No person shall engage in the business of dealer in scrap iron, scrap metal, scrap wood, used or salvaged auto parts or any form of goods commonly considered as junk, nor assemble same at one location for the purpose of sale without first procuring a license therefor.

(‘88 Code, Title VII, Ch. 75, § 7.91) Penalty, see § 10.99

### § 113.04 PURCHASES, RESTRICTIONS.

(A) Each such license granted shall designate the particular place where said business is to be conducted and no licensee shall engage in business at any place other than that so designated.

(B) No licensee shall purchase or receive any article:

(1) From any person intoxicated, or under the age of 17 years, without written consent of parent or guardian.

(2) From a person known or suspected to be a thief or a receiver of stolen property.  
(‘88 Code, Title VII, Ch. 75, § 7.94) (Ord. 189-4-84,  
passed 4-3-84) Penalty, see § 10.99

### § 113.02 APPLICATION FOR LICENSE.

No junk dealers license shall be granted:

(A) Except upon resolution of the City Commission after the City Commission finds that the proposed business will not tend to create a hazard to the public health or tend to depreciate property in the area unduly or retard the natural development of the area, or be in violation of any provisions of the code.

(B) Except upon approval of the Police Chief, the Fire Chief and the Health Officer.

(C) For conducting such business on a vacant lot or in a partially enclosed structure unless such property is enclosed with a properly maintained, tight board or other type fence in accordance with all specifications of the City Engineer to protect the health, welfare and safety of the public.

(D) Whenever 65% or more, of all property owners within a radius of 300 feet measured from the boundary lines of the premises object in writing to any



## CHAPTER 114: TAXICABS

### Section

- 114.01 License required
- 114.02 Application for license
- 114.03 Taxicab registration
- 114.04 Insurance
- 114.05 Cancellation of insurance
- 114.06 License and registration transfers
- 114.07 Revocation of registration
- 114.08 Rate schedule
- 114.09 Taxicab driver's permit
- 114.10 Driver permits; display
- 114.11 [Reserved]
- 114.12 Driver permit transfer
- 114.13 Lost articles
- 114.14 Cruising prohibited
- 114.15 Drinking on duty
- 114.16 Passengers; conveyance required, exception
- 114.17 Rules and regulations
- 114.18 Number of licenses
- 114.19 Maintenance and inspection of vehicles

### § 114.01 LICENSE REQUIRED.

No person or company shall engage in the business of operating or causing to be operated, directly or indirectly, any taxicab upon streets, alleys, or public ways in the City of Big Rapids without first procuring a taxicab license. No license shall be issued unless the Director of Public Safety shall indicate approval in writing upon the face of the application.

(Ord. 380-3-95, passed 3-20-95) Penalty, see § 10.99

### § 114.02 APPLICATION FOR LICENSE.

Application for a license shall be made to the City Clerk in the form and manner required by the Clerk and in accordance with the provisions of this Code. The license term shall be as specified in § 110.04, and the fees therefor shall be as provided in § 110.19.

(Ord. 380-3-95, passed 3-20-95)

### § 114.03 TAXICAB REGISTRATION.

(A) No taxicab shall be operated within the City without the issuance of a registration certificate through the City Clerk's office.

(B) Prior to issuing the registration certificate, the following information shall be obtained on a taxicab registration application:

(1) The vehicle description owned or leased by the licensed taxicab company.

(2) Proof of insurance for the vehicle as specified in § 114.04 of this Code.

(3) Proof of inspection of the vehicles by a licensed motor mechanic approved by the City's Department of Public Safety as provided in § 114.19 of this Code.

(4) Authorization to issue a registration certificate from the City's Department of Public Safety. (Ord. 380-3-95, passed 3-20-95) Penalty, see § 10.99

### § 114.04 INSURANCE.

(A) Before any taxicab is registered and a license issued, the applicant shall furnish to the City Clerk one or more policies of insurance, prepaid for at least the period of the license, issued by a responsible insurance company providing indemnity for the insured in the amounts specified in § 110.19 and agreeing to pay, within the limits of said amounts on behalf of the insured, all sums which the insured shall become obligated to pay by reason of liability imposed upon the insured by law, for damages because of bodily injury, including death, at any time resulting therefrom or for damages to property, or both, sustained by any person other than the employees of the insured and caused by accident and arising out of the ownership, maintenance, or use of said licensed taxicab.

(B) The minimum amount of said insurance coverage as to any one licensed taxicab shall be:

(1) Personal injury protection; bodily injury: \$100,000 per person and \$300,000 per occurrence.

(2) Property damage of \$100,000 per occurrence.  
(Ord. 380-3-95, passed 3-20-95; Am. Ord. 475-02-01, passed 2-5-01)

#### **§ 114.05 CANCELLATION OF INSURANCE.**

Every such insurance policy or bond shall contain a clause obligating the insurer to give the City Clerk at least ten days written notice before the cancellation, expiration, lapse, or other termination of the insurance.  
(Ord. 380-3-95, passed 3-20-95)

#### **§ 114.06 LICENSE AND REGISTRATION TRANSFERS.**

A taxicab company license may not be transferred. When the ownership of any taxicab shall change, by operation of law or otherwise, the taxicab registration pertaining to such taxicab shall become void. A taxicab company which stops using a registered taxicab shall notify the City Clerk, and its registration shall be withdrawn. Any transfer, or attempt to transfer, a taxicab company license or taxicab registration to any person shall automatically revoke the license or registration.  
(Ord. 380-3-95, passed 3-20-95) Penalty, see § 10.99

#### **§ 114.07 REVOCATION OF REGISTRATION.**

Upon receiving information that any of the requirements for registrations of a taxicab are no longer met, the City Clerk shall notify the taxi company by registered mail, and the registration shall be revoked. Operation of taxicab after the registration has been revoked shall be a violation of this chapter.  
(Ord. 380-3-95, passed 3-20-95)

#### **§ 114.08 RATE SCHEDULE.**

A schedule of rates and charges shall be on file in the office of the City Clerk, open to public inspection. The schedule of rates shall be conspicuously posted in each taxicab and illuminated at night so as to be readily visible to any passenger.  
(Ord. 380-3-95, passed 3-20-95) Penalty, see § 10.99

#### **§ 114.09 TAXICAB DRIVER'S PERMIT.**

No person shall drive a taxicab unless a taxicab driver's permit is first procured. No permit shall be granted except upon approval of the Director of Public Safety. The application shall be accompanied by two photographs of the applicant in the form and manner prescribed by the Director of Public Safety. The Director of Public Safety shall cause the applicant's finger prints to be taken, unless the same are on file, and the finger prints shall be placed in the non-criminal identification files of the Department of Public Safety. The fees for the driver's permit shall be as specified in § 110.19.  
(Ord. 380-3-95, passed 3-20-95) Penalty, see § 10.99

#### **§ 114.10 DRIVER PERMITS; DISPLAY.**

The permit issued to a taxicab driver shall be conspicuously displayed on the inside of the taxicab and illuminated at night so as to be readily visible to any passenger.  
(Ord. 380-3-95, passed 3-20-95) Penalty, see § 10.99

#### **§ 114.11 [RESERVED].**

#### **§ 114.12 DRIVER PERMIT TRANSFER.**

No person having a taxicab driver permit shall allow any other person to use or attempt to use such permit for any purpose. No person shall use or have in his/her possession while operating a taxicab in the City any taxicab driver permit which has been issued to any other person.  
(Ord. 380-3-95, passed 3-20-95)

#### **§ 114.13 LOST ARTICLES.**

Every driver of a taxicab shall search the interior of such taxicab at the termination of each trip for any article which may have been left in the taxicab by a passenger. Any article found therein shall immediately be returned to the passenger owning it, if the owner be



known; otherwise, it shall be deposited with the owner of the taxicab at the conclusion of the driver's tour of duty. A report of the finding of such article shall be made by the owner of the taxicab within 24 hours thereafter to the Director of Public Safety. (Ord. 380-3-95, passed 3-20-95)

#### **§ 114.14 CRUISING PROHIBITED.**

No driver shall cruise in search of passengers at any time, and whenever a taxicab is not engaged by a customer, the driver shall proceed at once by the most direct route to the garage where the taxicab is housed or the taxicab stand customarily occupied by the taxicab. (Ord. 380-3-95, passed 3-20-95) Penalty, see § 10.99

#### **§ 114.15 DRINKING ON DUTY.**

No taxicab driver shall drink any intoxicating beverage while on duty, nor shall he or she operate any taxicab with a blood alcohol of 0.01% or more by weight of alcohol. (Ord. 380-3-95, passed 3-20-95) Penalty, see § 10.99

#### **§ 114.16 PASSENGERS; CONVEYANCE REQUIRED, EXCEPTION.**

No driver or owner of a taxicab shall refuse or neglect to convey any orderly person or persons upon request by signal or telephone call, unless the taxicab is previously engaged. When a taxicab has been engaged by a passenger, no additional passengers shall be received therein except with the express consent of the first passenger. No person other than passengers for hire, except employees or members of the immediate family of any person licensed hereunder to engage in business of operating a taxicab, shall be transported therein. (Ord. 380-3-95, passed 3-20-95) Penalty, see § 10.99

#### **§ 114.17 RULES AND REGULATIONS.**

(A) The Director of Public Safety is hereby empowered, subject to approval by the City Commission, to make such rules and regulations regarding the dress and conduct of drivers, the maintenance and marking of taxicabs, the location and maintenance of taxicab stands, as may be necessary in the interest of

providing safe and orderly service to passengers, and no person shall fail to comply with any such rule or regulation. The Director of Public Safety may require periodic reports to be submitted by drivers in order to assist in the enforcement of such rules and regulations or the provisions of this chapter.

(B) The Director of Public Safety shall from time to time designate portions of the streets of the City to be used as taxicab stands. (Ord. 380-3-95, passed 3-20-95) Penalty, see § 10.99

#### **§ 114.18 NUMBER OF LICENSES.**

The City Commission may limit the number of taxicab licenses that may be issued in accordance with the population and need of the City. (Ord. 380-3-95, passed 3-20-95)

#### **§ 114.19 MAINTENANCE AND INSPECTION OF VEHICLES.**

(A) Prior to registration being issued for the use and operation of any vehicle as a taxicab, the vehicle shall be thoroughly examined and inspected, at the expense of the taxicab company, by a licensed mechanic who is approved by the City Department of Public Safety. The mechanic shall certify that the vehicle can be safely operated, that it is equipped with all required safety devices, and that it is in a clean and sanitary condition. Approval shall be certified to the City Clerk on a form provided by the Clerk for that purpose.

(B) Each vehicle licensed under this chapter shall be reinspected by a licensed mechanic, at the expense of the taxicab company, each year prior to reissuance of its registration. However, the Director of Public Safety may require that it be inspected semiannually due to a vehicle's age and/or condition.

(C) In the event that the City receives a complaint regarding the condition of a taxicab, the licensee shall be notified of the nature of the complaint and may be required to present the taxicab at the Department of Public Safety for re-inspection or have the taxicab reinspected and recertified by a licensed mechanic approved by the Department of Public Safety. Failure to comply within 24 hours of the notice shall result in suspension of the taxicab's registration. (Ord. 380-3-95, passed 3-20-95)



## CHAPTER 115: AUCTIONEERS

### Section

115.01	License required
115.02	Application for license
115.03	Sale restrictions
115.04	Prohibited practices
115.05	Account required
115.06	Sworn statement required
115.07	New goods
115.08	Household goods
115.09	Sales authorized by court

### § 115.01 LICENSE REQUIRED.

No person shall engage in the business of auctioneer or sell or cry off at auction any real estate, goods, wares or merchandise of any description within the City until he shall first procure a license so to do from the City Clerk.

('88 Code, Title VII, Ch. 77, § 7.151) Penalty, see § 10.99

### § 115.02 APPLICATION FOR LICENSE.

Application for a license shall be made to the City Clerk in the form and manner required by him and in accordance with the provisions of Chapter 110. The license term shall be as specified in § 110.04 and the fee therefor shall be as provided in § 110.19. ('88 Code, Title VII, Ch. 77, § 7.152) Penalty, see § 10.99

### § 115.03 SALE RESTRICTIONS.

It shall be unlawful for any person to sell, dispose of, advertise for sale or offer for sale at public auction any property of any kind unless he complies with the following conditions:

(A) Such sale shall be conducted by an auctioneer duly licensed as herein provided.

(B) Such property shall have been on the tax rolls of this City for a period of one year prior to such sale, or comprise the stock of goods of a merchant who has regularly done business in this City for one year continuously prior to such sale.

(C) All taxes, plus penalties, which have become a lien under any law or provision of this code, shall have first been paid.

(D) In the event such sale is a closing out sale, the statutes and provisions of this code regulating such sales shall be complied with.

(E) No property of any kind shall be added to the goods, wares or stock at any closing out sale after the inventory is filed, nor shall any property be added within 60 days prior to the commencement of such sale in anticipation thereof.

(F) No property which has been struck off to the highest bidder during the course of such sale shall again be offered for sale during such auction.

(G) No sale of platinum, gold, silver, plated ware, precious or semi-precious stones, watches or other jewelry shall be permitted unless it is a closing out auction and application therefor has been on file with the City Clerk for a period of 60 days prior to the first day of such sale, and every such article sold shall have securely attached to it a tag or label upon which shall be plainly written or printed in English a true and correct statement of the kind and quality of the metal of which such article is made or with which it is plated, and the true name or names, weight, quality and color of any precious or semi-precious stone or stones, together with the name of the manufacturer of such article.

(H) A sales book shall be kept, signed by the purchaser showing each sale of any article at the time of purchase, opposite a description of the article, and if no purchaser comes forward to sign such book, then the next highest bidder shall have the right to sign such sales book and to demand and receive such article at the amount of his last highest bid.

('88 Code, Title VII, Ch. 77, § 7.153) (Am. Ord. 191-4-84, passed 4-3-84) Penalty, see § 10.99

**Cross-reference:**

*Closing out sales, see § 111.04*

**§ 115.04 PROHIBITED PRACTICES.**

The following acts, omissions and practices are prohibited:

(A) The use of deceit, fraud or misrepresentation in the sale or offering for sale of any article.

(B) The substitution of any article in place of an article bid upon at auction.

(C) The use of false bidders, cappers or puffers.

(D) The use of bells, buzzers, bally-hoo or any variety of mechanical or excessive vocal sound to attract attention in connection with the sales at auction.

(E) The use of any false or misleading advertising matter, relative to the kind or quality of goods to the past history, or present status thereof.

(F) The substitution of an unlicensed person in place of a licensed auctioneer.

(G) The failure to exhibit an auctioneer's license to any police officer upon demand at the place where an auction is conducted.

(H) The receipt for sale by auction or the sale by auction of any licensed auctioneer of any goods, wares or merchandise from any minor, knowing him to be such.

('88 Code, Title VII, Ch. 77, § 7.154) Penalty, see § 10.99

**§ 115.05 ACCOUNT REQUIRED.**

Each auctioneer shall keep an accurate record of all goods and chattels sold by him, together with the name and address of the person from whom such goods and chattels were received, which record shall be open to inspection by any police officer or to the City Clerk at all reasonable times.

('88 Code, Title VII, Ch. 77, § 7.155) Penalty, see § 10.99

**§ 115.06 SWORN STATEMENT REQUIRED.**

(A) At least five full days before commencing any sale by auction except as specified in § 115.08, the owner of the property sought to be sold shall file a sworn application with the City Clerk which shall state the following:

(1) Whether the auction sought to be conducted is a closing-out auction.

(2) If it is a closing-out auction, that the application is made in good faith for the purpose of retiring from business and that all statutes and the provisions of this code governing closing-out sales have been complied with.

(3) That the stock of goods, or other property, sought to be sold, is a bona fide part of applicant's stock or has been on the tax rolls of the City for one year.

(4) A complete description of the property sought to be sold, in duplicate, including, if it is personal property, a completely itemized inventory with identifying numbers, or other means of readily determining the identity of each and every article.

(5) The place where the auction is to be conducted.

(6) The name of the auctioneer who is to conduct the sale.

(7) The name of the owner of the property for the preceding year.

(8) The length of time the applicant has been in business in the City and the address of such business.

(9) That all taxes on such property have been paid.

(10) That no property other than that listed shall be sold or offered for sale on the premises where the auction is being conducted during such auction sale.

(11) That all of the property listed is actually on the premises where the auction is to be conducted.

(B) It shall be unlawful for the auctioneer to conduct the auction at any place other than that stated

in the application and it shall be unlawful for either the auctioneer or owner to do, either themselves or through their agents or servants, any act or thing contrary to the statements made in the application, and any false statement therein, or any act done contrary to such statements shall be deemed a violation of this chapter.

('88 Code, Title VII, Ch. 77, § 7.156) Penalty, see § 10.99

**Cross-reference:**

*Closing out sales, see § 111.04*

**§ 115.07 NEW GOODS.**

Whenever any auction sale is one of used or secondhand goods, no new goods, wares, merchandise or personal property shall be offered or included at such sale.

('88 Code, Title VII, Ch. 77, § 7.158) Penalty, see § 10.99

**§ 115.08 HOUSEHOLD GOODS.**

That §§ 115.03(B) through (G) and 115.06(A)(2) through (7) shall not apply to auction sales of secondhand household furniture and household goods. The words **SECONDHAND HOUSEHOLD FURNITURE AND HOUSEHOLD GOODS** in this section mean household furniture and household goods which have actually been used for housekeeping purposes.

('88 Code, Title VII, Ch. 77, § 7.159)

**§ 115.09 SALES AUTHORIZED BY COURT.**

The provisions of this chapter shall not apply to any sale conducted by any sheriff, constable, or other public or court officer or any person acting under the license, direction or authority of any court.

('88 Code, Title VII, Ch. 77, § 7.160)



**CHAPTER 116: MECHANICAL AMUSEMENT DEVICES**

Section

- 116.01 Definitions
- 116.02 License required
- 116.03 Application for license
- 116.04 Slot machines, gambling prohibited
- 116.05 Police inspection
- 116.06 Identification marks required
- 116.07 Number of devices
- 116.08 Obscene matter prohibited

**OWNER.** Any person who owns, operates, or conducts any place or establishment in which coin-operated amusement or music devices may be operated. ('88 Code, Title VII, Ch. 78, § 7.181) (Ord. 192-4-84, passed 4-3-84)

**§ 116.01 DEFINITIONS.**

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

**ARCADE.** Any room or place where the principal business conducted is that of operating mechanical amusement devices or amusement devices other than mechanical such as pool tables, shuffleboard, miniature bowling alleys or similar nonmechanical devices, or both.

**COIN-OPERATED AMUSEMENT DEVICE.** A skee ball machine, motion picture machine, shuffle board, miniature pool table or any similar machine, instrument or contrivance which may be operated or set in motion upon the insertion of a coin.

**COIN-OPERATED MUSIC DEVICE.** A piano, phonograph, juke box or any similar machine or contrivance which emits recitations, songs, speeches or music upon the insertion of a coin.

**DISTRIBUTOR.** Any person who places coin operated amusement and music devices in any place or establishment, excluding an "owner" as herein defined, for operation.

**OPERATOR.** Any person, business or firms that use coin-operated amusement devices to amuse their clientele, and to attract people into their place of business.

**§ 116.02 LICENSE REQUIRED.**

No owner or distributor shall maintain or distribute for the purpose of operating any coin-operated amusement or music device, without first having procured a license therefor. No license shall be granted unless it is approved by the Chief of Police who shall indicate such approval in writing upon the face of the application. ('88 Code, Title VII, Ch. 78, § 7.182) Penalty, see § 10.99

**§ 116.03 APPLICATION FOR LICENSE.**

Application for a license shall be made to the City Clerk in the form and manner required by him and in accordance with the provisions of Chapter 110. The license term shall be as specified in § 110.04 and the fees therefor shall be as provided in § 110.19. ('88 Code, Title VII, Ch. 78, § 7.183) Penalty, see § 10.99

**§ 116.04 SLOT MACHINES, GAMBLING PROHIBITED.**

Nothing herein shall be construed as permitting the issuance of a license for any slot machine or as legalizing any coin-operated machine in which is incorporated any gambling feature, and all use thereof for gambling of any kind is prohibited. ('88 Code, Title VII, Ch. 78, § 7.184) Penalty, see § 10.99

**§ 116.05 POLICE INSPECTION.**

It shall be the duty of police officers to make inspections of all coin-operated amusement and music devices and if any unlawful practices are observed in connection therewith they shall report the same to the Chief of Police for such action as he may deem proper and the Chief of Police may recommend the immediate revocation of such license.

(88 Code, Title VII, Ch. 78, § 7.185)

**§ 116.06 IDENTIFICATION MARKS REQUIRED.**

Each coin-operated amusement and music device shall have affixed thereto, in a conspicuous place, a suitable and permanent identification stamp, mark or plate bearing the name and address of the distributor thereof. The City Clerk shall furnish a list containing the names and addresses of all licensees hereunder to the Chief of Police to facilitate inspections as required by § 116.05.

(88 Code, Title VII, Ch. 78, § 7.186) Penalty, see § 10.99

**§ 116.07 NUMBER OF DEVICES.**

The Chief of Police or Fire Chief is hereby authorized to limit the number of coin-operated amusement or music devices in any one establishment or place of business.

(88 Code, Title VII, Ch. 78, § 7.187) (Ord. 192-4-84, passed 4-3-84)

**§ 116.08 OBSCENE MATTER PROHIBITED.**

No device shall display, expose, produce or emit any motion picture, printed matter, advertisement, writing, song, recitation, speech, music or other matter that is obscene, indecent, pornographic or contrary to good morals.

(88 Code, Title VII, Ch. 78, § 7.188) Penalty, see § 10.99

## CHAPTER 117: POOL ROOMS AND BOWLING LANES

### Section

- 117.01 License required
- 117.02 Obstructions to public view

#### **§ 117.01 LICENSE REQUIRED.**

No person shall conduct, maintain or operate any place open to the public for a bowling alley or for playing pool or billiards without first procuring a license and paying the license fee as required by § 110.19. No such license shall be granted except upon approval of the Police Chief, the Fire Chief and the Health Officer. No person shall be granted a license under this section unless he is an American citizen over 18 years of age.

('88 Code, Title VII, Ch. 79, § 7.201) Penalty, see § 10.99

#### **§ 117.02 OBSTRUCTIONS TO PUBLIC VIEW.**

No licensee shall permit on the licensed premises any obstruction of the public view of the interior or any pool or billiard room by the use of drawn shades or blinds or screens, either permanent or movable.

('88 Code, Title VII, Ch. 79, § 7.204) (Am. Ord. 105, passed 11-26-72) Penalty, see § 10.99



## CHAPTER 118: PUBLIC DANCES, THEATERS AND SKATING RINKS

Section		the Police Chief, the Fire Chief and the Health Officer. ('88 Code, Title VII, Ch. 80, § 7.212) Penalty, see § 10.99
118.01	Dance halls, public dances; license required	
118.02	Dancing schools; license required	
118.03	Theaters; license required	
118.04	Prices, posting	
118.05	Skating rinks; license required	

### § 118.01 DANCE HALLS, PUBLIC DANCES; LICENSE REQUIRED.

(A) No person shall conduct, operate or maintain any place in or on which public dances are held without first procuring a dance hall license and paying the license fee required by this chapter [see § 110.19]. No such license shall be granted except upon approval of the Police Chief, the Fire Chief and the Health Officer. No person shall conduct a public dance except in or on premises licensed under the provisions of this Chapter.

(B) *Definition.* The term **PUBLIC DANCE** shall include any dance to which admission may be gained by the general public but shall not include any dance to which admission is restricted to invited guests. Dances sponsored by public schools, Ferris State University, service or civic clubs, veterans groups, fraternal societies, church or religious societies and the Chamber of Commerce shall be exempt from the licensing provisions of this chapter. ('88 Code, Title VII, Ch. 80, § 7.211) Penalty, see § 10.99

### § 118.02 DANCING SCHOOLS; LICENSE REQUIRED.

No person shall teach dancing professionally without first procuring a dancing school license and paying the license fee required by this chapter [see § 110.19], which license shall designate the premises in which the school is to be conducted. No such license shall be granted except upon the approval of

### § 118.03 THEATERS; LICENSE REQUIRED.

(A) No person shall conduct, maintain or operate any theater without first procuring a license and paying the license fee as required by § 110.19. No such license shall be granted except upon approval of the Police Chief, the Fire Chief and the Health Officer.

(B) *Definition.* The word **THEATER** as used herein shall include any structure or parcel of land used primarily for entertainment on the stage or screen. ('88 Code, Title VII, Ch. 80, § 7.213) Penalty, see § 10.99

### § 118.04 PRICES, POSTING.

The scale of prices for admission to any theater shall be framed and hung at some conspicuous place at the entrance of the theater. ('88 Code, Title VII, Ch. 80, § 7.214) Penalty, see § 10.99

### § 118.05 SKATING RINKS; LICENSE REQUIRED.

No person shall operate a skating rink without first procuring a license and paying the license fee as required by § 110.19. No such license shall be granted except upon approval of the Police Chief, the Fire Chief and the Health Officer. ('88 Code, Title VII, Ch. 80, § 7.215) Penalty, see § 10.99



## CHAPTER 119: CIRCUSES, SHOWS AND EXHIBITIONS

### Section

- 119.01 Show license
- 119.02 Animal shows and exhibitions

#### **§ 119.01 SHOW LICENSE.**

No person shall conduct a circus or show, except in a theater licensed under the provisions of this chapter, without first obtaining a license therefor which shall be known as a "Show License."

('88 Code, Title VII, Ch. 81, § 7.221) (Ord. 193-4-84, passed 4-3-84) Penalty, see § 10.99

#### **§ 119.02 ANIMAL SHOWS AND EXHIBITIONS.**

(A) No person shall conduct any dog or pony show or menagerie, without first obtaining a license therefor. Such license shall be known as an "Animal Show License." No person shall conduct any panorama, exhibition of statuary or painting, or any other exhibition, not otherwise licensed under this chapter, and for which an admission fee is charged, without first obtaining a license therefor to be known as an "Exhibition License."

(B) The provisions of this section shall not be applicable to any fair held under the direct management and supervision of any recognized agricultural association or society, nonprofit association or corporation, at which are exhibited agricultural or industrial products, principally.

('88 Code, Title VII, Ch. 81, § 7.222) (Ord. 193-4-84, passed 4-3-84) Penalty, see § 10.99



## CHAPTER 120: DISHONORED CHECKS; EXPENSE COLLECTION

### Section

#### *General Provisions*

- 120.01 Purpose
- 120.02 Definitions

#### *Liability for the Expense of Dishonored Check Response*

- 120.15 Person responsible
- 120.16 Presumptions
- 120.17 Charges against person
- 120.18 Cost recovery schedule
- 120.19 Billing
- 120.20 Failure to pay; procedure to recover cost
- 120.21 Liability of person responsible
- 120.22 Severability

#### **GENERAL PROVISIONS**

##### **§ 120.01 PURPOSE.**

The City finds that a significant number of checks are written and dishonored within its geographical boundaries causing serious financial loss and hardship to citizens and merchants therein.

In addition, the City finds that the financial loss and hardship incurred by its citizens and merchants seriously impacts on the stream of commerce and the general public by causing increases in the costs of goods and services. As a result of these determinations, a greater operational and financial burden is placed upon the City's police and legal services by persons who are placing dishonored checks into the stream of commerce.

(Ord. 388-5-95, passed 5-15-95)

##### **§ 120.02 DEFINITIONS.**

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

**ADDRESS OF RECORD.** The address that appears on the check or the last known address of record with the Secretary of State at the time the check was presented for payment of goods or services.

**CHECK.** Any check, draft, or order for the payment of money, to apply on account or otherwise, upon any bank or other depository.

##### **DISHONORED.**

(1) Any check, draft, or order drawn or written on any account, or otherwise, upon any bank or other depository, without sufficient funds for the payment of same when presentment is made to the drawee.

(2) Any check, draft, or order drawn or written on any account which has been closed with or by the bank or other depository upon which it is drawn.

**EXPENSES OF DISHONORED CHECK RESPONSE.** The direct and reasonable cost incurred by the City, or to a private person or corporation operating at the request or direction of the City, when making a dishonored check response, including the cost of providing police, City Attorney, and/or administrative services in response to any dishonored check. These costs further include all of the salaries and wages of the City personnel and/or contractors responding to the incident, all salaries and wages of the personnel and/or contractors engaged in investigation, supervision, and report preparation, and all costs connected with the administration and provision of any prosecution of the person causing their incident.  
(Ord. 388-5-95, passed 5-15-95)

**LIABILITY FOR THE EXPENSE OF  
DISHONORED CHECK RESPONSE**

**§ 120.15 PERSON RESPONSIBLE.**

Any person is liable for the expense of a dishonored check response, if such person proximately causes any incident resulting in a dishonored check response.

(Ord. 388-5-95, passed 5-15-95)

**§ 120.16 PRESUMPTIONS.**

(A) For the purpose of this chapter, a person is presumed to be the proximate cause of an incident if said person makes, draws, utters, or delivers any dishonored check or causes directly or indirectly a check to become dishonored.

(B) For the purpose of this chapter, a person is presumed to have acted with intent to defraud if said person shall not have paid the drawer thereof the amount due thereon, together with all costs and protest fees, including the fees assessed hereunder, within five business days after receiving notice by first class mail to the last known address of record that such check, draft, or order has not been paid by the drawee.

(Ord. 388-5-95, passed 5-15-95)

**§ 120.17 CHARGES AGAINST PERSON.**

The expenses of a dishonored check response shall be a charge against the person liable for the expense under this chapter. The charge constitutes a debt of that person and is collectible by the City for incurring those costs in the same manner as in the case of an obligation under a contract, expressed or implied.

(Ord. 388-5-95, passed 5-15-95)

**§ 120.18 COST RECOVERY SCHEDULE.**

The City Commission shall, by resolution, adopt a schedule of costs included within the expense of a dishonored check response. This schedule shall be available to the public from the clerk, treasurer, or the police department.

(Ord. 388-5-95, passed 5-15-95)

**§ 120.19 BILLING.**

The Chief Administrative Officer, or his or her designee, may submit a bill for the dishonored check response by first class mail to the last known address of record or personal service to the person liable for the expenses as enumerated under this chapter. The bill(s) shall require full payment within 30 consecutive days from the date of service. Service by mail shall be effective upon depositing said bill in a U.S. Postal Service receptacle. In no event shall billing be permitted after one year from the last expense incurred.

(Ord. 388-5-95, passed 5-15-95)

**§ 120.20 FAILURE TO PAY; PROCEDURE TO RECOVER COST.**

Any failure by the person described in this chapter, as liable for the expense of a dishonored check response, to pay the bill within 30 consecutive days of service shall be considered in default. In case of default, the City may commence civil suit to recover the expenses and any costs allowed by the law.

(Ord. 388-5-95, passed 5-15-95)

**§ 120.21 LIABILITY OF PERSON RESPONSIBLE.**

The liability of the person responsible, as defined in § 120.15, shall arise when any check, draft, or order referred in § 120.02 is deemed dishonored by any bank or other depository as a result of nonsufficient funds or account closed, and said determination of dishonor is referred to the City for a dishonored check response.

(Ord. 388-5-95, passed 5-15-95)

**§ 120.22 SEVERABILITY.**

The phrases, sentences, sections, and provisions of this chapter are severable, and the finding that any portion hereof is unconstitutional or otherwise unenforceable shall not detract from or affect the enforceability of the remainder of this chapter.

(Ord. 388-5-95, passed 5-15-95)

## CHAPTER 121: MYOTHERAPY ESTABLISHMENTS

### Section

- 121.01 Prohibition
- 121.02 Definitions
- 121.03 Exemptions
- 121.04 Requirements for obtaining a license
- 121.05 Licensing of massage establishments
- 121.06 Licensing of myomassaologist
- 121.07 Responsibilities of massage establishment and myomassaologist license
- 121.08 Physical establishment standards
- 121.09 Sanitary standards
- 121.10 Denial, revocation, or suspension of license
- 121.11 Inspection
- 121.12 Renewal
  
- 121.99 Penalty

### § 121.01 PROHIBITION.

No person, firm, partnership, corporation, or entity shall operate a massage establishment, and no person shall act as a myomassaologist, without first obtaining a license to do so from the City. Furthermore, no person shall act as a myomassaologist or operate a massage establishment without maintaining in effect a current and valid license as required by this chapter. (Ord. 407-8-96, passed 8-19-96) Penalty, see § 121.99

### § 121.02 DEFINITIONS.

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

**MASSAGE.** An alcohol rub, fomentation, bath, common massage, magnetic massage procedure, manual manipulation of the body, or any method treating external parts of the body for remedial or hygienic purposes, consisting of rubbing, stroking, kneading, adjusting, or tapping with the hand, elbow,

fingers, or any instrument, electric, magnetic or otherwise, with or without supplementary aids.

**MYOTHERAPY ESTABLISHMENT.** Any building, Turkish bath parlor, steam bath, sauna bath, room, premises, place, institution, or establishment where body massage is regularly practiced on the human body, to club members or to the general public, for a charge or consideration, but the term **MYOTHERAPY ESTABLISHMENT** shall not include licensed hospitals, nursing homes, medical clinics, offices of licensed physicians, surgeons, osteopaths, or chiropractors.

**MASSAGE SCHOOL.** A school which is recognized by the State Department of Education, which requires for admission students with a tenth grade education or its equivalent, which employs one or more competent licensed myomassaologists as instructors, and which has minimum requirements or a continuous course of study and training consisting of study in physiology, anatomy, massage theory, hydrotherapy, hygiene, ethics, and practical massage. For the purpose of this chapter, a correspondence school shall not be construed to be a recognized school.

**MYOMASSAOLOGIST.** Any person who offers his/ her services for hire or consideration in the practice of massage or administers a massage for hire or con-sideration but shall not include health professionals licensed under the Public Health Code of Michigan.

### **PROHIBITED SEXUAL ACTIVITY**

(1) **ADAMITISM.** The practice of going naked; the state of being unclothed.

(2) **ANILINGUS.** Erotic stimulation achieved by contact between mouth or tongue and the anus.

(3) **CUNNILINGUS.** Stimulation of the vulva or clitoris with the lips or tongue.

(4) **COPROPHILIA.** Use of feces for sexual excitement.

(5) **FELLATION.** Practice of obtaining sexual gratification by oral stimulation of the penis.

(6) **FLAGELLATION.** An act or instance of obtaining sexual gratification by being bound or restrained, or by beating, flogging, or scourging another, or being the recipient of the action.

(7) **FROTTAGE.** Masturbation by rubbing against another person.

(8) **MASTURBATION.** Erotic practice involving the genital organs commonly resulting in orgasm and achieved by manual or other body contact exclusive of sexual intercourse or by instrumental manipulation.

(9) **SADISM.** The practice of inflicting physical pain or torture upon others, commonly resulting in sexual gratification.

(10) **SEXUAL INTERCOURSE.** Carnal copulation of male and female, implying actual intercourse of the organs of the latter.

(11) **SODOMY.** Penetration of the male organ into the anus of another person.

(12) **UROLAGNIA.** Sexual excitement associated with urine or urination.  
(Ord. 407-8-96, passed 8-19-96)

### § 121.03 EXEMPTIONS.

Section 121.01 shall not apply to the following:

(A) Medical doctors, doctors of osteopathic medicine, doctors of chiropractic medicine, physical therapists, psychiatrists, psychologists, clinical social workers, and family counselors who are licensed to practice their respective professions in the state, or who are permitted to practice temporarily under the auspices of an associate or establishment duly licensed in the state, or athletic trainers administering massage in the normal course of training duties;

(B) Nurses who are registered under the laws of this state and who administer a massage in the normal course of their nursing duties;

(C) Barbers and beauticians who are duly licensed under the laws of this state and who administer a massage in the normal course of their barbering and beautician duties;

(D) Individuals administering massage for therapeutic purposes in the normal course of their duties in a hospital, nursing home, or other medical care facility.

(Ord. 407-8-96, passed 8-19-96)

### § 121.04 REQUIREMENTS FOR OBTAINING A LICENSE.

(A) No person, firm, corporation, partnership, or entity shall operate a massage establishment without first securing a license to do so from the City.

(B) In order to obtain a license, a person must be a massage therapist who meets the following criteria:

(1) Proof of graduation from a school of massage, licensed by the state, or a current license by another state with the equivalent standards of education from a state-licensed school in the United States, or proof of comparable education, training, and/or experience in massage; or

(2) A current basic certification by the International Myomassethics Federation (IMF), or proof of current professional membership in the American Massage Therapy Association (AMTA), Associated Bodywork and Massage Professional (ABMP), or another national massage therapy organization with comparable membership requirements.

(Ord. 407-8-96, passed 8-19-96) Penalty, see § 121.99

### § 121.05 LICENSING OF MASSAGE ESTABLISHMENTS.

(A) An application to operate a massage establishment shall be made to the City Clerk. The application shall be made on a form provided by the City Clerk and signed under oath stating that the information contained in the application is true and accurate. Any false statement set forth in an application shall be a violation of this chapter. The license fee (set by the City Commission) must be paid at the time of application, and the license shall not be processed until the following information has been supplied to the City Clerk:

(1) The full name, residential address, business address, and telephone numbers of each applicant, owner, and each manager. If the applicant or owner is a corporation, the names and residential addresses of each of the officers and directors of the corporation and each shareholder owning 10% interest or more in the corporation, either directly or beneficially, shall also be given. If the applicant or owner is a partnership, the names and residential addresses of each general partner and each limited partner owning 10% interest or more in the partnership either directly or beneficially shall also be given.

(2) A description of the services to be provided.

(3) The name, address, and telephone number of the owner of the building where the business will be conducted; also the name, address, and telephone number of the building manager if different from the owner.

(4) The location, mailing address, and the telephone numbers where the business is to be conducted.

(5) Written proof that the applicant (if individual or partnership) and all managers are at least 18 years of age.

(6) A copy of identification from each manager, owner, and from each applicant such as driver's license (if an individual), partnership agreement and certificate (if a partnership), or certificate of good standing from the state (if a corporation).

(7) Business history:

(a) Brief history of past massage establishment experience;

(b) Whether any previous massage establishment associated with the applicant had its license suspended, revoked, or denied and the reasons for such action.

(8) The name and address of any other massage business or establishment owned (partially or wholly) or operated by any person or entity controlled by the applicant, owner, or manager.

(9) The names and addresses of each person (if then known) who will be employed at the massage establishment.

(10) A description of any other businesses to be operated on the same premises as the massage establishment or on any adjoining or nearby premises owned or controlled by the applicant, owner, and manager.

(11) Authorization for the City, its agents, and employees to seek information and conduct a back-ground investigation into the truth of the statements set forth in the application and the qualifications for the applicant for the license.

(12) Such identification and information necessary to verify the truth of the matters required to be set forth in the application.

(13) A certification by the City's Building Inspector that the physical standards for the establishment set forth herein and any other relevant standards of this chapter have been met. Prior to issuing such certification, the City Building Inspector shall obtain prior approval of all appropriate City departments, including but not limited to the City Department of Public Safety and Department of Neighborhood Services.

(14) The annual license fee for each massage establishment which shall be established from time to time by resolution of the City Commission.

(B) The applicant shall notify the City Clerk in writing of each change in any of the data required to be furnished by this license within ten days of such change.

(C) The license granted hereunder shall be for one year beginning July 1 of each year, except that the initial license granted hereunder shall be valid from the date of issuance until the following June 30. A license granted hereunder is non-transferable.

(D) Upon sale or transfer of any interest (in excess of 10%) in a massage establishment, the license shall be void. A new application shall be made by any person desiring to own or operate a massage establishment.

(E) The applicant, owner, or manager of the massage establishment shall display the license in a conspicuous place at all times so that it may be readily seen by persons entering the premises.

(F) No massage establishment licensed under this chapter shall operate under any name or conduct its business under any designation not specified in the license.  
(Ord. 407-8-96, passed 8-19-96) Penalty, see § 121.99

#### § 121.06 LICENSING OF MYOMASSAOLOGIST.

(A) An applicant for a myomassaologist's license shall be made to the City Clerk. The application shall be made under oath stating that the information contained in the application is true and accurate and upon a form provided by the City Clerk. Any false statements set forth in an application shall be a violation of this chapter and cause for revocation of the license. The non-refundable license fee must be paid, and the license shall not be processed until the following information is supplied:

(1) The name, residential address, and telephone number of the applicant.

(2) The name of the massage establishment, mailing address, and telephone numbers where the applicant shall practice massage.

(3) Written proof that the applicant is at least 18 years of age.

(4) A copy of identification such as a driver's license.

(5) Previous places of employment related to massage therapy and disclosure of past myomassaologist license revocation, denial, or suspension.

(6) Authorization for the City, its agents, and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the license.

(7) Such other identification and information necessary to verify the truth of the matters required to be set forth in the application.

(B) The applicant shall notify the City Clerk in writing of each change in any of the data required to be furnished in this chapter within ten days after such change occurs.

(C) The license granted hereunder shall be for one year beginning July 1 of each year, except that the initial license granted hereunder shall be valid from the date of issuance until the following June 30.  
(Ord. 407-8-96, passed 8-19-96) Penalty, see § 121.99

#### § 121.07 RESPONSIBILITIES OF MASSAGE ESTABLISHMENT AND MYOMASSAOLOGIST LICENSE.

(A) It shall be the responsibility of an owner, manager, operator, or licensee hereunder in charge or in control of a massage establishment to ensure that each person employed or engaged in said business as a myomassaologist shall have first obtained a valid myomassaologist license pursuant to this chapter. Any owner, operator, manager, or licensee in charge of or in control of a massage establishment who employs or allows a person who is not in possession of a valid myomassaologist license to perform, operate, or practice as a myomassaologist shall be in violation of this chapter. The owner, operator, manager, or licensee shall also comply with the following:

(1) No person shall be issued a massage establishment license or myomassaologist license unless such a person is at least 18 years of age.

(2) In the event that the licensee wishes to obtain a license for an ensuing year, such licensee shall file its application in accordance with § 121.12 as the case may be, at least 14 days before the expiration of the current license. If the applicant fails to comply with this requirement, the City Clerk shall not be required to grant or deny the license before the expiration of the current license.

(3) It shall be unlawful for any person to fraudulently make use of, to his/her own or other's benefit, a license issued to him/her or another in accordance with this chapter.

(4) It shall be unlawful for any person to counterfeit or forge, or to deface or otherwise alter a license issued under the provisions of this chapter.

(5) A license issued under this chapter is not transferable, separable, or divisible, and the authority conferred only upon the individuals required to submit personal information pursuant to §§ 121.04 and 121.05.

(6) It shall be unlawful for any person operating an establishment to permit or allow an employee to violate any of the terms of this chapter while on the premises of the establishment.

(7) No persons shall sell, permit, consume, give or provide, or cause to be sold, given, or provided, any alcoholic beverage on the premises of any massage establishment.

(8) No medical treatment outside normal massage therapy duties shall be given or dispensed by a myomassaologist or at a massage establishment.

(9) No massage establishment and no myomassaologist shall massage or service any person under the age of 17, except when such a person is accompanied by a parent or legal guardian or under written order by a licensed physician, osteopath, chiropractor, psychiatrist, or registered physical therapist, such order being dated and in possession of the myomassaologist giving the massage.

(10) It shall be unlawful for any massage establishment to offer for any myomassaologist or any other employee to offer for or engage in any of the following acts or conducts: adomitism, anilingus, cunnilingus, coprophilia, fellation, flagellation, frottage, masturbation, sadism, sexual intercourse, sodomy, uro-lagnia, or any intentional stimulation or manipulation of sexual or genital parts of the human body for purposes of sexual arousal or stimulation or any other activity of a sexual nature prohibited by state law. Section 121.02 to this chapter defines the above mentioned acts for the purpose of this chapter.

(11) No massage establishment shall be kept open between the hours of 10:00 p.m. and 6:00 a.m.  
(Ord. 407-8-96, passed 8-19-96) Penalty, see § 121.99

**§ 121.08 PHYSICAL ESTABLISHMENT STANDARDS.**

Each massage establishment shall comply with the following standards:

(A) All tables, tubs, shower stalls, and floors (except reception and administrative areas) shall be made of non-porous materials which may be readily disinfected.

(B) Closed cabinets shall be provided and used for the storage of clean linen, towels, and other materials used in connection with administering massages.

(C) Closed containers shall be provided for all soiled linen, towels, and waste materials.

(D) Separate toilet facilities and shower stalls (when shower stalls are provided) shall be provided for male and female patrons if persons of the opposite sex are using such facility at the same time. Each area in which massage is practiced shall be equipped with a hand lavatory. No toilet, lavatory facility, or shower stall may be used in conjunction with any other business or use. Lavatories and shower stalls (if provided) shall be located as to insure privacy between the massage establishment and any other business or use.

(E) All equipment, shower stalls, toilets, lavatories, and any other such accoutrements shall be regularly treated with disinfectants and shall be maintained in a clean and sanitary condition at all times.

(F) No part of the licensed premises shall be used for or connected with any bedroom or sleeping quarters; nor shall any person sleep in a massage establishment except for a limited period incidental to and directly related to massage or bath. No beds, water mattresses, cots, or other such equipment designated for sleeping shall be permitted on the premises.

(G) All massage establishments are public places and during business hours shall not lock or obstruct the exits and entrances to the establishment or other-wise prevent free ingress or egress of persons.

(H) Minimum lighting shall be provided in accordance with the City building and County electrical codes.

(I) Minimum ventilation shall be provided in accordance with the City building code.

(J) Hot and cold running water shall be provided at all times.  
(Ord. 407-8-96, passed 8-19-96) Penalty, see § 121.99

#### § 121.09 SANITARY STANDARDS.

Each massage establishment shall comply with the following standards:

(A) All personnel shall wash his or her hands in hot water with soap before giving any service or treatment to each separate patron.

(B) All towels, tissues, sheets, or other coverings shall be used singularly for each patron and discarded for laundry or disposal immediately after use. Clean and sanitary towels and linens shall be provided for each patron of the establishment. No common use of towel or linens shall be permitted.

(C) Non-disposable tools of the trade shall be disinfected after each use upon a patron.

(D) All myomassaologists shall, at all times, wear clean outer garments, the use of which are restricted to the massage establishment. The garments shall be opaque and shall cover the torso, legs, and the sexual and genital parts of the employee's body.

(E) The sexual and genital areas of patrons, customers, or invitees must be covered by towels, cloths, or opaque garments at all times when in the presence of any myomassaologist or employee of the massage establishment.  
(Ord. 407-8-96, passed 8-19-96) Penalty, see § 121.99

#### § 121.10 DENIAL, REVOCATION, OR SUSPENSION OF LICENSE.

(A) Any applicant for a license hereunder may be denied by the City Clerk if there are any false statements set forth in the application, and any license granted herein may be revoked by the City Commission for violation of any other provision of this chapter or any other City ordinance or state statute, or upon a determination that the continued operation under an existing license shall be contrary to the public health, safety, or welfare. Appeal of the denial or revocation of a license by the City Clerk shall be made to the City Commission.

(B) Before the City Commission revokes a license issued herein or upon appeal from denial of a license by the City Clerk, the City Commission shall cause written notice to be sent by certified mail to the licensee or applicant affected, at the address stated in the license or application, informing such person of the right to a hearing upon request. If the licensee does not request a hearing within 14 days of the date the notice was sent, the license may be forthwith revoked or the denial of the application affirmed. If the licensee requests a hearing before the City Commission in regard to the proposed revocation or denial, the hearing shall be held within 21 days after the date of the written request. If the licensee or applicant is a massage establishment, the owner of the premises according to the latest tax assessment roll where such establishment is or plans to locate shall also be sent by certified mail a notice of the hearing.

(C) Any license issued by the City may be immediately suspended by the City Manager or duly appointed City official, if it is determined that the licensee has violated or someone at or upon the licensed location has violated this chapter or state law and that continued operation under the license is contrary to the public health, safety, and welfare. A licensee shall have the right to a hearing before the City Commission on any license suspension by the City Manager. The City Manager shall cause a written notice to be personally delivered or sent by certified mail to the licensee, at the address stated in the license or application, informing the licensee of the suspension and the licensee's right to a hearing upon request. If the licensee does not file a written request within 14 days after receipt of the notice, the City Commission may forthwith confirm such suspension or revoke or reinstate the license. If the licensee requests a hearing before the City Commission, the hearing shall be held within 21 days after the date of the written request. Notice of the hearing shall be sent to the licensee by certified mail at the address stated in the license. If the licensee is a massage establishment, the owner of the licensed premises according to the latest tax assessment roll shall also be sent by certified mail a notice of the hearing.

(D) Both the City and the licensee shall be afforded a reasonable opportunity to present evidence on the issue at the hearing. In the event that a license is revoked herein, the licensee or a substantially similar or related licensee shall not be granted a new license, nor shall a license be granted for the same premises,

for a period of three years from the date of revocation. Upon suspension or revocation of any license or per-mit, the fee therefor shall not be refunded. The action taken by the City Commission shall be final.

(Ord. 407-8-96, passed 8-19-96)

**§ 121.11 INSPECTION.**

(A) Every establishment operated as a licensed massage establishment shall be open for inspection by duly authorized representatives of any City department, including but not limited to the Department of Public Safety and the Department of Neighborhood Services, as well as any other department concerned with the licensing and supervision of such establishments during operating hours for the purpose of enforcing any provision of this chapter or any other ordinances or regulations of the City relating to public health, safety, and welfare.

(B) It shall be unlawful for any person to refuse entry by City representatives to the premises in which a massage establishment is being operated for the purpose making lawful inspections.

(Ord. 407-8-96, passed 8-19-96) Penalty, see § 121.99

**§ 121.12 RENEWAL.**

The license to operate a massage establishment, as well as a myomassaologist's license, shall be renewed at least 14 days prior to the date of expiration. The license shall be renewed if the applicant submits a sworn affidavit that the matters contained in the original application are correct and indicates any changes necessary to otherwise comply with the requirements of this chapter.

(Ord. 407-8-96, passed 8-19-96)

**§ 121.99 PENALTY.**

Unless otherwise specified within this chapter, the penalty for violating this chapter shall be a maximum fine of up to \$500 and jail of up to 90 days, or both.

(Ord. 407-8-96, passed 8-19-96)



## CHAPTER 122: ADULT ENTERTAINMENT ESTABLISHMENTS

### Section

- 122.01 Definitions
- 122.02 Licenses
- 122.03 Application for license
- 122.04 Standards for issuance of license
- 122.05 Fee
- 122.06 Display of license or permit
- 122.07 Renewal of license or permit
- 122.08 Revocation or suspension of license
- 122.09 Physical layout of adult entertainment establishment
- 122.10 Responsibilities of the operator
- 122.99 Penalty

### § 122.01 DEFINITIONS.

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

**ADULT BOOKSTORE.** An establishment that has as a substantial portion of its stock-in-trade and offers for sale, for any form of consideration, any one or more of the following:

(1) Books, magazines, periodicals or other printed matter, or photographs, films, movies, motion pictures, video cassettes, slides, or other visual representations that are characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas;

(2) Instruments, devices, or paraphernalia designed for use as part of or in connection with specified sexual activities.

**ADULT MOTION PICTURE THEATER.** An establishment, where, for any form of consideration, films, motion pictures, videos, slides, or other photographic reproductions are shown and in which a substantial portion of the total presentation is devoted to the showing of material characterized by an

emphasis on the depiction or description of specified anatomical areas or specified sexual devices.

**MASSAGE PARLOR.** An establishment or place which is primarily in the business of providing massage services and which is not a myotherapy establishment regulated by Chapter 121 of this Code of Ordinances.

**SPECIFIED ANATOMICAL AREAS.** Specified anatomical areas means and includes any one or more of the following:

(1) Less than completely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areola; or

(2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

**SPECIFIED SEXUAL ACTIVITIES.** Includes any one or more of the following:

(1) The fondling or erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;

(2) Human sex acts, normal or perverted, actual or simulated, including but not limited to intercourse, oral copulation, and sodomy;

(3) Human masturbation, actual or simulated;

(4) Human excretory functions as part of or as related to any of the activities described above; and

(5) Physical violence, bondage, mutilation, or rape, actual or simulated, as part of or as related to any of the activities described above.

**SUBSTANTIAL PORTION.** A use or activity accounting for more than 20% of any one or more of the following: stock-in-trade, display space, floor

space, or viewing time, movie display time, or entertainment time measured per month.  
(Ord. 413-12-96, passed 12-16-96)

### § 122.02 LICENSES.

(A) *Requirement.* From and after the effective date of this chapter, no adult bookstore, adult motion picture theater or massage parlor, hereinafter referred to as adult entertainment establishments, shall be operated or maintained in the City without first obtaining a license to operate issued by the City.

(B) *Limitation.* A license may be issued only for one adult entertainment establishment located at a fixed and certain place. Any person, partnership, or corporation which desires to operate more than one adult entertainment establishment must have a license for each.

(C) *Nontransferability.* No license or interest in a license may be transferred to any person, partnership, or corporation.

(D) *Exclusions.* All private schools and public schools located within the City are exempt from obtaining a license hereunder when instructing pupils in sex education as part of its curriculum or when instructing students at Ferris State University as part of its curriculum.  
(Ord. 413-12-96, passed 12-16-96) Penalty, see § 122.99

### § 122.03 APPLICATION FOR LICENSE.

(A) Any person, partnership, or corporation desiring to secure a license shall make application to the City Clerk. The application shall be dated by the City Clerk. A copy of the application shall be distributed promptly by the City Clerk to the Department of Public Safety and to the applicant.

(B) The application for a license shall be upon a form provided by the City Clerk. An applicant for a license, which shall include all partners or limited partners of a partnership applicant, and all officers and directors of a corporate applicant and all stockholders including more than 5% of the stock of a corporate applicant, or any other person who is interested directly in the ownership or operation of the business, shall furnish the following information under oath:

- (1) Name and address, including all aliases.
  - (2) Date of birth.
  - (3) Social security number.
  - (4) Michigan vehicle operator's license number.
  - (5) Written proof that the individual is at least 18 years of age.
  - (6) All residential addresses of the applicant for the past three years.
  - (7) The applicant's height, weight, color of eyes and hair.
  - (8) The business, occupation, or employment of the applicant for five years immediately preceding the date of application.
  - (9) Whether the applicant previously operated in this or any other county, city, or state under an adult entertainment establishment license or similar business license; whether the applicant has ever had such a license revoked or suspended, the reason therefor, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation.
  - (10) All criminal statutes, whether federal or state, or city ordinance violation convictions, forfeiture of bond, or pleadings of nolo contendere on all crime charges, except minor traffic violations.
  - (11) Fingerprints and two portrait photographs at least two inches by two inches of the applicant.
  - (12) The address of the adult entertainment establishment to be operated by the applicant.
  - (13) If the applicant is a corporation, the application shall specify the name of the corporation, the date and state of incorporation, the name and address of the registered agent, and the name and address of all shareholders owning more than 5% of the stock in said corporation and all officers and directors of the corporation.
- (C) Within 21 days of receiving an application for a license the City Clerk shall notify the applicant whether application is granted or denied.

(D) Whenever an application is denied, the City Clerk shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten days of receipt of notification of denial, a public hearing shall be held within 30 days thereafter before the Commission, as hereinafter provided.

(E) Failure or refusal of the applicant to give any information relevant to the investigation of the application or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the City Clerk.  
(Ord. 413-12-96, passed 12-16-96)

**§ 122.04 STANDARDS FOR ISSUANCE OF LICENSE.**

(A) To receive a license to operate an adult entertainment establishment, an applicant must meet the following standards:

(1) If the applicant is an individual:

(a) The applicant shall be at least 18 years of age.

(b) The applicant shall not have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity, or other crime of a sexual nature in any jurisdiction within five years immediately preceding the date of the application.

(c) The applicant shall not have been found to have previously violated this chapter or a substantially similar ordinance within five years immediately preceding the date of the application.

(2) If the applicant is a corporation:

(a) All officers, directors, and stockholders required to be named under § 122.03(B) shall be at least 18 years of age.

(b) No officer, director, or stockholder

required to be named under § 122.03(B) shall have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity, or other crime of a sexual nature in any jurisdiction within five years immediately preceding the date of the application.

(c) No officer, director, or stockholder required to be named under § 122.03(B) shall have been found to have previously violated this chapter or a substantially similar ordinance within five years immediately preceding the date of the application.

(3) If the applicant is a partnership, joint venture, or any other type of organization where two or more persons have a financial interest:

(a) All persons having a financial interest in the partnership, joint venture, or other type of organization shall be at least 18 years of age.

(b) No person having a financial interest in the partnership, joint venture, or other type of organization shall have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity, or other crime of a sexual nature in any jurisdiction within five years immediately preceding the date of the application.

(c) No person having a financial interest in the partnership, joint venture, or other type of organization shall have been found to have violated any provision of this chapter or a substantially similar ordinance within five years immediately preceding the date of the application.

(B) No license shall be issued unless the City Department of Public Safety has investigated the applicant's qualifications to be licensed. The results of that investigation shall be filed in writing with the City Clerk no later than 14 days after the date of the application.  
(Ord. 413-12-96, passed 12-16-96)

**§ 122.05 FEE.**

A license fee of \$250 shall be submitted with the application for a license. If the application is denied, one-half of the fee shall be returned.  
(Ord. 413-12-96, passed 12-16-96)

**§ 122.06 DISPLAY OF LICENSE OR PERMIT.**

The license shall be displayed in a conspicuous public place in the adult entertainment establishment.

(Ord. 413-12-96, passed 12-16-96) Penalty, see § 122.99

**§ 122.07 RENEWAL OF LICENSE OR PERMIT.**

(A) Every license issued pursuant to this chapter will terminate at the expiration of one year from the date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the City Clerk. The application for renewal must be filed not later than 60 days before the license expires. The application for renewal shall be filed in triplicate with and dated by the City Clerk. A copy of the application for renewal shall be distributed promptly by the City Clerk to the City Department of Public Safety and to the business operator. The application for renewal shall be upon a form provided by the City Clerk and shall contain such information and data, given under oath or affirmation, as is required for an application for a new license.

(B) A license renewal fee of \$250 shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of \$100 shall be assessed against the applicant who files for a renewal less than 60 days before the license expires. If the application is denied, one-half of the total fees collected shall be returned.

(C) If the City Department of Public Safety is aware of any information bearing on the operator's qualifications, that information shall be filed in writing with the City Clerk.

(Ord. 413-12-96, passed 12-16-96)

**§ 122.08 REVOCATION OR SUSPENSION OF LICENSE.**

(A) The City Commission can revoke or suspend a license or permit for any of the following reasons:

(1) Discovery that false or misleading information or data was given on any application or material facts were omitted from any application.

(2) The operator or any employee of the operator has violated any provision of this chapter or any rule or regulation adopted by the City Commission pursuant to this chapter, provided, however, that in the case of a first offense by an operator where the conduct was solely that of an employee, the penalty shall not exceed a suspension of 30 days if the Commission shall find that the operator had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge.

(3) The operator becomes ineligible to obtain a license or permit or the operator is convicted of or pleads nolo contendere to any felony or any crime involving moral turpitude, prostitution, obscenity, or other crime of a sexual nature.

(4) Any cost or fee required to be paid by this chapter is not paid.

(5) Any intoxicating liquor or cereal malt beverage is served or consumed on the premises of the adult entertainment establishment.

(6) The operator fails to maintain a special use permit for the site as required by the zoning ordinance or fails to comply with conditions of the special use permit.

(B) The Commission, before revoking or suspending any license or permit, shall give the operator at least ten day's written notice of the charges against the operator and the opportunity for a public hearing before the City Commission, as hereinafter provided:

(1) Before the City Commission revokes or suspends a license issued herein, the City Commission shall cause written notice to be sent by certified mail to the licensee or applicant affected, at the address stated in the license or application, informing such person of the right to a hearing upon request.

(2) If the licensee does not request a hearing within 14 days of the date the notice was sent, the license may be forthwith revoked or suspended. If the licensee requests a hearing before the City Commission regarding the proposed revocation or suspension, the hearing shall be held with 21 days after the date of the written request.

(3) Any license issued by the City may be immediately suspended by the City Manager or duly appointed City official if it is determined that the licensee has violated or someone at or upon the licensed location has violated this chapter or state law and that continued operation under the license is contrary to the public health, safety, and welfare. A licensee shall have the right to a hearing before the City Commission on any license suspension by the City Manager and notice thereof shall be given in accordance with divisions (B)(1) and (2) of this section.

(4) Both the City and the licensee shall be afforded a reasonable opportunity to present evidence on the issue at the hearing. Action taken by the City Commission shall be final and any fees hereunder shall not be refunded to the applicant or licensee.

(C) The transfer of a license or any interest in a license shall automatically and immediately revoke the license.

(D) Any operator whose license is revoked shall not be eligible to receive a license for one year from the date of revocation. No location or premises for which a license has been issued shall be used as an adult entertainment establishment for six months from the date of revocation of the license. (Ord. 413-12-96, passed 12-16-96)

**§ 122.09 PHYSICAL LAYOUT OF ADULT ENTERTAINMENT ESTABLISHMENT.**

Any adult entertainment establishment having available for customers, patrons, or members any booth, room, or cubicle for the private viewing of any adult entertainment must comply with the following requirements:

(A) *Access.* Each booth, room, or cubicle shall be totally accessible to and from aisles and public areas of the adult entertainment establishment and shall be unobstructed by any door, lock, or other control-type devices.

(B) *Construction.* Every booth, room or cubicle shall meet with the following construction requirements:

(1) Each booth, room, or cubicle shall be separated from adjacent booths, rooms, and cubicles, and any non-public areas by a wall.

(2) Each booth, room, or cubicle have at least one side totally open to a public lighted aisle so that there is an unobstructed view at all times of anyone occupying same.

(3) All walls shall be solid and without any openings, extended from the floor to a height of not less than six feet and be light colored, non-absorbent, smooth textured, and easily cleanable.

(4) The floor must be light colored, non-absorbent, smooth textured, and easily cleanable.

(5) The lighting level of each booth, room, or cubicle, when not in use shall be a minimum of ten foot candles at all times, as measured from the floor.

(C) *Occupants.* Only one individual shall occupy a booth, room, or cubicle at any time. No occupant of same shall engage in any type of sexual activity, cause any bodily discharge, or litter while in the booth. No individual shall damage or deface any portion of the booth.

(Ord. 413-12-96, passed 12-16-96) Penalty, see § 122.99

**§ 122.10 RESPONSIBILITIES OF THE OPERATOR.**

(A) The operator shall maintain a register of all employees, showing the name and aliases used by the employee, home address, age, date of birth, sex, height, weight, color of hair and eyes, phone numbers, social security numbers, date of employment and termination, and duties of each employee. The above information on each employee shall be maintained in the register on the premises for a period of three years following termination.

(B) Daily hours of operation of any adult entertainment establishment shall be limited to the period of time from 8:00 a.m. to 2:00 a.m.

(C) The operator shall make the register of employees available immediately for inspection by police upon demand of a member of the City Department of Public Safety at all reasonable times.

(D) No merchandise or pictures of the products or entertainment on the premises shall be displayed in window areas or any areas where they can be viewed from a public sidewalk adjacent to the establishment.

(E) Any individual viewing booths, entertainment rooms, or similar cubicles designed or used for

individuals to view specified anatomical areas or to view specified sexual activities shall not be completely enclosed from the common areas, hallways, or other areas of the adult entertainment business.

(F) No employee or patron under 18 years of age shall be allowed on the premises of an adult entertainment establishment.

(G) No intoxicating liquor or cereal malt beverage shall be served or consumed on the premises of an adult entertainment establishment.

(H) The operator shall maintain the premises in a clean and sanitary manner at all times.

(I) Every act or omission by an employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator, if such act or omission occurs either with the authorization, knowledge, or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.

(J) Any act or omission of any employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended, or renewed.

(K) No employee of an adult entertainment establishment shall allow any minor to loiter around or to frequent an adult entertainment establishment or to allow any minor to view adult entertainment as defined herein.

(L) The operator shall maintain at least ten foot candles of light in the public portions of the establishment, including aisles, at all times measured from the floor. However, if a lesser level of illumination in the aisles shall be necessary to enable a patron to view the adult entertainment in a booth, room, or cubicle adjoining an aisle, a lesser amount of illumination may be maintained in such aisles, provided, however, that at no time shall there be less than one foot candle of illumination in the aisles, as measured from the floor.

(M) The operator shall insure compliance of the establishment and its patrons with the provisions of this chapter.

(Ord. 413-12-96, passed 12-16-96) Penalty, see § 122.99

#### § 122.99 PENALTY.

(A) *Terms.* Any person convicted under this chapter shall be subject to a maximum penalty of 90 days in jail, or an equal amount of time of community service, or any combination thereof not exceeding 90 days, plus \$500 fine, plus actual costs of prosecution, plus mandatory restitution to victims.

(B) *Continuing violations.* In addition to the penalty provided in division (A) of this section, any condition caused or permitted to exist in violation of the provisions of this code, or any ordinance, shall be deemed a new and separate offense for each day that such condition continues to exist.

(Ord. 413-12-96, passed 12-16-96)

## CHAPTER 123: TELECOMMUNICATIONS

### Section

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### § 123.01 PURPOSE.

The purposes of this chapter are to regulate access to and ongoing use of public rights-of-way by telecommunications providers for their telecommunications facilities while protecting the public health, safety, and welfare and exercising reasonable control of the public rights-of-way in compliance with the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act No. 48 of the Public Acts of 2002) (“Act”) and other applicable law, and to ensure that the City qualifies for distributions under the Act by modifying the fees charged to providers and complying with the Act.

(Ord. 499-10-02, passed 10-21-02)

### § 123.02 CONFLICT.

Nothing in this chapter shall be construed in such a manner as to conflict with the Act or other applicable law.

(Ord. 499-10-02, passed 10-21-02)

### § 123.03 DEFINITIONS.

(A) The terms used in this chapter shall have the following meanings:

(1) **ACT.** The Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act No. 48 of the Public Acts of 2002), as amended from time to time.

(2) **CITY.** The City of Big Rapids.

(3) **CITY COMMISSION.** The City Commission of the City of Big Rapids or its designee. This section does not authorize delegation of any decision or function that is required by law to be made by the City Commission.

(4) **CITYMANAGER.** The City Manager or his or her designee.

(5) **PERMIT.** A non-exclusive permit issued pursuant to the Act and this chapter to a telecommunications provider to use the public rights-of-way in the City for its telecommunications facilities.

(B) All other terms used in this chapter shall have the same meaning as defined or as provided in the Act, including without limitation the following:

(1) **AUTHORITY.** The Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority created pursuant to Section 3 of the Act.

(2) **MPSC.** The Michigan Public Service Commission in the Department of Consumer and Industry Services, and shall have the same meaning as the term “Commission” in the Act.

(3) **PERSON.** An individual, corporation, partnership, association, governmental entity, or any other legal entity.

(4) **PUBLIC RIGHT-OF-WAY.** The area on, below, or above a public roadway, highway, street, alley, easement or waterway. Public right-of-way does not include a federal, state, or private right-of-way.

(5) **TELECOMMUNICATION FACILITIES OR FACILITIES.** The equipment or personal property, such as copper and fiber cables, lines, wires, switches, conduits, pipes, and sheaths, which are used to or can generate, receive, transmit, carry, amplify, or provide telecommunication services or signals. Telecommunication facilities or facilities do not include antennas, supporting structures for antennas, equipment shelters or houses, and any ancillary equipment and miscellaneous hardware used to provide federally licensed commercial mobile service as defined in section 332(d) of part I of title III of the Communications Act of 1934, chapter 652, 48 Stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 CFR 20.3, and service provided by any wireless, two-way communication device.

(6) **TELECOMMUNICATIONS PROVIDER, PROVIDER AND TELECOMMUNICATIONS SERVICES.** Those terms as defined in Section 102 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2102. Telecommunications provider does not include a person or an affiliate of that person when providing a federally licensed commercial radio service as defined in Section 332(d) of 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 CFR 20.3, or service provided by any wireless, two-way communication device. For the purpose of the Act and this chapter only, a provider also includes all of the following:

(a) A cable television operator that provides a telecommunications service.

(b) Except as otherwise provided by the Act, a person who owns telecommunication facilities located within a public right-of-way.

(c) A person providing broadband internet transport access service. (Ord. 499-10-02, passed 10-21-02)

**§ 123.04 PERMIT REQUIRED.**

(A) *Permit required.* Except as otherwise provided in the Act, a telecommunications provider using or seeking to use public rights-of-way in the City for its telecommunications facilities shall apply for and obtain a permit pursuant to this chapter.

(B) *Application.* Telecommunications providers shall apply for a permit on an application

form approved by the MPSC in accordance with Section 6(1) of the Act. A telecommunications provider shall file one copy of the application with the City Clerk, one copy with the City Manager, and one copy with the City Attorney. Applications shall be complete and include all information required by the Act, including without limitation a route map showing the location of the provider's existing and proposed facilities in accordance with Section 6(5) of the Act.

(C) *Confidential Information.* If a telecommunications provider claims that any portion of the route maps submitted by it as part of its application contain trade secret, proprietary, or confidential information, which is exempt from the Freedom of Information Act, 442, MCL 15.231 to 15.246, pursuant to Section 6(5) of the Act, the telecommunications provider shall prominently so indicate on the face of each map.

(D) *Application fee.* Except as otherwise provided by the Act, the application shall be accompanied by a one-time non-refundable application fee in the amount of \$500.00.

(E) *Additional information.* The City Manager may request an applicant to submit such additional information which the City Manager deems reasonably necessary or relevant. The applicant shall comply with all such requests in compliance with reasonable deadlines for such additional information established by the City Manager. If the City and the applicant cannot agree on the requirement of additional information requested by the City, the City or the applicant shall notify the MPSC as provided in Section 6(2) of the Act.

(F) *Previously issued permits.* Pursuant to Section 5(1) of the Act, authorizations or permits previously issued by the City under Section 251 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2251 and authorizations or permits issued by the City to telecommunications providers prior to the 1995 enactment of Section 251 of the Michigan telecommunications act but after 1985 shall satisfy the permit requirements of this chapter.

(G) *Existing providers.* Pursuant to Section 5(3) of the Act, within 180 days from November 1, 2002, the effective date of the Act, a telecommunications provider with facilities located in a public right-of-way in the City as of such date, that has not previously obtained authorization or a permit under Section 251 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2251, shall submit to the City an application for a permit in accordance with the

submitting an application under this subsection is not required to pay the \$500 application fee required under division (D) above. A provider under this subsection shall be given up to an additional 180 days to submit the permit application if allowed by the Authority, as provided in Section 5(4) of the Act. (Ord. 499-10-02, passed 10-21-02)

**§ 123.05 ISSUANCE OF PERMIT.**

(A) *Approval or denial.* The authority to approve or deny an application for a permit is hereby delegated to the City Manager. Pursuant to Section 15(3) of the Act, the City Manager shall approve or deny an application for a permit within 45 days from the date a telecommunications provider files an application for a permit under § 123.04(B) of this chapter for access to a public right-of-way within the City. Pursuant to Section 6(6) of the Act, the City Manager shall notify the MPSC when the City Manager has granted or denied a permit, including information regarding the date on which the application was filed and the date on which permit was granted or denied. The City Manager shall not unreasonably deny an application for a permit.

(B) *Form of permit.* If an application for permit is approved, the City Manager shall issue the permit in the form approved by the MPSC, with or without additional or different permit terms, in accordance with Sections 6(1), 6(2) and 15 of the Act.

(C) *Conditions.* Pursuant to Section 15(4) of the Act, the City Manager may impose conditions on the issuance of a permit, which conditions shall be limited to the telecommunications provider's access and usage of the public right-of-way.

(D) *Bond requirement.* Pursuant to Section 15(3) of the Act, and without limitation on division (C) above, the City Manager may require that a bond be posted by the telecommunications provider as a condition of the permit. If a bond is required, it shall not exceed the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunications provider's access and use. (Ord. 499-10-02, passed 10-21-02)

**§ 123.06 CONSTRUCTIVE/ENGINEERING PERMIT.**

A telecommunications provider shall not commence construction upon, over, across, or under the public rights-of-way in the City without first obtaining a construction or engineering permit as required for construction within the public rights-of-way. No fee shall be charged for such a construction or engineering permit. (Ord. 499-10-02, passed 10-21-02)

**§ 123.07 CONDUIT OR UTILITY POLES.**

Pursuant to Section 4(3) of the Act, obtaining a permit or paying the fees required under the Act or under this ordinance does not give a telecommunications provider a right to use conduit or utility poles. (Ord. 499-10-02, passed 10-21-02)

**§ 123.08 ROUTE MAPS.**

Pursuant to Section 6(7) of the Act, a telecommunications provider shall, within 90 days after the substantial completion of construction of new telecommunications facilities in the City, submit route maps showing the location of the telecommunications facilities to both the MPSC and to the City. The route maps should be in paper or electronic format unless and until the MPSC determines otherwise, in accordance with Section 6(8) of the Act. (Ord. 499-10-02, passed 10-21-02)

**§ 123.09 REPAIR OF DAMAGE.**

Pursuant to Section 15(5) of the Act, a telecommunications provider undertaking an excavation or construction or installing telecommunications facilities within a public right-of-way or temporarily obstructing a public right-of-way in the City, as authorized by a permit, shall promptly repair all damage done to the street surface and all installations under, over, below, or within the public right-of-way and shall promptly restore the public right-of-way to its preexisting condition. (Ord. 499-10-02, passed 10-21-02)

**§ 123.10 ESTABLISHMENT AND PAYMENT OF MAINTENANCE FEE.**

In addition to the non-refundable application fee paid to the City set forth in § 123.04(D), a telecommunications provider with telecommunications facilities in the City's public rights-of-way shall pay an annual maintenance fee to the Authority pursuant to Section 8 of the Act. (Ord. 499-10-02, passed 10-21-02)

**§ 123.11 MODIFICATION OF EXISTING FEES.**

In compliance with the requirements of Section 13(1) of the Act, the City hereby modifies, to the extent necessary, any fees charged to telecommunications providers after November 1, 2002, the effective date of the Act, relating to access and usage of the public rights-of-way, to an amount not exceeding the amounts of fees and charges required under the Act, which shall be paid to the Authority. In compliance with the requirements of Section 13(4) of the Act, the City also hereby approves modification of the fees of providers with telecommunications facilities in public rights-of-way within the City's boundaries, so that those providers pay only those fees required under Section 8 of the Act. The City shall provide each telecommunications provider affected by the fee with a copy of this chapter, in compliance with the requirement of Section 13(4) of the Act. To the extent any fees are charged telecommunications providers in excess of the amounts permitted under the Act, or which are otherwise inconsistent with the Act, such imposition is hereby declared to be contrary to the City's policy and intent, and upon application by a provider or discovery by the City, shall be promptly refunded as having been charged in error. (Ord. 499-10-02, passed 10-21-02)

**§ 123.12 SAVINGS CLAUSE.**

Pursuant to Section 13(5) of the Act, if Section 8 of the Act is found to be invalid or unconstitutional, the modification of fees under § 123.11 shall be void from the date the modification was made. (Ord. 499-10-02, passed 10-21-02)

**§ 123.13 USE OF FUNDS.**

Pursuant to Section 10(4) of the Act, all amounts received by the City from the Authority shall be used by the City solely for rights-of-way related purposes. In conformance with that requirement, all funds

received by the City from the Authority shall be deposited into the Major Street Fund and/or the Local Street Fund maintained by the City under Act No. 51 of the Public Acts of 1951. (Ord. 499-10-02, passed 10-21-02)

**§ 123.14 ANNUAL REPORT.**

Pursuant to Section 10(5) of the Act, the City Manager shall file an annual report with the Authority on the use and disposition of funds annually distributed by the Authority. (Ord. 499-10-02, passed 10-21-02)

**§ 123.15 CABLE TELEVISION OPERATORS.**

Pursuant to Section 13(6) of the Act, the City shall not hold a cable television operator in default or seek any remedy for its failure to satisfy an obligation, if any, to pay after November 1, 2002, the effective date of this Act, a franchise fee or similar fee on that portion of gross revenues from charges the cable operator received for cable modem services provided through broadband internet transport access services. (Ord. 499-10-02, passed 10-21-02)

**§ 123.16 EXISTING RIGHTS.**

Pursuant to Section 4(2) of the Act, except as expressly provided herein with respect to fees, this chapter shall not affect any existing rights that a telecommunications provider or the City may have under a permit issued by the City or under a contract between the City and a telecommunications provider related to the use of the public rights-of-way. (Ord. 499-10-02, passed 10-21-02)

**§ 123.17 COMPLIANCE.**

The City hereby declares that its policy and intent in adopting this chapter is to fully comply with the requirements of the Act, and the provisions hereof should be construed in such a manner as to achieve that purpose. The City shall comply in all respects with the requirements of the Act, including but not limited to the following:

(A) Exempting certain route maps from the Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246, as provided in Section 4(c) of this chapter;

(B) Allowing certain previously issued permits to satisfy the permit requirements hereof, in accordance with Section 4(f) of this chapter;

(C) Allowing existing providers additional time in which to submit an application for a permit, and excusing such providers from the \$500 application fee, in accordance with Section 4(g) of this chapter;

(D) Approving or denying an application for a permit within 45 days from the date a telecommunications provider files an application for a permit for access to and usage of a public right-of-way within the City, in accordance with § 123.05(A) of this chapter;

(E) Notifying the MPSC when the City has granted or denied a permit, in accordance with § 123.05(A) of this chapter;

(F) Not unreasonably denying an application for a permit, in accordance with § 123.05(A) of this chapter;

(G) Issuing a permit in the form approved by the MPSC, with or without additional or different permit terms, as provided in § 123.05(B) of this chapter;

(H) Limiting the conditions imposed on the issuance of a permit to the telecommunications provider's access and usage of the public right-of-way, in accordance with § 123.05(C) of this chapter;

(I) Not requiring a bond of a telecommunications provider which exceeds the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunications provider's access and use, in accordance with § 123.05(D) of this chapter;

(J) Not charging any telecommunications providers any additional fees for construction or engineering permits, in accordance with § 123.06 of this chapter;

(K) Providing each telecommunications provider affected by the City's right-of-way fees with a copy of this chapter, in accordance with § 123.11 of this chapter;

(L) Submitting an annual report to the Authority, in accordance with § 123.14 of this chapter; and

(M) Not holding a cable television operator in default for a failure to pay certain franchise fees, in accordance with § 123.15 of this chapter. (Ord. 499-10-02, passed 10-21-02)

**§ 123.18 RESERVATION OF POLICE POWERS.**

Pursuant to Section 15(2) of the Act, this chapter shall not limit the City's right to review and approve a telecommunication provider's access to and ongoing use of a public right-of-way or limit the City's authority to ensure and protect the health, safety, and welfare of the public. (Ord. 499-10-02, passed 10-21-02)

**§ 123.19 AUTHORIZED CITY OFFICIALS.**

The City Manager or his or her designee is hereby designated as the authorized City official to issue municipal civil infraction citations for violations of this chapter. (Ord. 499-10-02, passed 10-21-02)

**§ 123.20 MUNICIPAL CIVIL INFRACTION.**

A person who violates any provision of this chapter or the terms or conditions of a permit is responsible for a municipal civil infraction, and shall be subject to a fine of up to \$500 and costs of prosecution. Each day a violation continues shall constitute a separate violation. Nothing in this § 123.20 shall be construed to limit the remedies available to the City in the event of a violation by a person of this chapter or permit. (Ord. 499-10-02, passed 10-21-02)

