

TITLE XI: BUSINESS REGULATIONS

Chapter

- 110. ALCOHOLIC BEVERAGES**
- 111. RAFFLE CODE**
- 112. PEDDLERS, SOLICITORS AND THE LIKE**
- 113. BODY ART BUSINESSES**
- 114. ADULT ORIENTED BUSINESSES**
- 115. FOOD ESTABLISHMENTS**

CHAPTER 110: ALCOHOLIC BEVERAGES

Section

- 110.01 Definitions
- 110.02 Application of provisions
- 110.03 License required
- 110.04 Application for license
- 110.05 Qualifications
- 110.06 Revocation of license
- 110.07 Issuance; fee
- 110.08 Classes of licenses
- 110.09 County Board; power
- 110.10 Refund
- 110.11 Fee; return upon denial
- 110.12 Hours; age
- 110.13 Conduct
- 110.14 Conduct prohibited
- 110.15 Resident manager
- 110.16 Violation held to be act of employer/licensee
- 110.17 Liquor Control Commissioner
- 110.18 Defense; review
- 110.19 Suspension or revocation of license; appeal

- 110.99 Penalty

§ 110.01 DEFINITIONS.

All words and phrases as used in this chapter shall have the same meaning given to said word or phrase in "An Act Relating to Alcoholic Liquors," commonly known as the Illinois Liquor Control Act, approved on January 31, 1934, as amended and now in force and effect, or as said Act may be hereafter amended, 235 ILCS 5/1-1, et seq. Local Liquor Control Commissioner as used in this chapter shall be the Chairman of the Effingham County Board or any person appointed by the County Board to enforce the provisions of this chapter.

(Ord. 14-71, passed 9-15-2014; Ord. 15-72, passed 7-22-2015; Ord. 17-24, passed 4-17-2017; Ord. 17-99, passed 12-18-2017; Ord. 18-08, passed 2-20-2018)

§ 110.02 APPLICATION OF PROVISIONS.

The provisions of this chapter shall apply to such alcoholic liquors to which the said Illinois Liquor Control Act as now in force, or as it may be hereafter amended by its terms, applies.

(Ord. 14-71, passed 9-15-2014; Ord. 17-24, passed 4-17-2017; Ord. 17-99, passed 12-18-2017; Ord. 18-08, passed 2-20-2018)

§ 110.03 LICENSE REQUIRED.

It shall be unlawful for any person, firm or corporation to sell at retail, alcoholic liquor within the said County of Effingham, outside of the limits of any incorporated city, town and village, without first obtaining a license to do so, in accordance with the provisions of this chapter.

(Ord. 14-71, passed 9-15-2014; Ord. 17-24, passed 4-17-2017; Ord. 17-99, passed 12-18-2017; Ord. 18-08, passed 2-20-2018) Penalty, see § 110.99

§ 110.04 APPLICATION FOR LICENSE.

All applications for license shall be in writing directed to the Chairman of the Effingham County Board. The same shall be executed by the applicant under oath, and shall include the following statements and information, all of which shall be verified by the person executing such application:

(A) The name, age and address of the applicant, or if a partnership, the names, ages and addresses of each member thereof. If a corporation, the names and addresses of the officers and directors, and if a majority of interest of the stock of such corporation is owned by one person or his or her nominee, the name and address of such person, and in the case of a partnership or corporation, the date of formation or incorporation thereof, together with the stated purpose of object thereof.

(B) The character of applicant's business and the length of time he or she has been so engaged therein.

(C) The citizenship of applicant, and if a naturalized citizen, the time and place of his naturalization.

(D) The location and legal description of the premises sought to be licensed.

(E) A statement whether applicant has any other applications then pending before any governmental body for the sale of alcoholic liquor.

(F) A statement whether applicant has ever been refused an application for the issuance of such license by any governmental body, and if so, the cause the application was refused.

(G) A statement whether applicant is presently engaged in the sale of alcoholic liquor either at retail or wholesale, together with a description of the place or places where such business is conducted.

(H) A statement whether applicant has ever been convicted of a criminal offense, and if so, the nature of the offense, the disposition of the charge, judgment or sentence.

(I) A statement whether applicant has ever had a license for the sale of liquor, either at retail or wholesale, revoked for cause, and if so, the cause of such revocation.

(J) A statement whether applicant holds any public office or offices and if so, the nature and location of those public offices.

(K) A statement that the applicant will, at all relevant times, maintain a manager of the business, who is actively involved in the business operation.

(Ord. 14-71, passed 9-15-2014; Ord. 17-24, passed 4-17-2017; Ord. 17-99, passed 12-18-2017; Ord. 18-08, passed 2-20-2018)

§ 110.05 QUALIFICATIONS.

No such license shall issue pursuant to this chapter if the Chairman of the Effingham County Board shall find that the applicant fails to meet the following qualifications;

(A) The applicant shall be a citizen of the United States and of good character and reputation.

(B) No license shall issue to any person convicted of a felony for violation of any state or federal law.

(C) No license shall issue to any applicant who shall have been convicted of any of the following offenses: larceny; owning, keeping or operating gambling devices or games of chance; illegally selling alcoholic liquor; keeping a house of ill-fame; conspiracy; embezzlement; obtaining money by false pretenses; book making; pandering; acts constituting tax evasion or other misdemeanor involving honesty, truthfulness, or moral turpitude.

(D) No license shall issue to any applicant who has ever had a license for the sale of alcoholic liquor, either at retail or wholesale, revoked for cause on more than two occasions by any government entity.

(E) No license shall issue to any partnership if all members thereof shall not be otherwise qualified, as required by this chapter, nor to a corporation if any officer or director or any stockholder owning more than 5% of the stock of said corporation is not so qualified.

(F) Such applicant shall either be the owner of the premises described in the application or shall be the owner of a lease, or evidence of rental of property use for short term licenses, thereon, for a term of not less than the term of said license, and sufficient evidence of such ownership, lease or rent shall be tendered to the Chairman of the Effingham County Board with the application.

(G) No license shall issue to any applicant who is the holder of any public office, nor to any partnership or corporation if any such official holds office in Effingham County Government. (Ord. 14-71, passed 9-15-2014; Ord. 17-24, passed 4-17-2017; Ord. 17-99, passed 12-18-2017; Ord. 18-08, passed 2-20-2018)

§ 110.06 REVOCATION OF LICENSE.

In addition to other grounds for revocation herein set forth, any license issued hereunder shall be revoked for the following reasons:

(A) If the applicant with 30 days from the issuance of such license shall fail to obtain such license, certificates and permits as may be required for the sale at retail of alcoholic liquor by the State of Illinois, United States of America, or any subdivision thereof having jurisdiction of the premises.

(B) If the applicant having obtained a license hereunder, shall, during the term of such license, lose, forfeit or have revoked such license, certificates or permits as may have been issued to him or her by the State of Illinois, the United States Government, or any subdivision thereof having jurisdiction of the premises.

(C) If the applicant shall, during the period of any license issued pursuant to this chapter, become disqualified for a violation of or failure to meet the qualifications above set forth for any application for license.

(D) If the applicant, after having received such license, shall employ in the sale of alcoholic liquor any manager, agent or employee who does not meet all of the requirements of this chapter set forth as a condition to the issuance of a license. (Ord. 14-71, passed 9-15-2014; Ord. 17-24, passed 4-17-2017; Ord. 17-99, passed 12-18-2017; Ord. 18-08, passed 2-20-2018)

§ 110.07 ISSUANCE; FEE.

(A) Each license issued hereunder, except a Class E license, shall be for a fiscal year extending from May 1 of each year to April 30 of the following year, both inclusive. Where application shall be made therefore subsequent to first of any year, the fee therefore hereinafter provided shall be in direct proportion to the unexpired balance of the fiscal year for which said license is issued. The fee hereinafter specified for each license, except a Class E license, shall be paid annually in full and in advance, and shall be tendered with the application.

(B) Each Class E license issued hereunder shall be only for the days specified thereon, which shall be consecutive days and which shall not exceed seven days. The fee for each said Class E license shall be paid in full and in advance of the first day of said license, and shall be tendered with the application. (Ord. 14-71, passed 9-15-2014; Ord. 17-24, passed 4-17-2017; Ord. 17-99, passed 12-18-2017; Ord. 18-08, passed 2-20-2018)

§ 110.08 CLASSES OF LICENSES.

Licenses issued under this chapter are hereby divided into the following classes:

(A) *Class A license.* A Class A license shall authorize the sale at retail, on the premises described in the application, of all alcoholic liquor as herein defined, for consumption on or off the premises described in the application. The fee for such Class A license for each fiscal year shall be \$1,000.

(B) *Class B license.* A Class B license shall authorize the sale at retail, on the premises described in the application, of all alcoholic liquor as herein defined, but only if sealed in its original package and not for consumption on the premises described in the application. The fee for such Class B license for each fiscal year shall be \$850.

(C) *Class C license.* A Class C license, which shall be issued only to a club, as herein defined, shall authorize the sale at retail, on the premises described in the application, of all alcoholic liquors as herein defined, only for consumption on the premises described in the application, and such sale shall be restricted to members of said club and the bona fide guests of members of such club. The fee for such Class C license for each fiscal year shall be \$500.

(D) *Class D license.* A Class D license, which shall be issued only to a restaurant as herein defined, shall authorize the sale at retail, on the premises described in the application, of all alcoholic liquors as herein defined, only for consumption on the premises described in the application, and each such sale must be accompanied by the sale of a meal. The fee for such Class D license for each fiscal year shall be \$850.

(E) *Class E license.* A Class E license, which shall be issued only for temporary stands, booths, and counters such as used at picnics, celebrations and the like, shall authorize the sale at retail on the premises described in the application, of beer, wine and distilled spirits for consumption only on the premises described in the application. The fee for such Class E license shall be \$100 per day. (Ord. 14-71, passed 9-15-2014; Ord. 17-24, passed 4-17-2017; Ord. 17-99, passed 12-18-2017; Ord. 18-08, passed 2-20-2018)

§ 110.09 COUNTY BOARD; POWER.

The County Board of Effingham County shall have the power to determine the number, kind, and classification of license, for sale at retail of alcoholic liquor, and the amount of the local license fees to be paid for the various kinds of license to be issued in the county.

(Ord. 14-71, passed 9-15-2014; Ord. 17-24, passed 4-17-2017; Ord. 17-99, passed 12-18-2017; Ord. 18-08, passed 2-20-2018)

§ 110.10 REFUND.

If any applicant licensed pursuant to this chapter shall surrender to the Chairman of the Effingham County Board the license so issued to him or her, he or she shall be deemed to have forfeited and released all rights and privileges arising under and by virtue of said license, and shall thereupon become entitled to a refund of a part of the license fee so paid by him or her, the amount of such refund to be in direct proportion that such license fee bears to the unexpired balance of the term of such license; provided, however, that no licensee whose license issued hereunder shall have been revoked for cause, or who shall have become disqualified under this chapter because of the revocation for cause of a license issued by the State of Illinois or the United States Government, shall be entitled to the refund provided herein.

(Ord. 14-71, passed 9-15-2014; Ord. 17-24, passed 4-17-2017; Ord. 17-99, passed 12-18-2017; Ord. 18-08, passed 2-20-2018)

§ 110.11 FEE; RETURN UPON DENIAL.

All such license fees received hereunder shall be paid to the Effingham County Board at the time application is made, and shall be forthwith turned over to the Treasurer of Effingham County. In the event the license so applied for is denied, the fee shall be returned forthwith to the applicant. If such license is granted, then the fee shall be deposited in the general corporate fund, or in such other fund as may now or hereafter be designated by the Effingham County Board.

(Ord. 14-71, passed 9-15-2014; Ord. 17-24, passed 4-17-2017; Ord. 17-99, passed 12-18-2017; Ord. 18-08, passed 2-20-2018)

§ 110.12 HOURS; AGE.

(A) A licensee hereunder shall not allow or permit his or her place of business where alcoholic liquors are sold, to be open for the conduct of business between the hours of 1:00 a.m. and 6:00 a.m. on any day of the week, including Sundays.

(B) The sale and serving of drinks shall stop at 1:00 a.m. All customers, patrons, or members of the public must be out of the premises by 1:30 a.m. and building secured to prohibit any re-entry of such public until the time of reopening. All employees and owners of the premises must be out of the premises by 2:00 a.m. Premises are defined as building, parking lot, and or any adjoining land owned or rented by license holder.

(C) A licensee, agent or employee shall not permit any person under the age of 18 years to draw, pour, mix, or serve any alcoholic liquor in said place of business either as an employee or gratuitously. Violations by the licensee agent or employee will be charged against the licensee.

(Ord. 14-71, passed 9-15-2014; Ord. 15-72, passed 7-22-2015; Ord. 17-24, passed 4-17-2017; Ord. 17-99, passed 12-18-2017; Ord. 18-08, passed 2-20-2018) Penalty, see § 110.99

§ 110.13 CONDUCT.

A licensee, agent, or employee shall not permit, in the place of business where alcoholic liquors are sold, the following kinds of conduct:

(A) The performance of acts, or simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law.

(B) The actual or simulated touching, caressing, baring or fondling on the breast, buttocks, anus, or genitals.

(C) The actual or simulated displaying of the breasts, pubic hair, anus, vulva, or genitals.

(D) The permitting by a licensee of any person to remain in or upon the licensed premises whom exposes to public view any portion of his or her genitals or anus.

(Ord. 14-71, passed 9-15-2014; Ord. 17-24, passed 4-17-2017; Ord. 17-99, passed 12-18-2017; Ord. 18-08, passed 2-20-2018)

§ 110.14 CONDUCT PROHIBITED.

A licensee, agent, or employee shall not permit the following: dancing, or other exhibitionism, which is an act of public indecency or an act of obscenity. Any type of sexually stimulating performance that offends the preservation of public health, morals, safety, or welfare is prohibited.

(Ord. 14-71, passed 9-15-2014; Ord. 17-24, passed 4-17-2017; Ord. 17-99, passed 12-18-2017; Ord. 18-08, passed 2-20-2018)

§ 110.15 RESIDENT MANAGER.

A licensee shall, at all relevant times, maintain a manager of the business who is actively involved in the business operation. The name and address and telephone number of that person shall be reported by letter to the County Liquor Commissioner. Any change in the resident manager shall be reported by letter to the County Liquor Commissioner and the Effingham County Sheriff, within ten days of such change.

(Ord. 14-71, passed 9-15-2014; Ord. 17-24, passed 4-17-2017; Ord. 17-99, passed 12-18-2017; Ord. 18-08, passed 2-20-2018)

§ 110.16 VIOLATION HELD TO BE ACT OF EMPLOYER/LICENSEE.

Every act or omission of whatsoever nature constituting a violation of any of the provisions of this chapter, by any officer, director, manager or other agent or employee of any licensee, shall be deemed

and held to be the act of such employer or licensee, and the employer or licensee shall be punishable in the same manner as if the act or omission had been done or omitted by him or her personally.

(Ord. 14-71, passed 9-15-2014; Ord. 17-24, passed 4-17-2017; Ord. 17-99, passed 12-18-2017; Ord. 18-08, passed 2-20-2018)

§ 110.17 LIQUOR CONTROL COMMISSIONER.

(A) The Effingham County Chairman shall serve as the local Liquor Control Commissioner pursuant to 235 ILCS 5/4-2. The powers of the Local Liquor Control Commissioner shall be those powers, functions, and duties as stated in 235 ILCS 5/4-4.

(B) The Local Liquor Control Commissioner may revoke, suspend, or fine licensees pursuant to this chapter and 235 ILCS 5/7-5.

(Ord. 14-71, passed 9-15-2014; Ord. 17-24, passed 4-17-2017; Ord. 17-99, passed 12-18-2017; Ord. 18-08, passed 2-20-2018)

§ 110.18 DEFENSE; REVIEW.

Pursuant to 235 ILCS 5/7-5, the Local Liquor Control Commissioner shall afford all licensees an opportunity to appear and defend prior to a license being revoked, suspended, or fined. The decision of the Local Liquor Control Commissioner may be appealed to the Illinois State Liquor Commission pursuant to 235 ILCS 5/7-5, and 235 ILCS 5/7-9. However, such review shall be on the record, and not de novo.

(Ord. 14-71, passed 9-15-2014; Ord. 17-24, passed 4-17-2017; Ord. 17-99, passed 12-18-2017; Ord. 18-08, passed 2-20-2018)

§ 110.19 SUSPENSION OR REVOCATION OF LICENSE; APPEAL.

(A) The Local Liquor Control Commissioner may suspend or revoke any license issued by him or her if he or she determines that the licensee has violated any statute of the State of Illinois, any provision of this chapter, any ordinance or resolution enacted by the Effingham County Board, or any rule or regulation established by the Local Liquor Control Commissioner or the Illinois Liquor Control Commission. In addition to suspension or revocation, the Local Liquor Control Commissioner may levy a fine on the licensee for such violations. The fine imposed shall not exceed \$1,000 for each violation; each day on which a violation continues shall constitute a separate violation. Not more than \$10,000 in fines under this section may be imposed against any licensee during the period of his license. Proceeds from such fines shall be paid into the general corporate fund of the county.

(B) However, no such license shall be so revoked or suspended and no licensee shall be fined except after a public hearing by the Local Liquor Control Commissioner with a three day written notice to the

licensee affording the licensee an opportunity to appear and defend. All such hearings shall be open to the public and the Local Liquor Control Commissioner shall reduce all evidence to writing and shall maintain an official record of proceedings. If the Local Liquor Control Commissioner has reason to believe that any continued operation of a particular licensed premises will immediately threaten the welfare of the community, he or she may, upon the issuance of a written order stating the reason for such conclusion and without notice of hearing, order the licensed premises closed for not more than seven days, giving the licensee an opportunity to be heard during that period, except that if such licensee shall also be engaged in the conduct of another business or businesses on the licensed premises such order shall not be applicable to such other business or businesses.

(C) The Local Liquor Control Commissioner shall within five days after such a hearing, if he or she determines after such hearing that the license should be revoked or suspended, or that the licensee should be fined, state the reason or reasons for such determination in a written order, and either the amount of the fine, the period of suspension, or that the license has been revoked, and shall serve a copy of such order within five days upon the licensee.

(D) If the premises for which the license was issued are located outside of a city, village or incorporated town having a population of 500,000 or more inhabitants, the licensee after the receipt of such order of suspension or revocation shall have the privilege, within a period of 20 days after the receipt of such order of suspension or revocation, of appealing the order to the State Commission for a decision sustaining, reversing or modifying the order of the local Liquor Control Commissioner. If the State Commission affirms the local commissioner's order to suspend or revoke the license at the first hearing, the appellant shall cease to engage in the business for which the license was issued until the Local Commissioner's order is terminated by its own provisions or reversed upon rehearing or by the courts.

(Ord. 14-71, passed 9-15-2014; Ord. 17-24, passed 4-17-2017; Ord. 17-99, passed 12-18-2017; Ord. 18-08, passed 2-20-2018)

§ 110.99 PENALTY.

(A) The following sanctions are hereby established for these particular violations of this chapter.

(1) Patrons, owners or employees being in an establishment past the time authorized by this chapter:

- (a) First violation: one-day suspension, plus \$100 fine;
- (b) Second violation: two-day suspension, plus \$250 fine;
- (c) Third violation: one-week suspension, plus \$500 fine; and
- (d) Fourth violation: termination of license.

Effingham County - Business Regulations

(2) Sale or gift of alcohol to minor violation owner to be held responsible under this chapter:

- (a) First offense: three-day suspension, \$500 fine;
- (b) Second offense: one-week suspension, \$1,000 fine; and
- (c) Third offense: termination of license.

(B) All notices of hearings should be issued by Wednesday, at 4:00 p.m. after the day of violation, or as soon as is otherwise practicable. It shall not establish a defense to any violation of this chapter that said notice not issued by a certain date. The hearing on said violation shall be held within 14 days of the notice being sent, at a date and time established by this chapter and the Liquor Commissioner.

(C) All said sanctions, warnings and violations run within the one-year period starting with the first offense.

(Ord. 14-71, passed 9-15-2014; Ord. 17-24, passed 4-17-2017; Ord. 17-99, passed 12-18-2017; Ord. 18-08, passed 2-20-2018)

CHAPTER 111: RAFFLE CODE

Section

- 111.01 Title
- 111.02 Purpose
- 111.03 Definitions
- 111.04 License requirements
- 111.05 Application
- 111.06 Licensee qualifications
- 111.07 License issuance
- 111.08 Conduct of raffles
- 111.09 Raffle Manager
- 111.10 Records
- 111.11 Enforcement

§ 111.01 TITLE.

This chapter shall be known as the “Effingham County Raffle Code”.
(Prior Code, § 8-2-1)

§ 111.02 PURPOSE.

The purpose of this chapter is to provide for the licensing, operation and regulation of raffles conducted by authorized bona fide organizations in areas within the county as authorized by law.
(Prior Code, § 8-2-2)

§ 111.03 DEFINITIONS.

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

BUSINESS. A voluntary organization composed of individuals and businesses who have joined together to advance the commercial, financial, industrial and civic interests of a community.

CHARITABLE ORGANIZATION.

- (1) An organization or institution organized and operated to benefit an indefinite number of the public.
- (2) The service rendered to those eligible for benefits must confer benefit upon the public generally.

CLERK. The County Clerk of Effingham County, Illinois.

EDUCATIONAL ORGANIZATION. An organization or institution organized and operated to provide instruction by methods common to schools and institutions of learning which compare in their scope and intensity, but are not necessarily limited to the course of study presented in tax supported public schools.

FRATERNAL ORGANIZATION. An organization of persons having a common interest, the primary interest of which is to both promote welfare of its members and provide assistance to the general public.

LABOR ORGANIZATION. An organization of workers with the objective of betterment of the conditions in their respective occupations.

LICENSEE. An organization which has been issued a license to operate a raffle as provided under this chapter.

NET PROCEEDS. Gross receipts from the conduct of raffles, less sums expended for prizes, license fees and other normal and reasonable operating expenses incurred as a direct result of the raffle.

NONPROFIT. An organization which is operated and conducted on a not-for-profit basis with no personal profit inuring to the benefit of any one individual as a result of said operation.

PERSON. Individual, firm, organization, public or private corporation, government, partnership or unincorporated association.

RAFFLE. Defined in 230 ILCS 15/1.

RELIGIOUS ORGANIZATION. A church congregation, society or organization founded for the purpose of religious worship.

VETERANS ORGANIZATION. An organization or association comprised of members who are veterans or spouses, widows or widowers of veterans, the primary purpose of which is to promote the welfare of its members and provide assistance to the public.

(Prior Code, § 8-2-3)

§ 111.04 LICENSE REQUIREMENTS.

It shall be unlawful to conduct or operate a raffle or to sell, offer for sale, convey, issue or otherwise transfer for value a change on a raffle unless done in accordance with this chapter.

(Prior Code, § 8-2-4) Penalty, see § 10.99

§ 111.05 APPLICATION.

(A) Any person seeking to conduct or operate a raffle shall file an application therefor with the Clerk on the forms provided by the Clerk.

(B) Said application shall contain the following information:

- (1) The name, address and type of organization;
- (2) The length of existence of the organization and, if incorporated, the date and state of incorporation;
- (3) The name, address, telephone number, Social Security number and the date of birth of the organization's presiding officer, secretary, raffles' manager and other members responsible for the conduct and operation of the raffle;
- (4) The aggregate retail value of all prizes to be awarded in the raffle;
- (5) The maximum retail value of each prize to be awarded in the raffle;
- (6) The maximum price charged for each raffle chance issued or sold;
- (7) The maximum number of raffle chances to be issued;
- (8) The area in which raffle chances will be issued or sold;
- (9) The time period during which raffle chances will be issued or sold;
- (10) The date, time and location at which winning chances will be determined;
- (11) A sworn statement attesting to the not-for-profit character of the applicant organization signed by its presiding officer and secretary;
- (12) A certificate signed by the presiding officer of the applicant organization attesting to the fact that the information contained in the application is true and correct; and

(13) A fidelity bond of the raffle manager in an amount equal to the aggregate retail value of all prizes to be awarded shall accompany said application.
(Prior Code, § 8-2-5)

§ 111.06 LICENSEE QUALIFICATIONS.

(A) Raffle licenses shall be issued only to a bona fide business, charitable, educational, fraternal, labor, religious and veterans organizations that operate without profit to their members and which have been in existence continuously for a period of five years or more immediately before making application for a license and which have and during that entire five-year period a bona fide membership engaged in carrying out the purpose of said organization.

(B) The following are ineligible for any raffle license:

(1) Any person who has been convicted of a felony;

(2) Any person who is or has been a professional gambler or gambling promoter;

(3) Any person who is not of good moral character;

(4) Any firm or corporation in which a person defined in divisions (B)(1), (B)(2) or (B)(3) above has a proprietary, equitable or credit interest, or in which such a person is active or employed;

(5) Any organization in which a person defined in divisions (B)(1), (B)(2) or (B)(3) above is an officer, director or employee, whether compensated or not; and

(6) Any organization in which a person defined in divisions (B)(1), (B)(2) or (B)(3) above is to participate in the management or operation of a raffle as defined in this chapter.
(Prior Code, § 8-2-6)

§ 111.07 LICENSE ISSUANCE.

(A) The Clerk shall review all raffle license applications and approve or deny the same within 30 days from the date of application. If an application is approved, the Clerk shall issue a raffle license to be valid for a period of time stated in the application, but in no event longer than one year.

(B) The raffle license shall limit the area in which the raffle chances are to be sold or issued to the borders of the county and outside borders of any municipality unless otherwise agreed with said municipality and shall show the period of time during which the raffle chances are to be sold or issued. The license shall also show the date, time and location at which the winning chances are to be determined.

(C) The license shall be prominently displayed at the time and location of the determination of the winning chances.

(D) The fee for each license shall be in an amount to be from time to time, determined by the County Board.

(E) The annual fee established by the Board contemporaneously with the passage of this chapter shall be \$10 for the license of a raffle license during a one-year period. Every license issued shall allow the license holder to conduct multiple raffles during the one-year period in which the raffle license is valid.

(Prior Code, § 8-2-7) (Ord. 99-57, passed - - 1999; Ord. 15-92, passed 11-16-2015)

§ 111.08 CONDUCT OF RAFFLES.

The operation and conduct of raffles are subject to the following restrictions.

(A) The entire net proceeds of any raffle must be exclusively devoted to the lawful purpose of the licensee.

(B) No person except a bona fide member of the licensee may participate in the management or operation of the raffle.

(C) No person may receive any remuneration or profit for participating in the management or operation of the raffle.

(D) Raffle chances may be sold, offered for sale or issued only within the area specified in the license and the winning chances may be determined only at the location specified on the license.

(E) No person under the age of 18 years may participate in the conducting of raffles or chances. A person under the age of 18 years may be within the area where winning chances are being determined only when accompanied by his or her parent or guardian.

(Prior Code, § 8-2-8) (Ord. 15-92, passed 11-16-2015) Penalty, see § 10.99

§ 111.09 RAFFLE MANAGER.

The operation and conduct of a raffle shall be under the supervision of a single raffle manager designated by the licensee. The manager shall give a fidelity bond equal in the amount to the aggregate retail value of all prizes to be awarded in favor of the licensee, conditioned upon his or her honesty in the performance of his or her duties. The terms of the bond shall provide that notice shall be given, in writing, to the county not less than 30 days prior to the cancellation of such bond. The Board may waive the bond requirement by including a waiver provision in the license issued to an organization under this Act, provided that a license containing such waiver provisions shall be granted only by unanimous vote of the members of the licensed organization.

(Prior Code, § 8-2-9)

§ 111.10 RECORDS.

(A) Each licensee shall keep records of its gross receipts and net proceeds for each raffle. The distribution of net proceeds shall be itemized as to payee, purpose, amount and date of payment.

(B) Raffle records shall be preserved for three years and such records will be made available for inspection by Clerk at reasonable times and places.

(Prior Code, § 8-2-10)

§ 111.11 ENFORCEMENT.

Violation of any provision of this chapter is a Class C misdemeanor and each day such violation if committed or permitted to continue shall constitute a separate offense and shall be punishable under the provisions of this code.

(Prior Code, § 8-2-11)

CHAPTER 112: PEDDLERS, SOLICITORS AND THE LIKE

Section

- 112.01 Definitions
- 112.02 Required; possession, return upon expiration
- 112.03 To leave premises when requested
- 112.04 Hours and days of operation
- 112.05 False representation
- 112.06 Waiver of requirements for local charitable solicitation, community or religious in nature
- 112.07 Application for permit
- 112.08 Persons ineligible for permit
- 112.09 Denial or issuance of permit
- 112.10 Records
- 112.11 Revocation; grounds
- 112.12 Expiration

- 112.99 Penalty

§ 112.01 DEFINITIONS.

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

CANVASSER. Any person interviewing, examining or obtaining information, or attempting to do so, from house to house, building to building, farm to farm, or upon any roadway, highway or sidewalk within the county.

ITINERANT MERCHANT OR CONTRACTOR.

(1) Any person, either principal or agent, who engages in or conducts, either in one locality or in traveling from place to place, a temporary or transient business of selling goods, wares, merchandise or services with the intention of continuing such business in the county of a period of not more than 120 days and who, for the purpose of carrying on such business:

(a) Uses, leases or occupies either in whole or in part, a room, building or other structure for the exhibition and sale of such goods, wares and merchandise; or

(b) Operates the business or service from a motor vehicle or motor home.

(2) The provision of this chapter shall not apply to sales made to dealers by commercial travelers or selling agents in the usual course of business, nor to bona fide sale of goods, wares and merchandise by sample or for future delivery, nor to sales made by farmers or others of goods, wares and merchandise which are products of the soil and grown, prepared and marketed thereof, but shall apply to all others on the roadways or peddlers on foot or from vehicles of any goods, wares, merchandise and services of whatsoever or character within the county.

PEDDLER. Any person selling or attempting to sell any goods, wares, merchandise or services of any kind and nature, being carried on or transported for immediate delivery or performance from house to house, building to building, farm to farm, or upon any roadway, highway or sidewalk within the county.

SOLICITOR. Any person:

(1) Soliciting or attempting to solicit or take orders, from house to house, building to building, farm to farm, or upon any street, highway or sidewalk within the county, for any goods, wares or merchandise, foodstuffs, services or insurance of any type or description, subscriptions to books, magazines, periodicals, newspapers or any other kind of publication, or other sale of property or services; or

(2) Seeking to obtain gifts, pledges or contributions of money, clothing or any other valuable thing for the support or benefit of any charitable or nonprofit association, organization, corporation or project.

VENDOR. Any person who sells or offers consumable items upon any of the public roadways or streets in the county from stands, wagons, baskets or from any automobile, truck or motor home. The provisions of this chapter shall not apply to persons doing business from stands at regularly established houses or stores provided such stands do not protrude more than two feet from the lot line of such store. (Prior Code, § 8-1-1)

§ 112.02 REQUIRED; POSSESSION, RETURN UPON EXPIRATION.

(A) No person shall engage in soliciting, peddling or canvassing from persons in a residence or on a farm within this county or in a public place (except if such merchandise is for the sale to a business within the county of a merchandise necessary for the furtherance of the business) without having been issued a valid permit, as hereunder provided, by the Sheriff of the county, acting as head law enforcement officer and as agent for the County Board. The permit shall be in the possession of the solicitor, vendor, itinerant merchant or contractor, peddler or canvasser and shall be displayed immediately upon confronting any person for the act thereof.

(B) Within five days of termination of the permit, the person so registered will be required to return the permit to the office of the County Sheriff. Failure of any such person to comply will be grounds for refusal of issuance of any subsequent permits to such person for purposes of soliciting under this code. (Prior Code, § 8-1-2) Penalty, see § 112.99

§ 112.03 TO LEAVE PREMISES WHEN REQUESTED.

Any solicitor or peddler who has gained entrance to any residence or personal property, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant.

(Prior Code, § 8-1-3)

§ 112.04 HOURS AND DAYS OF OPERATION.

(A) It is hereby declared to be unlawful and shall constitute a nuisance for any person, whether registered pursuant to this chapter or not, to engage in soliciting, peddling or canvassing at residences or farms before 9:00 a.m. and after 7:00 p.m. of any weekday, or at any time on a Saturday or Sunday or on a state or national holiday, except at the prior invitation or request of the resident or property owner.

(B) The limitation governing hours and days of operation shall not apply to any person or organization exempted from the registration requirements of this code, such as charitable, religious, fraternal, civic or political groups within the county and neighboring jurisdictions.

(Prior Code, § 8-1-4) Penalty, see § 112.99

§ 112.05 FALSE REPRESENTATION.

Any solicitor, itinerant merchant or contractor, vendor, peddler or canvasser who shall be guilty of any fraud, cheating or misrepresentation, whether through himself or herself or through an employee or agent while acting as a solicitor, itinerant merchant or contractor, vendor, peddler or canvasser in the county or who shall sell, barter or peddle any goods or merchandise, or wares other than those specified in application for a permit shall be subject to punishment as provided in this chapter and the Sheriff may revoke his or her permit for such offense.

(Prior Code, § 8-1-5)

§ 112.06 WAIVER OF REQUIREMENTS FOR LOCAL CHARITABLE SOLICITATION, COMMUNITY OR RELIGIOUS IN NATURE.

(A) The registration requirements of this code may be waived by the Sheriff in those instances where it is determined, following an investigation made upon receipt of an application or inquiry by an organization complying with the conditions of this section, that the proposed solicitation is to be a single

solicitation effort conducted for or on behalf of a charitable or nonprofit association, organization or project solely by residents of the county or neighboring jurisdictions who shall not be compensated for conducting such solicitation and who have not violated any provisions of this code which would otherwise cause a revocation of a registration certificate.

(B) The requirements that a permit be obtained shall not apply to such organizations as:

- (1) Boy Scouts or Girl Scouts;
- (2) School-sponsored functions;
- (3) Religious, fraternal or civic organizations;

(4) Regularly established route persons with regularly established routes within the county, or other persons having an established list of customers within the county to whom they make periodic deliveries;

(5) Any retail merchant, located in the county who solicits orders for his or her goods, wares or merchandise or for services on a continuing and ongoing basis;

(6) Officers or employees of the county, state, federal or any municipal government, or any subdivision thereof, when on official business;

(7) Persons soliciting or canvassing for purposes of promoting a political candidate, party or public policy issue with respect to a referendum on the ballot at an upcoming election;

(8) The canvass for the United States Census or other similar census; or

(9) Trick or treating on Halloween.

(Prior Code, § 8-1-6)

§ 112.07 APPLICATION FOR PERMIT.

(A) Application for a permit required by this code shall be made upon a form provided by the Sheriff and filed with the County Sheriff's office prior to issuance of the permit.

(B) The applicant shall truthfully state in full the information requested on the application, to wit:

(1) The applicant's name, date of birth, Social Security number, present home address, telephone number and business address and telephone number if different than home address;

(2) A copy of the applicant's valid driver's license and that of each individual acting in behalf of the applicant;

(3) License plate number and description of each vehicle to be used in the solicitation process;

(4) The name and address of the person, firm or corporation or association by whom the applicant is employed or represents;

(5) A description, sufficient for identification, of the subject matter of the soliciting or peddling which the applicant will engage in, including a description of any merchandise being sold or work being contracted;

(6) Whether the applicant or any individual acting on behalf of the applicant has ever been convicted of the commission of a felony under the laws of this state or any other state, or a federal law of the United States;

(7) The complete address where the applicant will be residing during the course of the solicitation;

(8) The dates during which solicitations will be made and the duration of the solicitation effort, not to exceed one calendar week;

(9) Current Illinois Sales Tax Number, if applicable; and

(10) Any additional information which the Sheriff may deem necessary to process the application such as, but not necessarily limited to, fingerprinting and/or photographing of the applicant.

(C) All statements made by the applicant upon the application or in connection therewith shall be attested to by the applicant as truthful and accurate and made subject to all penalties for perjury as provided by state law.

(Prior Code, § 8-1-7)

§ 112.08 PERSONS INELIGIBLE FOR PERMIT.

No permit shall be issued under this code to any person who has been convicted of the commission of a felony under the laws of the state or any other state or federal law of the United States, including any person who is a registered sex offender; nor to any person who has been convicted of a violation of any of the provisions of this chapter, nor to any person whose permit issued pursuant to this chapter has previously been revoked.

(Prior Code, § 8-1-8)

§ 112.09 DENIAL OR ISSUANCE OF PERMIT.

The County Sheriff, after consideration of the application for a permit pursuant to this chapter and all information obtained relative thereof, shall deny the application if determined the applicant does not possess the qualifications for the permit, and that the issuance of a permit to the applicant would not be

in accord with the intent and purpose of this code. When the applicant is found to be fully qualified, the permit shall be issued forthwith.

(Prior Code, § 8-1-9)

§ 112.10 RECORDS.

The Sheriff shall cause to be kept an accurate record of each application received and acted upon pursuant to this chapter, together with all other information and data pertaining thereto and all permits issued under the provisions of this chapter, and of the denial of the applications. Applications for permit shall be numbered in consecutive order as filed, and every permit issued, and any renewal thereof, shall be identified with the duplicate number of the application upon which it was issued.

(Prior Code, § 8-1-10)

§ 112.11 REVOCATION; GROUNDS.

(A) Any permit issued shall be revoked by the Sheriff under any of the following circumstances:

- (1) If the holder of the permit is found to be in violation of any of the provisions of this code;
- (2) If the applicant made a false material statement in the application, or otherwise becomes disqualified for the issuance of a permit under the terms of this chapter;
- (3) If a complaint(s) is received on any one individual or group for unethical soliciting practices, at the Sheriff's discretion and after an investigation of the complaint(s); or
- (4) If information being given regarding the merchandise, the method of purchase, the purchase price, quality of service or any other pertinent information is false or misrepresented, then the registration of any individual and any or all persons soliciting for an organization, business, firm or corporation may be revoked.

(B) Immediately upon the giving of verbal or written notice to the holder of the permit of revocation, the permit shall become null and void.

(Prior Code, § 8-1-11)

§ 112.12 EXPIRATION.

The permit issued pursuant to this code shall expire on the date shown on the face of the permit. No permit shall be issued for a period of longer than one calendar week after the date of issuance of the permit.

(Prior Code, § 8-1-12)

§ 112.99 PENALTY.

Any person violating or aiding or abetting the violation of any provision of this chapter shall be guilty of a petty offense and shall be subject to fine of not less than \$100 nor more than \$500. Each day a person fails to comply with the provisions of this code constitutes a separate offense.

(Prior Code, § 8-1-14)

CHAPTER 113: BODY ART BUSINESSES

Section

- 113.01 Definitions
- 113.02 Body art operator/technician requirements and professional standards
- 113.03 Exemptions
- 113.04 Public notification requirements
- 113.05 Client records
- 113.06 Records retention
- 113.07 Preparation and care of the body art area
- 113.08 Sanitation and sterilization procedures
- 113.09 Requirements for single use items
- 113.10 Requirements for premises
- 113.11 Permit requirements
- 113.12 Temporary demonstration permit requirements
- 113.13 Mobile body art establishments
- 113.14 Prohibitions
- 113.15 Enforcement
- 113.16 Suspension or revocation of permits
- 113.17 Department personnel competency requirement
- 113.18 Interpretation and validity

§ 113.01 DEFINITIONS.

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

AFTERCARE. Written instructions given to the client, specific to the body art procedure(s) rendered, on caring for the body art and surrounding area. These instructions will include information when to seek medical treatment, if necessary.

ANTISEPTIC. An agent that destroys disease causing microorganisms on human skin or mucosa.

BODY ART. The practice of physical body adornment by permitted establishments and operators utilizing, but not limited to, the following techniques: body piercing, tattooing, cosmetic tattooing, branding and scarification. This definition does not include practices that are considered medical procedures by a state medical board, such as implants under the skin, and shall not be performed in a

body art establishment, nor does this definition include, for the purposes of this code, piercing of the outer perimeter or lobe of the ear using pre-sterilized single use stud and clasp ear piercing systems.

BODY ART ESTABLISHMENT. Any place or premises, whether public or private, temporary or permanent in nature or location, where the practices of body art, whether or not for profit, are performed.

BODY PIERCING. Puncturing or penetration of the skin of a person using pre-sterilized single use needles and the insertion of pre-sterilized jewelry or other adornment thereto in the opening. Puncturing the outer perimeter or lobe of the ear using a pre-sterilized single use stud and clasp ear piercing system shall not be included in this definition.

CONTAMINATED WASTE. Any liquid or semi-liquid blood or other potentially infectious materials; contaminated items that would release blood or other potentially infectious materials in liquid or semi-liquid state if compressed; items that are caked with dried blood or other potentially infectious materials and are capable of releasing these materials during handling; sharps and any wastes containing blood or other potentially infectious materials, as defined in 29 C.F.R. pt. 1910.1030 (latest edition), known as "Occupational Exposure to Bloodborne Pathogens".

COSMETIC TATTOOING. See ***TATTOOING.***

DEPARTMENT. The Effingham County Health Department, or its authorized representative, having jurisdiction to promulgate, monitor, administer and enforce these regulations.

DISINFECTION. The destruction of disease-causing microorganisms on inanimate objects or surfaces, thereby rendering these objects safe for use or handling.

EAR PIERCING. The puncturing of the outer perimeter or lobe of the ear using a pre-sterilized single use stud and clasp ear piercing system following manufacturers instructions. Under no circumstances shall ***EAR PIERCING*** studs and clasps be used anywhere on the body other than the outer perimeter and lobe of the ear.

EQUIPMENT. All machinery, including fixtures, containers, vessels, tools, devices, implements, furniture, display and storage areas, sinks and all other apparatus and appurtenances used in connection with the operation of a body art establishment.

HANDSINK. A lavatory equipped with hot and cold running water under pressure, used solely for washing hands, arms or other portions of the body.

HOT WATER. Water which attains and maintains a temperature of at least 100°F.

INSTRUMENTS USED FOR BODY ART. Hand pieces, needles, needle bars and other instruments that may come in contact with a client's body or possible exposure to bodily fluids during body art procedures.

INVASIVE. Entry into the body either by incision or insertion of an instrument into or through the skin or mucosa, or by any other means intended to puncture, break or compromise the skin or mucosa.

JEWELRY. Any personal ornament inserted into a newly pierced area, which must be made of surgical implant grade stainless steel, solid 14k or 18k white or yellow gold, niobium, titanium or platinum, a dense, low-porosity plastic and or which is free of nicks, scratches or irregular surfaces and which has been properly sterilized prior to use.

LIQUID CHEMICAL GERMICIDE. A disinfectant or sanitizer registered with the Environmental Protection Agency or an approximate 1:100 dilution of household chlorine bleach made fresh daily and dispensed from a spray bottle (550 ppm, cup/gallons or two tablespoons/quart of tap water).

OPERATOR/TECHNICIAN. Any person who controls, operates, manages, conducts or practices body art activities at a body art establishment and who is responsible for compliance with these regulations, whether actually performing body art activities or not. The term includes technicians who work under the operator and perform body art activities.

PERMIT. Written approval by the Department to operate a body art establishment. Approval is given in accordance with these regulation and is separate from any other licensing requirement that may exist within communities or political subdivisions comprising the jurisdiction.

PERSON. An individual, any form of business or social organization or any other non-governmental legal entity including but not limited to a corporation, partnership, limited liability company, association, trust or unincorporated organization.

PHYSICIAN. A person licensed by the state to practice medicine in all its branches and may include other areas such as dentistry, osteopathy or acupuncture, depending on the rules and regulations of the state.

PROCEDURE SURFACE. Any surface of an inanimate object that contacts the client's unclothed body during a body art procedure, skin preparation of the area adjacent to and including the body art procedure or any associated work area which may require sanitizing.

SANITIZE/SANITIZATION PROCEDURE. A process of reducing the numbers of micro-organisms on cleaned surfaces and equipment to a safe level as judged by public health standards and which has been approved by the Department.

SHARPS. Any object (sterile or contaminated) that may purposefully or accidentally cut or penetrate the skin or mucosa including, but not limited to, pre-sterilized, single use needles, scalpel blades or razor blades.

SHARPS CONTAINER. A puncture-resistant, leak-proof container that can be closed for handling, storage, transportation and disposal and is labeled with the international biohazard symbol.

SINGLE USE. Products or items that are intended for one-time, one-person use and are disposed of after use on each client including, but not limited to, cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary coverings, razors, piercing needles, scalpel blades, stencils, ink cups and protective gloves.

STERILIZATION. A very powerful process resulting in the destruction of all forms of microbial life, including highly resistant bacterial spores.

TATTOOING. Any method of placing ink or other pigment into or under the skin or mucosa by the aid of needles or any other instrument used to puncture the skin, resulting in permanent coloration of the skin or mucosa. This includes all forms of cosmetic tattooing.

TEMPORARY BODY ART ESTABLISHMENT. Any place or premises operating at a fixed location where an operator performs body art procedures for no more than 14 days consecutively in conjunction with a single event or celebration.

UNIVERSAL PRECAUTIONS. A set of guidelines and controls, published by the Center for Disease Control (CDC) as guidelines for prevention of transmission of human immunodeficiency virus and hepatitis B virus to health-care and public-safety workers in Morbidity and Mortality Weekly Report (MMWR), June 23, 1989, Vol. 38, No. S-6, and as recommendations for preventing transmission of human immunodeficiency virus and hepatitis B virus to patients during exposure-prone invasive procedures, in MMWR, July 12, 1991, Vol. 40, No. RR-8. This method of infection control requires the employer and the employee to assume that all human blood and specified human body fluids are infectious for HIV, HBV and other blood pathogens. Precautions include hand washing, gloving, personal protective equipment, injury prevention and proper handling and disposal of needles, other sharp instruments and blood and body fluid contaminate products.
(Prior Code, § 8-3-1)

§ 113.02 BODY ART OPERATOR/TECHNICIAN REQUIREMENTS AND PROFESSIONAL STANDARDS.

(A) The following information shall be kept on file on the premises of a body art establishment and available for inspection by the Department:

- (1) Full names and exact duties;
- (2) Date of birth;
- (3) Gender;
- (4) Home address;
- (5) Home/work phone numbers;

(6) Identification photos of all body art operators/technicians;

(7) Establishment name;

(8) Hours of operation;

(9) Owner's name and address;

(10) A complete description of all body art procedures performed;

(11) An inventory of all instruments and body jewelry, all sharps and all inks used for any and all body art procedures, including names of manufacturers and serial or lot numbers, if applicable. Invoices or orders shall satisfy this requirement; and

(12) A copy of these regulations.

(B) It shall be unlawful for any person to perform body art procedures unless such procedures are performed in a body art establishment with a current permit.

(C) The body art operation/technician must be a minimum of 18 years of age.

(D) Smoking, eating or drinking by anyone is prohibited in the area where body art is performed.

(E) Operators/technicians shall refuse service to any person who, in the opinion of the operator/technician is under the influence of alcohol or drugs.

(F) The operator/technician shall maintain a high degree of personal cleanliness, conform to hygienic practices and wear clean clothes when performing body art procedures. Before performing body art procedures, the operator/technician must thoroughly wash their hands in hot running water with liquid soap, then rinse hands and dry with disposable paper towels. This shall be done as often as necessary to remove contaminants.

(G) In performing body art procedures, the operator shall wear disposable medical gloves. Gloves must be changed if they become contaminated by contact with any non-clean surfaces or objects or contact with a third person. The gloves shall be discarded at a minimum, after the completion of each procedure on an individual client and hands washed prior to donning the next set of gloves. Under no circumstances shall a single pair of gloves be used on more than one person. The use of disposable medical gloves does not preclude or substitute for hand washing procedures as part of a good personal hygiene program.

(H) If, while performing a body art procedure the operator's/technician's glove is pierced, torn or otherwise contaminated, the procedure in division (G) above shall be repeated immediately. The contaminated gloves shall be immediately discarded and the hands washed thoroughly (see division (G) above) before a fresh pair of gloves are applied. Any item or instrument used for body art which is

contaminated during the procedure shall be discarded and replaced immediately with a new disposable item or a new sterilized instrument or item before the procedure resumes.

(I) Contaminated waste, as defined in this code, which may release liquid blood or body fluids when compressed or may release dried blood or body fluids when handled must be placed in an approved "red" bag which is marked with the International Biohazard Symbol. It must then be disposed of by a waste hauler approved by the Department or, at a minimum, 29 C.F.R. pt. 1910.1030, Occupational Exposure to Bloodborne Pathogens. Sharps ready for disposal shall be disposed of in approved sharps containers. Contaminated waste which does not release liquid blood or body fluids when compressed or does not release dried blood or body fluids when handled may be placed in a covered receptacle and disposed of through normal, approved disposal methods. Storage of contaminated waste on-site shall not exceed the period specified by the Department or more than a maximum of 30 days, as specified in 29 C.F.R. pt. 1910.1030 whichever is less.

(J) No person shall tattoo a person under the age of 21. No person shall perform any other body art procedure upon a person under the age of 18 years without the presence, consent and proper identification of a parent, legal custodial parent or legal guardian. Nothing in this section is intended to require an operator to perform any body art procedure on a person even when parental or guardian consent is given.

(K) Any skin or mucosa surface to receive a body art procedure shall be free of rash or any visible infection.

(L) The skin of the operator/technician shall be free of rash or infection. No person or operator affected with boils, infected wounds, open sores, abrasions, keloids, weeping dermatological lesions or acute respiratory infection shall work in any area of a body art establishment in any capacity in which there is a likelihood that they could contaminate body art equipment, supplies or working surfaces with body substances or pathogenic organisms.

(M) Proof shall be provided upon request of the Department that all operators/technicians have either completed or were offered and declined, in writing, the hepatitis B vaccination series. This offering should be included as a pre-employment requirement.

(Prior Code, § 8-3-2) Penalty, see § 10.99

§ 113.03 EXEMPTIONS.

(A) Physicians licensed by the state, who perform either independent of or in connection with body art procedures as part of patient treatment are exempt from these regulations.

(B) Individuals who pierce only the outer perimeter and lobe of the ear using a pre-sterilized single use stud and clasp ear piercing system are exempt from these regulations. Individuals who use ear piercing systems must conform to the manufacturer's directions on use and applicable United States Food

and Drug Administration requirements. The Department retains authority to investigate consumer complaints relating to alleged misuse or improper disinfection of ear piercing systems.
(Prior Code, § 8-3-3)

§ 113.04 PUBLIC NOTIFICATION REQUIREMENTS.

(A) Verbal and written public educational information, approved by the Department, shall be required to be given to all clients wanting to receive body art procedure(s). Verbal and written instructions, approved by the Department, for the aftercare of the body art procedure site shall be provided to each client by the operator upon completion of the procedure. The written instructions shall advise the client to consult a physician at the first sign of infection or swelling and contain: the name, address and phone number of the establishment. These documents shall be signed and dated by both parties, with a copy given to the client and the operator retaining the original with all other required records. In addition, all establishments shall prominently display a disclosure statement, provided by the Department, which advises the public of the risks and possible consequences of body art services. The facility permit holder shall also post in public view the body art establishment permit showing the name, address and phone number of the Department and the procedure for filing a complaint. The disclosure statement and the notice for filing a complaint shall be included in the establishment application packet.

(B) All infections, complications or diseases resulting from any body art procedure which become known to the operator shall be reported to the Department by the operator within 24 hours.
(Prior Code, § 8-3-4)

§ 113.05 CLIENT RECORDS.

In order for the operator/technician to properly evaluate the client's medical condition for receiving a body art procedure and not violate the client's rights or confidential medical information, the following information shall be given to the operator or technician:

(A) In order for proper healing of your body art procedure, we ask that you disclose if you have or have had any of the following conditions:

- (1) Diabetes;
- (2) History of hemophilia (bleeding);
- (3) History of skin diseases, skin lesions or skin sensitivities to soaps, disinfectants and the like;
- (4) History of allergies or adverse reactions to pigments, dyes or other skin sensitivities;
- (5) History of epilepsy, seizures, fainting or narcolepsy; and

(6) Taking medications such as anticoagulants which thin the blood and/or interferes with blood clotting.

(B) The operator/technician should ask the client to sign a release form confirming that the above information was obtained or attempted to be obtained. The client should be asked to disclose any other information that would aid the operator/technician in the client's body art healing process evaluation.

(C) Each operator shall keep records of all body art procedures administered; including date, time, identification and location of the body art procedure(s) performed, and operator's name. All client records shall be confidential and be retained for a minimum of three years and made available to the Department upon notification.

(D) Nothing in this section shall be construed to require the operator to perform a body art procedure upon a client.

(Prior Code, § 8-3-5)

§ 113.06 RECORDS RETENTION.

(A) The body art establishment shall keep a record of all persons who have had body art procedures performed.

(B) The record shall include the name, date of birth and address of the client, the date of the procedure, name of operator who performed the procedure(s), type and location of procedure performed, signature of client and if the client is a minor, proof of parental or guardian presence and consent, i.e., signature.

(C) Such records shall be retained for a minimum of three years and available to the Department upon request.

(D) The Department and the body art establishment shall keep such records confidential.

(Prior Code, § 8-3-6)

§ 113.07 PREPARATION AND CARE OF THE BODY ART AREA.

(A) Before performing a body art procedure, the immediate and surrounding area of the skin where the body art procedure is to be placed shall be washed with soap and water or an approved surgical skin preparation, depending on the type of body art to be performed. If shaving is necessary, single use disposable razors or safety razors with single service blades shall be used and discarded after each use and the reusable holder shall be autoclaved after use. Following shaving, the skin and surrounding area will be washed with soap and water. The washing pad shall be discarded after a single use.

(B) In the event of blood flow, all products used to check the flow of blood or to absorb blood shall be single use and disposed of immediately after use in appropriate covered containers, unless the disposal products meet the definition of biomedical waste (see definition).
(Prior Code, § 8-3-7)

§ 113.08 SANITATION AND STERILIZATION PROCEDURES.

(A) All non-single use, non-disposable instruments used for body art shall be cleaned thoroughly after each use by scrubbing with an appropriate soap or disinfectant solution and hot water or follow the manufacturer's instructions to remove blood and tissue residue, and placed in an ultrasonic unit which will also be operated in accordance with manufacturer's instructions.

(B) After cleaning, all non-disposable instruments used for body art shall be packed individually in peel-packs and subsequently sterilized (see division (C) below). All peel-packs shall contain either a sterilizer indicator or internal temperature indicator. Peel-packs must be dated with an expiration date not to exceed six months.

(C) All cleaned, non-disposable instruments used for body art shall be sterilized in a steam autoclave or dry heat sterilizer. The sterilizer shall be used, cleaned and maintained according to manufacturer's instruction. A copy of the manufacturer's recommended procedures for the operation of their sterilization unit must be available for inspection by the Department. Sterile equipment may not be used if the package has been breached or after the expiration date without first repackaging and resterilizing. Sterilizers shall be located away from work stations or areas frequented by the public. If the body art establishment uses all single use, disposable instruments and products, and utilizes sterile supplies, an autoclave shall not be required.

(D) Each holder of a permit to operate a body art establishment shall demonstrate that the sterilizer used is capable of attaining sterilization by quarterly spore destruction tests. These tests shall be verified through an independent laboratory. The permit shall not be issued or renewed until documentation of the sterilizer's ability to destroy spores is received by the Department. These test records shall be retained by the operator for a period of three years and made available to the Department upon request.

(E) All reusable needles used in tattooing and cosmetic tattooing shall be cleaned and sterilized prior to use and stored in peel-packs. After sterilization, the instruments used for tattooing/body piercing shall be stored in a dry, clean cabinet or other tightly covered container reserved for the storage of such instruments.

(F) All instruments used for tattooing/body piercing shall remain stored in sterile packages until just prior to performing a body art procedure. When assembling instruments used for performing body art procedures, the operator shall wear disposable medical gloves and use medially recognized techniques to ensure that the instruments and gloves are not contaminated.

(G) All inks, dyes, pigments, needles and equipment shall be specifically manufactured for performing body art procedures and shall be used according to manufacturer's instructions. The mixing of approved inks, dyes or pigments or their dilution with potable water is acceptable. Immediately before applying a tattoo, the quantity of the dye to be used shall be transferred from the dye bottle and placed into single use paper cups or plastic cups. Upon completion of the tattoo, these single cups or caps and their contents shall be discarded.

(Prior Code, § 8-3-8)

§ 113.09 REQUIREMENTS FOR SINGLE USE ITEMS.

(A) Single use items shall not be used on more than one client for any reason. After use, all single use needles, razors and other sharps shall be immediately disposed of in approved sharps containers.

(B) All products applied to the skin, including body art stencils shall be single use and disposable. Acetate stencils shall be allowed for re-use if sanitization procedures (see definition) are performed between uses if approved by the Department. Petroleum jellies, soaps and other products used in the application of stencils shall be dispensed and applied on the area to be tattooed with sterile gauze or in a manner to prevent contamination of the original container and its contents. The gauze shall be used only once and then discarded.

(Prior Code, § 8-3-9)

§ 113.10 REQUIREMENTS FOR PREMISES.

(A) Body art establishments applying after adoption of this code shall submit a floor plan of the proposed establishment for a plan review by the Department, as part of the permit application process.

(B) All walls, floors, ceilings and all procedure surfaces of a body art establishment shall be smooth, free of open holes or cracks, light-colored, washable and in good repair. Walls, floors and ceilings shall be maintained in a clean condition. All procedure surfaces, including client chairs/benches shall be of such construction as to be easily cleaned and sanitized after each client. All body art establishments shall be completely separated by solid partitions or by walls extending from floor to ceiling, from any room used for human habitation, a food establishment or room where food is prepared, a hair salon, retail sales or other such activity which may cause potential contamination of work surfaces.

(C) Effective measures shall be taken by the body art operator to protect the entrance into the establishment and the breeding or presence on the premises of insects, vermin and rodents. Insects, vermin and rodents shall not be present in any part of the establishment, its appurtenances or appertaining premises.

(D) There shall be a minimum of 45 square feet of floor space for each operator in the establishment. Each establishment shall have an area which may be screened from public view for clients requesting privacy. Multiple body art stations shall be separated by dividers, curtains or partitions, at a minimum.

(E) The establishment shall be well-ventilated and provided with an artificial light source equivalent to at least 20 footcandles three feet off the floor, except that at least one hundred (200) footcandles shall be provided at the level where the body art procedure is being performed, and where instruments and sharps are assembled.

(F) No animals of any kind shall be allowed in a body art establishment except service animals used by persons with disabilities (e.g., seeing-eye dog). Fish aquariums shall be allowed in waiting rooms and non-procedural areas.

(G) A separate, readily accessible, handsink with hot and cold running water, under pressure, and supplied with liquid soap, and disposable paper towels shall be readily accessible within the body art establishment. One handsink shall serve no more than three operators. In addition, there shall be a minimum of one lavatory, excluding any service sinks, and one toilet in a body art establishment.

(H) At least one covered waste receptacle shall be provided in each operator area and each toilet room. Receptacles in the operator area shall be emptied daily and solid waste shall be removed from the premises at least weekly. All refuse containers shall have lids, be cleanable and kept clean.

(I) All instruments and supplies shall be stored in clean, dry and covered containers.

(J) Reusable cloth items shall be mechanically washed with detergent and dried after each use. The cloth items shall be stored in a dry, clean environment until used.
(Prior Code, § 8-3-10)

§ 113.11 PERMIT REQUIREMENTS.

(A) *Establishment permit.*

(1) No person, firm, partnership, joint venture, association, business trust, corporation or any organized group of persons may operate a body art establishment unless it has received a body art establishment permit from the Department.

(2) Any person operating a body art establishment shall obtain an annual permit from the Department.

(3) The applicant shall pay an annual permit fee of \$250 for each body art establishment permit.

(4) A permit for a body art establishment shall not be transferable from one place or person to another.

(5) A current body art establishment permit shall be posted in a prominent and conspicuous area where it may be readily observed by clients.

(6) The holder of a body art establishment permit must only hire operators who have complied with the operator permit requirements of this code.

(B) *Operator permit.*

(1) No person shall practice body art procedures without first obtaining an operator permit from the Department. Fee for operator permit shall be \$250. The operator permit expires when employment at body art establishment is terminated.

(2) The operator permit shall be valid from the date of issuance and shall automatically expire in two years from the date of issuance unless revoked sooner by the Department in accordance with § 113.16.

(3) Application for operator permits shall include:

- (a) Name;
- (b) Date of birth;
- (c) Sex;
- (d) Residence address;
- (e) Mailing address;
- (f) Phone number;
- (g) Place(s) of employment as an operator;
- (h) Training and/or experience; and

(i) Proof of attendance at a bloodborne pathogen training program (or equivalent), given or approved by the Department.

(4) Demonstration of knowledge of the following subjects:

- (a) Anatomy;
- (b) Skin diseases, disorders and conditions (including diabetes);

(c) Infectious disease control including waste disposal, handwashing techniques, sterilization equipment operation and methods, and safety and sanitation knowledge of the above subjects may also be demonstrated through submission of documentation of attendance/completion of courses or successful completion of an examination approved or given by the Department with a passing grade of 70%, attained prior to issuance of the operators permit. Examples of courses approved by the

Department would include such courses as Preventing Disease Transmission (American Red Cross) and Bloodborne Pathogen Training (U.S. OSHA). Training/courses provided by professional body art organization/associations or by equipment manufacturers may also be submitted to the Department for approval.

(5) No operator permit shall be issued unless, following reasonable investigation by the Department, the body art operator has demonstrated compliance with the provisions of this section and all other provisions of this code.

(6) All operator permits shall be conditioned upon continued compliance with the provisions of this section as well as all applicable provisions of this code.

(7) All operator permits shall be posted in a prominent and conspicuous area where they may be readily observed by clients.

(C) *Temporary establishment/operator permit.* Temporary establishment and, when required, operator permits may be issued for body art services provided outside of the physical site of a certified facility for the purposes of product demonstration, industry trade shows or for educational reasons.

(1) Temporary operator and/or establishment permits will not be issued unless:

(a) The applicant furnishes proof of compliance with divisions (A) and (B) above relating to operator's permits; and/or

(b) The applicant is currently affiliated with a fixed location or permanent facility which, where applicable, is permitted by the appropriate state and/or local jurisdiction; and

(c) The temporary site complies with division (C) above.

(2) In lieu of attendance at a bloodborne pathogens training program given by the Department within the past three years as specified in division (B) above, the applicant may furnish proof of attendance at equivalent training which is acceptable to the Department.

(3) Temporary permits expire after 14 days or the conclusion of the special event, whichever is less.

(4) Temporary operator and/or establishment license will not be issued unless the applicant has paid a reasonable fee as set by the Department.

(5) The temporary establishment/operator license(s) shall not be transferable from one place or person to another.

(6) The temporary establishment/operator licenses shall be posted in a prominent and conspicuous area where they may be readily seen by clients.

(Prior Code, § 8-3-11) Penalty, see § 10.99

§ 113.12 TEMPORARY DEMONSTRATION PERMIT REQUIREMENTS.

(A) A temporary permit may be issued by the Department for educational, trade show or product demonstration purposes only. The permit may not exceed 14 calendar days.

(B) A person who wishes to obtain a temporary demonstration permit must submit the request in writing for review by the Department, at least 30 days prior to the event; the request should specify:

(1) The purpose for which the permit is requested;

(2) The period of time during which the permit is needed (not to exceed 14 calendar days per event), without re-application;

(3) The fulfillment of operator requirements as specified in § 113.11(C); and

(4) The location where the temporary demonstration permit will be used.

(C) The applicant's demonstration project must be contained in a completely enclosed, non-mobile facility (e.g., inside a permanent building).

(D) Compliance with all of the requirements of this code, including, but not limited to:

(1) Conveniently located hand washing facilities with liquid soap, paper towels and hot and cold water under adequate pressure shall be provided. Drainage in accordance with local plumbing codes is to be provided. Tuberculocidal single use hand wipes, approved by the Department, to augment the hand washing requirements of this section must be available in each booth/cubicle;

(2) A minimum of 80 square feet of floor space;

(3) At least 100 footcandles of light at the level where the body art procedure is being performed;

(4) Facilities to properly sterilize instruments - evidence of spore test performed on sterilization equipment 30 days or less prior to the date of the event, must be provided; or only single use, prepackaged, sterilized equipment obtained from reputable suppliers or manufacturers will be allowed; and

(5) Ability to properly clean and sanitize the area used for body art procedures.

(E) The facility where the temporary demonstration permit is needed must be inspected by the Department and a permit issued prior to any body art procedures being performed.

(F) Temporary demonstration permits issued under the provisions of this code may be suspended by the Department for failure of the holder to comply with the requirements of this code.

(G) All establishment and operator permits and the disclosure notice must be readily seen by clients. (Prior Code, § 8-3-12)

§ 113.13 MOBILE BODY ART ESTABLISHMENTS.

In addition to complying with all of the requirements of this code, mobile body art vehicles and operators/technicians working from a mobile body art establishment shall also comply with all of the following requirements.

(A) Mobile body art establishments are permitted for use only at special events, lasting 14 calendar days or less. Permits must be obtained at least 14 days prior to the event, and no body art procedures are to be performed prior to a permit being issued. Permit holders are responsible for ensuring that all other local agency regulations are complied with, such as, but not limited to, zoning and business license requirements.

(B) Body art performed pursuant to this section shall be done only from an enclosed vehicle such as a trailer or mobile home. No body art procedures shall be performed outside of the enclosed vehicle.

(C) The mobile body art establishment shall be maintained in a clean and sanitary condition at all times. Doors shall be self-closing and tight-fitting. Openable windows shall have tight-fitting screens.

(D) Mobile body art establishments must have approved sterilization equipment available, in accordance with all requirements of § 113.08.

(E) The mobile body art establishment shall be used only for the purpose of performing body art procedure. No habitation or food preparation is permitted inside the vehicle unless the body art work station is separated by walls, floor to ceiling, from the culinary or domicile areas.

(F) The mobile body art establishment shall be equipped with an equipment washing sink and a separate hand sink for the exclusive use of the operator/technician for handwashing and preparing the client for the body art procedures.

(1) The hand sink shall be supplied with hot and cold running water under pressure to a mixing type faucet, and liquid soap and paper towels in dispensers.

(2) An adequate supply of potable water shall be maintained for the mobile body art establishment at all times during operation.

(3) The source of the water and tank storage (gallons) of the tank(s) shall also be identified.

(4) Tuberculocidal single use hand wipes, approved by the Department, to augment the hand washing requirements of this section, must be available.

(G) All liquid wastes shall be stored in an adequate storage tank with a capacity of at least 50% greater than the capacity of an onboard potable water supply. Liquid wastes shall be disposed of at a site approved by the Department.

(H) Restroom facilities must be available within the mobile body art establishment. A hand sink must be available inside the restroom cubicle. The hand sink shall be supplied with hot and cold running water under pressure to a mixing type faucet, liquid soap and paper towels in dispensers. Restroom doors must be self-closing and adequate ventilation must be available.

(I) All body art operators/technicians working in a mobile body art establishment must have an operator permit and comply with the operator requirements of this code.

(J) No animals, except service animals of clients shall be allowed in the mobile body art establishment at any time.

(K) Mobile body art establishments must receive an initial inspection at a location specified by the Department prior to use to ensure compliance with structural requirements. Additional inspections may be performed at every event where the mobile body art establishment is scheduled to operate.

(L) All mobile body art establishment and operator's permits and the disclosure notice must be readily seen by clients.
(Prior Code, § 8-3-13)

§ 113.14 PROHIBITIONS.

The following acts are prohibited:

(A) Tattooing any person under the age of 21. Performing any other body art on any body part of a person under the age of 18 without the written consent and presence of the parent or legal guardian of such minor. This consent is to be given in person to the body artist or responsible person at the facility by the parent or legal guardian at the time the tattooing or piercing is to commence. Photographic identification of the parent or legal guardian is required;

(B) Performing body art on a person who, in the opinion of the operator is inebriated or appears to be under the influence of alcohol or drugs;

(C) Owning, operating or soliciting business as a body art establishment or operator without first obtaining all necessary permits and approvals from the Department, unless specifically exempted by this code; and

(D) Obtaining or attempting to obtain any body art establishment or operator permit by means of fraud, misrepresentation or concealment.
(Prior Code, § 8-3-14)

§ 113.15 ENFORCEMENT.

(A) Establishments operating at the time of the enactment of this code shall be given a prescribed amount of time to make application to the Department and comply with these regulations. Establishments that continue to operate without proper permits from the Department or operate in violation of these regulations will be subject to legal remedial actions and sanctions as provided by law.

(B) A representative of the Department shall properly identify himself or herself before entering a body art establishment to make an inspection. Such an inspection must be conducted as often as necessary throughout the year to ensure compliance with this code.

(C) It is unlawful for any person to interfere with the Department in the performance of its duties.

(D) A copy of the inspection report must be furnished to the permit holder or operator of the body art establishment, with the Department retaining possession of the original.

(E) If, after investigation, the Department should find that a permittee or operator is in violation of this code, the Department may, in the alternative, advise the permittee or operator, in writing, of its findings and instruct the operator to take specific steps to correct such violations within a reasonable period of time, not to exceed 30 days.

(F) If the Department has reasonable cause of suspect that a communicable disease is, or may be transmitted by an operator, use of unapproved or malfunctioning equipment, or unsanitary or unsafe conditions which may adversely impact the health of the public, upon written notice to the owner or operator, the Department may do any or all of the following:

(1) Issue an order excluding any or all operators from the permitted body art establishment who are responsible, or reasonably appear responsible, for the transmission of a communicable disease until the Department determines there is no further risk to public health; and/or

(2) Issue an order to immediately suspend the permit of the licensed establishment until the Department determines there is no further risk to the public health. Such an order shall state the cause for the action.

(Prior Code, § 8-3-15) Penalty, see § 10.99

§ 113.16 SUSPENSION OR REVOCATION OF PERMITS.

(A) Permits issued under the provision of the code may be suspended temporarily by the Department for failure of the holder to comply with the requirements of this code.

(B) Whenever a permit holder or operator has failed to comply with any notice issued under the provisions of this code, the operator must be notified in writing that the permit is, upon service of this notice, immediately suspended. The notice must also contain a statement informing the permit holder

or operator that an opportunity for a hearing will be provided if a written request for a hearing is filed with the Department within the time specified by law.

(C) Any person whose permit has been suspended may, at any time, make application for reinstatement of the permit. Within ten days following receipt of a written request, including a statement signed by the applicant that in his or her opinion the conditions causing the suspension have been corrected, and the submission of the reinspection fees of \$125, the Department shall reinspect the body art establishment or evaluate documentation provided by an operator. If the applicant is in compliance with the provisions of this code, the permit will be reinstated.

(D) For repeated or serious (any code infraction that threatens the health of the client or operator) violations of any of the requirements of this code or for interference with Department personnel in the performance of their duties, its permit may be permanently revoked after a hearing. Before taking such action, the Department shall notify the permit holder or operator in writing, stating the reasons for which the permit is subject to revocation and advising the permit holder or operator of the requirements for filing a request for a hearing. A permit may be suspended for cause, pending its revocation or hearing relative thereto.

(E) The Department may permanently revoke a permit after five days following service of the notice unless a request for a hearing is filed within the five-day period with the Department by the permit holder.

(F) The hearings provided for in this section must be conducted by the Department at a time and place designated by the operator. Based upon the record of the hearing, the Department shall make a finding and may sustain, modify or rescind any official notice or order considered in the hearing. A written report of the hearing decision must be furnished to the permit holder or operator by the Department.

(Prior Code, § 8-3-16)

§ 113.17 DEPARTMENT PERSONNEL COMPETENCY REQUIREMENT.

Department personnel performing environmental health/sanitary evaluations or complaint investigations of body art establishments shall meet the same requirements as specified for operators/technicians in § 113.11 prior to assuming responsibilities for this program.

(Prior Code, § 8-3-17)

§ 113.18 INTERPRETATION AND VALIDITY.

(A) In the interpretation of this code, the singular may be read as the plural, the masculine gender as the feminine or neuter, and the present tense as the past or future, where the context so dictates.

(B) In the event any particular clause or section of this code should be declared invalid or unconstitutional by any court of competent jurisdiction, the remaining portions shall remain in full force and effect. Toward that end, the provisions of these regulations are declared to be severable.
(Prior Code, § 8-3-18) (Ord. 01-62, passed 11-26-2001)

CHAPTER 114: ADULT ORIENTED BUSINESSES

Section

General Provisions

- 114.01 Purpose
- 114.02 Findings
- 114.03 Definitions
- 114.04 Classifications

Licensing

- 114.15 Generally
- 114.16 Issuance of license
- 114.17 Fees
- 114.18 Inspection
- 114.19 Expiration of license
- 114.20 Suspension
- 114.21 Revocation
- 114.22 Transfer of license

- 114.99 Penalty

GENERAL PROVISIONS

§ 114.01 PURPOSE.

(A) It is the purpose of this chapter to regulate adult oriented businesses in order to promote the health, safety and general welfare of the citizens of the county, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of adult oriented businesses within the county. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including adult oriented material.

(B) Similarly, it is not the intent nor effect of this chapter to restrict or deny access by adults to adult oriented materials protected by the First Amendment, or to deny access by the distributors and

exhibitors of adult oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene material.

(Prior Code, § 8-4-1)

§ 114.02 FINDINGS.

Based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings and in reports made available to the Commission, and on findings incorporated in the cases of *City of Renton v. Playtime Theaters, Inc.*, 475 U.S. 41 (1986), *Young v. American Mini Theaters*, 426 U.S. 50 (1976), *Barnes v. Glen Theater, Inc.*, 501 U.S. 560 (1991), *North Avenue Novelties Incorporated v. City of Chicago*, 88 F. 3d. 441 (7th Or. 1996), and *Excalibur Group, Inc. v. City of Minneapolis*, 116 F. 3d 1216 (CA8 1997), and on studies in other communities including, but not limited to, Phoenix, Arizona; Minneapolis, Minnesota; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas; Seattle, Washington; Oklahoma City, Oklahoma; Cleveland, Ohio; and Beaumont, Texas; and also on finding from the Report of the Attorney General's Working Group On The Regulation Of Adult Oriented Businesses, (June 6, 1989, State of Minnesota), the Council finds the following.

(A) Adult oriented businesses lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the operators of the establishments. Further, there is presently no mechanism to make the owners of these establishments responsible for the activities that occur on their premises.

(B) Certain employees and patrons of adult oriented businesses defined in this chapter as adult theaters and cabarets engage in higher incidence of certain types of illicit sexual behavior than employees and patrons other establishments.

(C) Sexual acts, including masturbation, and oral and anal sex, occur at adult oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos or live sex shows.

(D) Offering and providing such space encourages such activities, which creates unhealthy conditions.

(E) Persons frequent certain adult theaters, adult arcades and other adult oriented businesses for the purpose of engaging in sex within the premises of such adult oriented businesses.

(F) At least 50 communicable diseases may be spread by activities occurring in adult oriented businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV - AIDS), genital herpes, hepatitis B, non A, non B amebiasis, salmonella infections and shigella infections.

(G) Since 1981 and to the present, there has been an increasing cumulative number of reported cases of AIDS caused by the human immunodeficiency virus (HIV) in the United States.

(H) The Surgeon General of the United States in his report of October 22, 1986, has advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug abuse, exposure to infected blood and blood components, and from an infected mother to her newborn.

(I) According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.

(J) Sanitary conditions in some adult oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self regulate those activities and maintain those facilities.

(K) Numerous studies and reports have determined that semen is found in the areas of adult oriented businesses where persons view “adult” oriented films.

(L) The findings noted in divisions (A) through (K) above raise substantial and legitimate governmental concerns.

(M) Adult oriented businesses have operational characteristics which should be reasonably regulated in order to protect those substantial and legitimate governmental concerns.

(N) A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and operators of the adult oriented businesses. Further, such a licensing procedure will place a heretofore nonexistent incentive on the operators to see that the adult oriented business is run in a manner consistent with the health, safety and welfare of its patrons and employees, as well as the citizens of the county. It is appropriate to require reasonable assurances that the licensee is the actual operator of the adult oriented business, fully in possession and control of the premises and activities occurring therein.

(O) Prohibiting of doors on adult booths and requiring sufficient lighting on premises with adult booths advances a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in adult theaters.

(P) The disclosure of certain information by those persons ultimately responsible for the day-to-day operation and maintenance of the adult oriented business, where such information is substantially related to the significant government interest in the operation of such uses, will aid in preventing the spread of sexually transmitted diseases.

(Q) It is desirable in the prevention of the spread of communicable diseases to obtain a limited amount of information regarding certain employees who may engage in the conduct which this chapter is designed to prevent or who are likely to be witnesses to such activity.

(R) There are certain operational characteristics of adult oriented businesses that have adverse secondary effects (noted herein) on communities, including, but not limited to, the advertisement of adult

oriented business through the use of large signs, which contribute to the blighting and/or downgrading of surrounding property.

(S) The general welfare, health, morals and safety of the citizens of the county will be promoted by the enactment of this chapter.

(T) Due to the adverse secondary effects (noted herein) on communities, it is reasonable and necessary to impose reasonable time, place and manner restrictions on adult oriented businesses in the form of zoning and locational regulations contained in this chapter, and that these regulations are tailored to advance the legitimate governmental interest of avoiding, to the extent possible, the impact of such harmful and adverse secondary effects on the community while ensuring that such regulations do not unreasonably limit alternative avenues of communications.

(U) Based on *Renton v. Playtime Theaters, Inc.*, 475 U.S. 41 (1986), and *North Avenue Novelties Incorporated v. City of Chicago*, 88 F. 3d 441 (7th Cir. 1996), the Commission further finds that this chapter, while advancing the legitimate and substantial governmental interest of protecting property values, preventing increase in crime, and protecting the health, safety and welfare of the community, does not unreasonably limit alternative avenues of communication for adult oriented businesses and the proposed ordinance does provide a reasonable opportunity to disseminate speech to the extent that:

(1) No adult oriented businesses presently exist within the corporate boundaries of the county;

(2) Over the past five years, the county has received only zero inquiries regarding the location of an adult oriented business in the county, and that none have located within the county;

(3) Based on the findings of the locational study, there is ample area for the locations of adult oriented businesses in that the total area within the county's zoning jurisdiction equals approximately 1.17 square miles, the Industrial Zone equals approximately 755 acres, and that approximately 400 acres are available for the location of adult oriented businesses; and

(4) The areas available for the location of adult oriented businesses are presently served by adequate public utilities and infrastructure, or such areas can be readily served with such public utilities and infrastructure if and when the need for development of such areas arises.

(V) Increased criminal activity in areas where adult oriented businesses operate, including increased property crimes (vandalism, burglary, larceny, auto theft), violent crimes (murder, rape, robbery and assault) and sex crimes (rape, indecent exposure, child molestation). Due to the increase in criminal activity, insurance rates also increased.

(W) Substantial depreciation in neighborhood property values occurs where adult oriented businesses are located.

(X) Tendency of local citizenry to avoid areas where adult oriented businesses are located. These studies noted that patrons of adult oriented businesses are typically not resident of nearby neighborhoods, and that without community identify, behavior is less inhibited which contributes to increased criminal

activity. The studies also noted that the owners of adult oriented businesses are typically not residents of the community in which the adult oriented business is located.

(Y) The location of adult oriented businesses near establishments selling alcoholic beverages compounds the problem of increased criminal activity.

(Z) Increased public health hazards due to illicit sexual encounters in adult oriented businesses, including, but not limited to, sexual encounters within “peep show booths”, used condoms littering the streets and sidewalks, and increased prostitution.

(AA) Adult oriented businesses cause an increase in noise, lighting and traffic during late night hours.

(BB) County will be best able to buffer the harmful secondary effects of adult oriented businesses on surrounding areas by imposing reasonable design controls on the appearance and image of adult oriented businesses.

(CC) Those findings made in the prefatory portion of this chapter are hereby adopted.
(Prior Code, § 8-4-2)

§ 114.03 DEFINITIONS.

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

ADULT ARCADE. Any place to which the public is permitted or invited wherein coin-operated, slug-operated or for any form of consideration, electronically, electrically or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

(Prior Code, § 8-4-10)

ADULT BOOKSTORE, ADULT NOVELTY STORE or ADULT VIDEO STORE.

(1) A commercial establishment which, as one of its principal purposes, offers for sale or rental for any form of consideration any one or more of the following:

(a) Books, magazines, periodicals or other printed matter, or photographs, film, motion pictures, video cassettes or video reproductions, slides or other visual representations which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; or

(b) Instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities.

(2) A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as adult bookstore, adult novelty store or adult video store. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an adult bookstore, adult novelty store or adult video store so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which are characterized by the depiction or description of specified sexual activities or specified anatomical areas. (Prior Code, § 8-4-11)

ADULT CABARET. A nightclub, bar, restaurant or similar commercial establishment which regularly features:

(1) Persons who appear in a state of nudity or semi-nude;

(2) Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or

(3) Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

(Prior Code, § 8-4-12)

ADULT MOTEL. A hotel, motel or similar commercial establishment which:

(1) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions;

(2) Offers a sleeping room for rent for a period of time that is less than ten hours; or

(3) Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten hours.

(Prior Code, § 8-4-13)

ADULT MOTION PICTURE THEATER. A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

(Prior Code, § 8-4-14)

ADULT ORIENTED BUSINESS. Adult oriented business means an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, escort agency, nude model studio or sexual encounter center.
(Prior Code, § 8-4-26)

ADULT THEATER. A theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nude, or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.
(Prior Code, § 8-4-15)

EMPLOYEE.

(1) A person who performs any service on the premises of adult oriented business on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise and whether or not said person is paid a salary, wage or other compensation by the operator of said business.

(2) **EMPLOYEE** does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.
(Prior Code, § 8-4-16)

ESCORT. A person who, for consideration and/or payment, offers to act as a companion, guide or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.
(Prior Code, § 8-4-17)

ESCORT AGENCY. A person or business or association who furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.
(Prior Code, § 8-4-18)

ESTABLISHMENT. Includes any of the following:

- (1) The opening or commencement of any adult oriented business as a new business;
 - (2) The conversion of an existing business, whether or not an adult oriented business, to any adult oriented business;
 - (3) The additions of any adult oriented business to any other existing adult oriented business;
- or
- (4) The relocation of any adult oriented business.
- (Prior Code, § 8-4-19)

LICENSEE. A person in whose name a license to operate an adult oriented business has been issued, as well as the individual listed as an applicant on the application or a license; and in the case of

an employee, a person in whose name a license has been issued authorizing employment in an adult oriented business.

(Prior Code, § 8-4-20)

NUDE MODEL STUDIO.

(1) Any place where a person who appears semi-nude, in a state of nudity or who displays specified anatomical areas and is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarity depicted by other persons who pay money or any form of consideration.

(2) ***NUDE MODEL STUDIO*** shall not include a proprietary school licensed by the state or college, community college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, community college or university supported entirely or partly by taxation; or in a structure:

(a) That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing;

(b) Where in order to participate in a class; a student must enroll at least three days in advance of the class; and

(c) Where no more than one nude or semi-nude model is on the premises at any one time.
(Prior Code, § 8-4-21)

NUDITY, STATE OF NUDITY. The showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

(Prior Code, § 8-4-22)

PERSON. An individual, proprietorship, partnership, limited liability company, corporation, association or other legal entity.

(Prior Code, § 8-4-23)

SEMI-NUDE, SEMI-NUDE CONDITION. The showing of the female breast below a horizontal line across the top of the areola at its highest points or the showing of the male or female buttocks. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, skirt, leotard, bathing suit or other wearing apparel provided the areola is not exposed in whole or in part.

(Prior Code, § 8-4-24)

SEXUAL ENCOUNTER CENTER. A business or commercial enterprise that, as one of its principal business purposes, offers for any form of payment or consideration:

(1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex;
or

(2) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.
(Prior Code, § 8-4-25)

SPECIFIED ANATOMICAL AREAS.

(1) The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or

(2) Less than completely and opaquely covered human genitals, pubic region, buttocks or female breast below a point immediately above the top of the areola.
(Prior Code, § 8-4-27)

SPECIFIED SEXUAL ACTIVITIES.

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

(2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation or sodomy; or

(3) Excretory functions as part of or in connection with any of the activities set forth in divisions (1) and (2) above.
(Prior Code, § 8-4-28)

SUBSTANTIAL ENLARGEMENT OF AN ADULT ORIENTED BUSINESS. The increase in floor areas occupied by the business by more than 25%, as the floor areas exist on the date this chapter takes effect.
(Prior Code, § 8-4-29)

TRANSFER OF OWNERSHIP OR CONTROL. (Of an adult oriented business) means and includes any of the following:

(1) The sale, lease or sublease of the business;

(2) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means; or

(3) The establishment of a trust, gift or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.
(Prior Code, § 8-4-30)

§ 114.04 CLASSIFICATIONS.

The term ***ADULT ORIENTED BUSINESS*** shall mean include, and are classified as follows:

- (A) Adult arcades;
 - (B) Adult bookstores, adult novelty stores or adult video stores;
 - (C) Adult cabarets;
 - (D) Adult motels;
 - (E) Adult motion picture theaters;
 - (F) Adult theaters;
 - (G) Escort agencies;
 - (H) Nude model studios; and
 - (I) Sexual encounter centers.
- (Prior Code, § 8-4-36)

LICENSING**§ 114.15 GENERALLY.**

(A) *License required.* It is unlawful:

- (1) For any person to operate an adult oriented business without a valid adult oriented business license issued by the county pursuant to this chapter;
 - (2) For any person who operates an adult oriented business to employ a person to work for the adult oriented business who is not licensed as an adult oriented business employee by the county pursuant to this chapter; and
 - (3) For any person to obtain employment with an adult oriented business without having secured an adult oriented business employee license pursuant to this chapter.
- (Prior Code, § 8-4-41)

(B) *Forms by county.* An application for an adult oriented business license must be made on a form provided by the county.
(Prior Code, § 8-4-42)

(C) *Applicant's qualifications.* All applicants must be qualified according to the provisions of the chapter. The application may request and the applicant shall provide such information as to enable the county to determine whether the applicant meets the qualifications established in this chapter.
(Prior Code, § 8-4-43)

(D) *Application signature.* If a person wishes to operate an adult oriented business is an individual, the person must sign the application for a license as applicant. If a person who wishes to operate an adult oriented business is other than an individual, each individual who has a 10% or greater ownership interest in the business must sign the application for a license as applicant. Each applicant must be qualified under the following section and each applicant shall be considered a licensee if a license is granted.
(Prior Code, § 8-4-44)

(E) *Information on applicant.* The completed application for an adult oriented business license shall contain the following information and shall be accompanied by the following documents:

(1) If the applicant is:

(a) An individual, the individual shall state his or her legal name and any aliases and submit proof that he or she is 18 years of age;

(b) A partnership, the partnership shall state its complete name, and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any; and

(c) A corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation, the names and capacity of all officers, directors and stockholders, and the name of the registered corporate agent and the address of the registered office for service of process.

(2) If the applicant intends to operate the adult oriented business under name other than that of the applicant he or she must state: the adult oriented business' fictitious name; and submit the registration documents required under applicable state law to operate under a fictitious name;

(3) Whether the applicant has had a previous license under this chapter or other similar adult oriented business ordinance from another city, county or unit of local government within the United States of America denied, suspended or revoked, including the name and location of the adult oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation, or a member or manager of a limited liability company

that is licensed under this chapter whose license has previously been denied, suspended or revoked, including the name and location of the adult oriented business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation;

(4) Whether the applicant holds any other licenses under this chapter or other similar adult oriented business ordinance from another city, county or other unit of local government within the United States of America, and, if so, the names and locations of such other licensed businesses;

(5) The single classification of license of which the applicant is filing;

(6) The location of the proposed adult oriented business, including a legal description of the property, street address and telephone number(s), if any;

(7) The applicant's mailing address;

(8) A recent photograph of the applicant(s);

(9) The applicant's driver's license number, Social Security number and/or his or her or its state or federally issued tax identification number;

(10) A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business, prepared by a professional architect, engineer or similar professional. The sketch or diagram must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches;

(11) A plat prepared within 30 days prior to application by a registered land surveyor and/or professional engineer depicting the property lines and the structures containing any existing adult oriented businesses within 1,000 feet of the proposed adult oriented business location, the property lines and location of any religious institution/synagogue, school, establishment selling or offering for sale alcoholic beverages, residential structure, place of public accommodation, restaurant or public park or recreation area within 1,000 feet of the proposed adult oriented business location. For purposes of this section, a use shall be considered existing or established if it is in existence at the time an application is submitted; and

(12) If an applicant wishes to operate an adult oriented business, other than an adult motel, which shall exhibit on the premises, in a viewing room or booth of less than 150 square feet of floor space, films, video cassettes, other video reproductions or live entertainment which depict specified sexual activities or specified anatomical areas, then the applicant shall comply with the application requirements set forth in § 114.22(C).

(Prior Code, § 8-4-45)

(F) *Employee license required.* Before any applicant may be issued an adult oriented business employee license, the applicant shall submit on a form to be provided by the county the following information:

- (1) The applicant's name or any other name (including "stage" names) or aliases used by the individual;
- (2) Age, date and place of birth;
- (3) Height, weight, hair and eye color;
- (4) Present residence address and telephone number;
- (5) Present business address and telephone number;
- (6) Date, issuing state and number of driver's permit or other identification card information;
- (7) Social Security number; and
- (8) Proof that the individual is at least 18 years of age.
(Prior Code, § 8-4-46)

(G) *Application attachments.* Attached to the application form for an adult oriented business employee license as provided above, shall be the following:

- (1) A color photograph of the applicant clearly showing the applicant's face; and
- (2) A statement detailing the license history of the applicant for the five years immediately preceding the date of the filing of the application, including whether such applicant previously operated or is seeking to operate, in this or any other county, city, state or country has ever had a license, permit or authorization to do business denied, revoked or suspended. In the event of any such denial, revocation or suspension, state the name, the name of the issuing or denying jurisdiction, and describe in full the reason for the denial, revocation or suspension. A copy of any order of denial, revocation or suspension shall be attached to the application.
(Prior Code, § 8-4-47)
Penalty, see § 114.99

§ 114.16 ISSUANCE OF LICENSE.

(A) *Temporary status; investigation.*

- (1) Upon the filing of said application for an adult oriented business employee license, the county shall issue a temporary license to said applicant. The application shall then be referred to the County Sheriff's Department for an investigation to be made on such information as is contained on the application. The application process shall be completed within 30 days from the date the completed application is filed.

Effingham County - Business Regulations

(2) After the investigation, the county shall issue a license, unless it is determined by the county by a preponderance of the evidence that one or more of the following findings is true:

(a) The applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;

(b) The applicant is under the age of 18 years;

(c) The adult oriented business employee license is to be used for employment in a business prohibited by local or state law, statute, rule or regulation or prohibited by a particular provision of this chapter; or

(d) The applicant has had an adult oriented business employee license revoked by the county within two years of the date of the current application. If the adult oriented business employee license is denied, the temporary license previously issued shall be immediately deemed null and void. Denial, suspension or revocation of a license issued permit to this section shall be subject to appeal as set forth in § 114.21.

(Prior Code, § 8-4-51)

(B) *Renewal.* A license granted pursuant to this section shall be subject to annual renewal upon the written application of the applicant as stated herein.

(Prior Code, § 8-4-52)

(C) *Time parameters for county.* Within 30 days after receipt of a completed adult oriented business application, the county shall approve or deny the issuance of a license to an applicant; the county shall approve the issuance of a license to an applicant unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

(1) An applicant is under 18 years of age;

(2) An applicant or a person with whom applicant is residing is overdue in payment to the county of taxes, fees, fines or penalties assessed against or imposed upon him or her in relation to any business;

(3) An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;

(4) An applicant has been denied a license by the county to operate an adult oriented business within the preceding 12 months or whose license to operate an adult oriented business has been suspended or revoked within the preceding 12 months;

(5) The premises to be used for the adult oriented business have not been approved by the Fire Department and the Building Official as being in compliance with applicable laws and ordinances;

(6) The license fee required by this chapter has not been paid; and/or

(7) An applicant of the proposed adult oriented business is in violation of or is not in compliance with any of the provisions of this chapter.
(Prior Code, § 8-4-53)

(D) *Display of license.* The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the adult oriented business and the classification for which the license is issued pursuant to § 114.04. All licenses shall be posted in a conspicuous place at or near the entrance to the adult oriented business so that they may be easily read at any time.
(Prior Code, § 8-4-54)

(E) *Premises in compliance.* The Fire Department and the Building Official shall complete their certification that the premises is in compliance or not in compliance with applicable laws and ordinances within 30 days of receipt of the application by the county.
(Prior Code, § 8-4-55)

(F) *License classification.* An adult oriented business license shall be issued for only one classification as found in § 114.04.
(Prior Code, § 8-4-56)

§ 114.17 FEES.

(A) *Application and investigation fee.* Every application for an adult oriented business license or adult oriented business employee license (whether for a new license or for renewal of an existing license) shall be accompanied by a \$500 non-refundable application and investigation fee.
(Prior Code, § 8-4-60)

(B) *License fee; non-refundable.* In addition to the application and investigation fee required above, every adult oriented business and an adult oriented business employee that is granted a license (new or renewal) shall pay to the county an annual non-refundable license fee of \$1,000 within 30 days of license issuance or renewal.
(Prior Code, § 8-4-61)

(C) *County Clerk.* All license applications and fees shall be submitted to the County Clerk.
(Prior Code, § 8-4-62)

§ 114.18 INSPECTION.

An applicant or licensee shall permit representatives of the Sheriff's Department, the Fire Department, the Zoning Department and the County Health Department to inspect the premises of an

adult oriented business for the purpose of ensuring compliance with this chapter at any time the premises is open for business.

(Prior Code, § 8-4-66) Penalty, see § 114.99

§ 114.19 EXPIRATION OF LICENSE.

(A) *Expiration.* Each license shall expire one year from the date of issuance and may be renewed only by making application as provided in § 114.15. Application for renewal shall be made at least 30 days before the expiration date, and when made less than 30 days before the expiration date, the expiration date of the license will not be affected.

(Prior Code, § 8-4-70)

(B) *Denial of license.* When the county denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the county finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date denial became final.

(Prior Code, § 8-4-71)

§ 114.20 SUSPENSION.

The county shall suspend a license for a period not to exceed 30 days if the county determines that a licensee or an employee of a license has:

(A) Violated or is not in compliance with any section of this chapter; or

(B) Refused to allow an inspection of the adult oriented business premises as authorized by this chapter.

(Prior Code, § 8-4-73)

§ 114.21 REVOCATION.

(A) *Mandatory revocation.* The county shall revoke a license if suspension in § 114.20 occurs and the license has been suspended within the preceding 12 months.

(Prior Code, § 8-4-75)

(B) *Conditions for revocation.* The county shall revoke a license if the county determines that:

(1) A licensee gave false or misleading information in the material submitted during the application process;

(2) A licensee has knowingly allowed possession, use or sale of controlled substances or alcoholic beverages on the premises;

(3) A licensee has knowingly allowed prostitution on the premises;

(4) A licensee knowingly operated the adult oriented business during a period of time when the license was suspended; or

(5) Except in the case of an adult motel, a licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or other sex act to occur in or on the premises.
(Prior Code, § 8-4-76)

(C) *Length of revocation.* When the county revokes a license, the revocation shall continue for one year, and the licensee shall not be issued an adult oriented business license for one year from the date the revocation became effective. If, subsequent to revocation, the city finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective.
(Prior Code, § 8-4-77)

(D) *Judicial review.* After denial of a renewal of an application, or suspension or revocation of any license may seek prompt judicial review of such administrative action in any court of competent jurisdiction. The administrative action shall be promptly reviewed by the court.
(Prior Code, § 8-4-78)

§ 114.22 TRANSFER OF LICENSE.

(A) *Non-transferable.* A license granted under this chapter shall be deemed non-transferable. A licensee shall not transfer or attempt to transfer his or her or its license to another, nor shall a licensee operate an adult oriented business under the authority of a license, or for the classification designated on the license.
(Prior Code, § 8-4-79)

(B) *Additional regulations for adult motels.* Evidence that a sleeping room in a hotel, motel or a similar commercial establishment has been rented and vacated two or more times in a period of time that is less than ten hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this chapter.
(Prior Code, § 8-4-80)

(C) *Exhibition of adult explicit films in viewing rooms.* A person who operates or causes to be operated an adult oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than 150 square feet of floor space, a film, video cassette, live entertainment or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements.

(1) Upon application for an adult oriented business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager’s stations and the location of all overhead lighting fixtures and designating any portion of the

premises in which patrons will not be permitted. A manager's station may not exceed 32 square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall be required; each diagram should be oriented to the north or to some identifiable scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The county may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

(2) The application shall be sworn to be true and correct by the applicant.

(3) No alteration in the configuration or location of a manager's station may be made without the prior approval of the county.

(4) It is the duty of the licensee of the premises to ensure that at least one licensed employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

(5) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations identifiable, then the interior of the premises shall be configured in such manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's station.

(6) It shall be the duty of the licensee to ensure that the view area specified in division (C)(5) above remains unobstructed by any doors, curtains, partitions, walls, merchandise, display racks or other materials and, at all times, to ensure that no patron is permitted access to any area of the premises which has been identifiable as an area in which patrons will not be permitted in the application filed pursuant to division (C)(1) above.

(7) No viewing room may be occupied by more than one person at any time.

(8) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access.

(9) It shall be the duty of the licensee to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

(10) No licensee shall allow openings of any kind to exist between viewing booths or rooms.

(11) No person shall make or attempt to make an opening of any kind between viewing booths or rooms.

(12) The licensee shall, during each business day, regularly inspect the walls between the viewing booths to determine if any openings or holes exist.

(13) The licensee shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.

(14) The licensee shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed or, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used.

(Prior Code, § 8-4-81)

(D) *Escort agencies regulations.* An escort agency shall not employ any person under the age of 18 years.

(Prior Code, § 8-4-82)

(E) *Nude model studios regulations.*

(1) A nude model studio shall not employ any person under the age of 18 years.

(2) A person under the age of 18 years commits an offense if the person appears semi-nude or in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this division (E)(2) the person under 18 years was in a restroom not open to public view to any other person.

(Prior Code, § 8-4-83)

(3) A nude model studio shall not place or permit a bed, sofa or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public.

(F) *Public nudity regulations.*

(1) It shall be a Class C misdemeanor for a person who knowingly and intentionally, in an adult oriented business, appears in a state of nudity or depicts specified sexual activities.

(2) It shall be a Class C misdemeanor for an employee, while semi-nude in an adult oriented business, to solicit any pay or gratuity from any patron or customer or for any patron or customer to pay or give any gratuity to any employee, while said employee is semi-nude in an adult oriented business.

(3) It shall be a Class C misdemeanor for an employee, while semi-nude, to touch a customer or the clothing of a customer.

(Prior Code, § 8-4-84)

(G) *Children in adult oriented business prohibited.* A person commits a Class C misdemeanor if the person knowingly allows a person under the age of 18 years on the premises of an adult oriented business.

(Prior Code, § 8-4-85)

(H) *Hours of operation.* No adult oriented business, except for an adult motel, may remain open at any time between the hours of 1:00 a.m. and 8:00 a.m. on weekdays and Saturdays, and 1:00 a.m. and 12:00 p.m. on Sundays.
(Prior Code, § 8-4-86)

(I) *Exemptions.* It is a defense to prosecution under division (F) above that a person appearing in a state of nudity did so in a modeling class operated:

(1) By a proprietary school, licensed by the state; a college, community college or university supported entirely or partly by taxation, or by a private college or university which maintains and operates educational programs in which credits are transferable to a college, community college or university supported entirely or partly by taxation; and

(2) In a structure:

(a) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing;

(b) Where, in order to participate in a class a student must enroll at least three days in advance of the class; and

(c) Where no more than one nude model is on the premises at any one time.
(Prior Code, § 8-4-87)

(J) *Injunction.* A person who operates or causes to be operated an adult oriented business without a valid driver's license or in violation of § 40-5-12 of the Zoning Code is subject to a suit for injunctive and/or declaratory relief in a court of competent jurisdiction, as well as prosecution for criminal violations.
(Prior Code, § 8-4-88)
Penalty, see § 114.99

§ 114.99 PENALTY.

(A) Anyone violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) A person who operates an adult business, or his or her agent or employee, commits a Class C misdemeanor, punishable by a fine of \$500, if the person refused to permit such lawful inspection of the premises at any time it is open for business (in violation of § 114.18).
(Prior Code, § 8-4-67)

(C) (1) A person commits a Class C misdemeanor (punishable by a fine of \$500) if, as the person in control of a sleeping room in a hotel, motel or similar commercial establishment that does not have an adult oriented license, he or she rents or subrents a sleeping room to a person and, within ten hours from the time the room is rented, he or she rents or subrents the same room again (in violation of § 114.22(B)).

(2) For purposes of division (C)(1) above, the terms **RENT** or **SUBRENT** mean the act of permitting a room to be occupied for any form of consideration.
(Prior Code, § 8-4-80)

(D) A person having a duty under § 114.22(C)(1) commits a Class C misdemeanor (punishable by a fine of \$500) if he or she knowingly fails to fulfill that duty.
(Prior Code, § 8-4-81)

(E) A person commits a Class C misdemeanor (punishable by a fine of \$500) if the person acts as an escort or agrees to act as an escort for any person under the age of 18 years (in violation of § 114.22(D)).
(Prior Code, § 8-4-82)

(F) A person commits a Class C misdemeanor (punishable by a fine of \$500) offense if the person appears in a state of nudity, or knowingly allows another person to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right-of-way (in violation of § 114.22(E)).
(Prior Code, § 8-4-83)

(G) Public nudity regulations:

(1) It shall be a Class C misdemeanor (punishable by a fine of \$500) for a person who knowingly and intentionally, in an adult oriented business, appears in a state of nudity or depicts specified sexual activities (in violation of § 114.22(F)(1));

(2) It shall be a Class C misdemeanor (punishable by a fine of \$500) for an employee, while semi-nude in an adult oriented business, to solicit any pay or gratuity from any patron or customer or for any patron or customer to pay or give any gratuity to any employee, while said employee is semi-nude in an adult oriented business (in violation of § 114.22(F)(2)); and

(3) It shall be a Class C misdemeanor (punishable by a fine of \$500) for an employee, while semi-nude, to touch a customer or the clothing of a customer (in violation of § 114.22(F)(3)).
(Prior Code, § 8-4-84)

(H) Children in adult oriented business prohibited: a person commits a Class C misdemeanor (punishable by a fine of \$500) if the person knowingly allows a person under the age of 18 years on the premises of an adult oriented business (in violation of § 114.22(G)).
(Prior Code, § 8-4-85)

(I) Violations of § 114.22(J) shall be deemed a Class C misdemeanor punishable by a fine of \$750. Each day an adult oriented business so operates is a separate offense or violation.
(Prior Code, § 8-4-88)

CHAPTER 115: FOOD ESTABLISHMENTS

Section

General Provisions

- 115.01 Program mission
- 115.02 Adoption by reference
- 115.03 Definitions

Permit Requirements

- 115.15 Permit required
- 115.16 Permit issuance
- 115.17 Permit renewals
- 115.18 Permit updates
- 115.19 Permit suspension
- 115.20 Reinstatement of a suspended permit
- 115.21 Permit revocation

Administration

- 115.30 Food establishment construction or remodeling
- 115.31 Food-borne disease survey
- 115.32 Embargo and condemnation

Inspections

- 115.45 Permit classifications
- 115.46 Inspection frequency
- 115.47 Right of entry

Hearings

- 115.60 Hearing before the health authority
- 115.61 Hearing before the Board of Health

- 115.99 Penalty

GENERAL PROVISIONS**§ 115.01 PROGRAM MISSION.**

In order to protect the citizens within its jurisdiction from contracting and transmitting food-borne diseases, the County Health Department shall perform a comprehensive food protection program. The County Health Department shall undertake activities to identify, reduce and, whenever possible, eliminate factors that may cause food-borne illnesses in order to reduce the incidence of food-borne illnesses.

(Ord. 18-73, passed 8-20-2018)

§ 115.02 ADOPTION BY REFERENCE.

(A) In addition to those provisions set forth herein, this chapter hereby adopts by reference the current edition and subsequent revisions of the following:

- (1) Illinois Department of Public Health Food Code, 77 Ill. Admn. Code 750;
- (2) Food Handling Regulation Enforcement Act, 410 ILCS 625;
- (3) Bed and Breakfast Act, 50 ILCS 820/1 et seq.;
- (4) Smoke Free Illinois Act, 410 ILCS 82.

(B) The program shall include enforcement authority as outlined in the County Health Department food inspection and enforcement procedures. The Board of Health shall have the authority to establish and determine such procedures.

(Ord. 18-73, passed 8-20-2018)

§ 115.03 DEFINITIONS.

In addition to the definitions contained § 115.02, the following definitions shall apply in the interpretation and enforcement of this chapter.

ADULTERATED. The condition of any food:

- (1) If it bears or contains any poisonous or deleterious substance in a quantity that may render it injurious to health; or

(2) If it bears or contains any added poisonous or deleterious substance for which no safe tolerance has been established by regulation, or in excess of such tolerance of one that has been established; or

(3) If it consists, in whole or in part, of any filthy, putrid or decomposed substance, or if it is otherwise unfit for human consumption; or

(4) If it has been processed, prepared, packed or held under unsanitary conditions whereby it may have been contaminated with filth or whereby it may have been rendered injurious to health; or

(5) If it is, in whole or in part, the product of a diseased animal or animal that has died otherwise than by slaughter; or

(6) If its containers are composed, in whole or in part, of any poisonous or deleterious substance that may render their contents injurious to health.

BOARD OF HEALTH or **PUBLIC HEALTH BOARD.** The Effingham County Board of Health.

EXTENSIVELY REMODELED. Whenever an existing structure is converted for use as a food establishment, or whenever any structural additions or alterations are made to existing establishments; such as, changes, modifications and extensions of plumbing systems, excluding routine maintenance.

FOOD. Any raw, cooked or processed edible substance, ice, beverage or ingredient used or intended for use or sale, in whole or in part, for human consumption.

FOOD ESTABLISHMENT.

(1) An operation that:

(a) Stores, prepares, packages, serves, vends food directly to the consumer, or otherwise provides human consumption, such as a restaurant, satellite- or catered-feeding location, catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people, market, vending location, conveyance used to transport people, institution or food pantry; and

(b) Relinquishes possession of food to a consumer directly, or indirectly, through a delivery service such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers.

(2) Includes:

(a) An element of the operation, such as transportation vehicle or a central preparation facility, that supplies a vending location or satellite-feeding location, unless the vending or feeding location is permitted by the regulatory authority; and

(b) An operation that is conducted in a mobile, stationary, temporary or permanent facility or location. This inclusion applies regardless of where consumption is, on or off the premises, and where there is a charge for food.

(3) Does not include:

(a) An establishment that offers only prepackaged foods that are not time- or temperature-controlled for safety food;

(b) A produce stand that only offers whole, uncut, fresh fruits and vegetables;

(c) A food-processing plant, including those that are located on the premises of a food establishment;

(d) A kitchen in a private home, such as a small family daycare provider or a bed and breakfast operation, as defined in the Bed and Breakfast Act, 50 ILCS 820/1 et seq., that prepares and offers food to guests;

(e) A private home that receives catered or home-delivered food; a closed family function where food is prepared or served for individual family consumption; or

(f) A cottage food operation.

HEALTH AUTHORITY. The person or persons who have been designated by the County Board of Health to administer the affairs of the County Health Department (i.e., the administrator or his or her representative).

HEALTH DEPARTMENT. The County Health Department.

IMMINENT HEALTH HAZARD. Any condition or event that poses a particular, immediate hazard to the public health, such as fires, floods, total loss of refrigeration, total loss of potable water supply, backup of sewage into an establishment, or evidence of recent food-borne illness.

MISBRANDED. The presence of any written, printed or graphic matter upon or accompanying food or containers of food that is false or misleading.

MOBILE FOOD UNIT. A vehicle-mounted food service establishment designed to be readily movable.

NOT-FOR-PROFIT ORGANIZATION. An organization recognized as such pursuant to the laws of the State of Illinois. This definition does not include organizations in possession of any annual liquor license.

PERMIT HOLDER. Any person, or his or her agent, who applies for a permit to operate pursuant to this chapter.

PERSON. An individual, firm, partnership, co-partnership, company, corporation, trustee, lessee, receiver, association, municipality, or any political subdivision or department thereof, or any other entity, or its agent.

TEMPORARY FOOD ESTABLISHMENT. A food establishment that operates at a fixed location for more than two consecutive days, but less than 14 consecutive days, in conjunction with a single event or celebration.

(Ord. 18-73, passed 8-20-2018)

PERMIT REQUIREMENTS

§ 115.15 PERMIT REQUIRED.

(A) It shall be unlawful for any person to open for business or otherwise operate any food establishment in the county who does not possess a valid operating permit for that establishment issued by the health authority. A fine shall be assessed to any food establishment in operation without a valid permit, and the facility shall be closed until a valid permit is obtained. Only a person who complies with the requirements of this chapter, including payment of permit fees and all fines originating from enforcement of the Illinois Food Code and Smoke Free Illinois Act, 410 ILCS 82, shall be eligible to receive and retain such a permit.

(B) Permits must be conspicuously posted. Permits shall be annual, except that the Health Department may issue temporary food establishment permits as necessary. All persons complying with this chapter shall be entitled to receive such a permit. Permits may not be transferred from one person to another, nor from one location to another, A valid permit is one that is not suspended, revoked or expired. Establishments closed for more than three weeks may be required to procure a new permit from the Health Department. The Board of Health shall have the authority to establish and determine fees for permits.

(Ord. 18-73, passed 8-20-2018)

§ 115.16 PERMIT ISSUANCE.

(A) Any person desiring to operate a food establishment must comply with any existing county or city zoning provisions, where applicable, and shall make written application for a permit, on forms provided by the Health Department, a minimum of 30 business days prior to the proposed date of opening.

(B) Whenever a food establishment is to be newly constructed or extensively remodeled, prepared plans for construction or remodeling shall be submitted to the Health Department in accordance with § 115.30 of this chapter. The applicant shall have all plumbing installed by a licensed plumber, subject to approval by a state plumbing inspector.

(C) Any person desiring to operate a temporary food establishment must comply with any existing county or city zoning provisions, where applicable, and shall make written application for a permit, on forms provided by the Health Department, a minimum of five business days prior to the proposed date of opening at the anticipated event. Failure to do so may result in rejection of the application and denial of the permit. Applications submitted to the Health Department less than five business days prior to the proposed date of opening at the event specified on the application shall be assessed a penalty fee.

(D) Upon receipt of such an application and permit fee, the Health Department shall make any necessary inspections of the establishment to determine compliance with the provisions of this chapter. When inspections determine that the applicable requirements have been met, a permit shall be issued to the applicant by the Health Department.

(Ord. 18-73, passed 8-20-2018)

§ 115.17 PERMIT RENEWALS.

(A) All permits issued by the Health Department to permanent food establishments in the county expire on December 31 of each year. Annual renewal of permits shall be required for continued operation of the food establishment. Any person desiring to renew a permit shall make written application on forms provided by the Health Department.

(B) All fees for the annual renewal of permits are due 15 days prior to the permit expiration date. Persons failing to submit the appropriate fee and renewal application by the above-stated renewal due date shall be assessed a late payment penalty in addition to the appropriate permit fee.

(C) Any person failing to submit the total fee and renewal application by December 31 shall be considered to be operating a food establishment without a valid permit. Failure of any food establishment in the county to possess a valid permit at any time of operation constitutes a violation of this chapter, and subjects the food establishment to penalties as outlined in this chapter.

(Ord. 18-73, passed 8-20-2018)

§ 115.18 PERMIT UPDATES.

(A) The permit holder has an affirmative and continuing requirement to update the original and all renewal applications. As a result, the permit holder must inform the Health Department of any changes in the information listed in these applications within 30 days.

(B) Failure to comply with the requirements of this section, or knowingly furnishing false information on the original or renewal applications, shall be grounds for immediate suspension or revocation of any permit issued pursuant to this chapter.

(Ord. 18-73, passed 8-20-2018)

§ 115.19 PERMIT SUSPENSION.

(A) Permits may be temporarily suspended by the health authority upon notice to the permit holder of the same. Permit suspension shall result in the immediate cessation of all food-related operations, including the use or sale of any food, in whole or in part, intended for human consumption.

(B) Reasons for suspending the permit include, but are not limited to, the following:

(1) Failure to comply with the provisions of this chapter;

(2) Failure to comply with the provisions of this chapter after notification by the health authority;

(3) Failure to comply with the provisions of this chapter within the time established by the health authority;

(4) Interference with the health authority in the performance of their duties, including, but not limited to, failure to allow the health authority access to the permit holder's building or records;

(5) Failure to update the original and renewal applications, as required by this chapter;

(6) Knowingly furnishing false information on the original or renewal applications; or

(7) Failure to comply with notices or citations issued for violations of the Smoke Free Illinois Act, 410 ILCS 82, including, but not limited to, receiving a Smoke Free Illinois citation, failing to request a hearing to contest the notice or citation within ten calendar days, and failing to pay the fine within 28 calendar days, or failing to obey the findings and final order of an Illinois Department of Public Health administrative judge.

(C) Upon making a determination that a suspension is appropriate, the health authority shall advise the permit holder, or their managing or registered agent, in writing, of the intended suspension. The notice shall be delivered in person by the health authority or sent via certified mail.

(D) The permit holder may make a written request for a hearing if it is filed with the health authority by the permit holder within five business days.

(E) Notwithstanding the other provisions of this chapter, permits for food establishments may be suspended without warning, notice or hearing when, in the judgment of the health authority, unsanitary or other prohibited conditions exist that will result in an imminent health hazard to the public.

(1) Upon making a determination that a suspension without notice is appropriate, the health authority shall immediately, without warning or notice, advise the license holder of the condition and all food service operations shall be immediately discontinued.

(2) Any permit holder to whom such an order is issued shall comply immediately and surrender the suspended permit to the health authority.

(3) Before resuming operations following a suspension of service imposed by the health authority because imminent health hazards were identified, the facility must successfully pass a re-inspection by the health authority to assure the identified imminent health hazards have been eliminated.

(Ord. 18-73, passed 8-20-2018)

§ 115.20 REINSTATEMENT OF A SUSPENDED PERMIT.

(A) Any permit holder whose permit has been suspended may request, in writing, a re-inspection by the health authority to determine if corrections have been made, for the purpose of reinstatement of the permit.

(1) The request shall include a statement signed by the permit holder that, in his or her opinion, the conditions causing suspension of the permit have been corrected.

(2) Within ten business days following receipt of a written request, the health authority shall make a re-inspection.

(B) Suspended permits shall be reinstated when corrections are made and the applicant is in compliance with the requirements of this chapter, including payment of the permit reinstatement fee and all fines originating from enforcement of the Smoke Free Illinois Act, 410 ILCS 82, or if the health authority grants a variance to the requirements.

(Ord. 18-73, passed 8-20-2018)

§ 115.21 PERMIT REVOCATION.

(A) Permits may be revoked by the health authority upon notice to the permit holder of the same.

(B) Reasons for revoking the permit include, but are not limited to, the following;

- (1) A serious violation of the provisions of this chapter;
- (2) Repeatedly failing to comply with the provisions of this chapter; or

(3) Interference with the health authority in the performance of their duties, including, but not limited to, failure to allow the health authority access to the permit holder's building or records.

(C) (1) Upon making a determination that a revocation is appropriate, the health authority shall advise the permit holder, or his or her managing or registered agent, in writing, of the intended revocation.

(2) The notice shall be delivered in person by the health authority or sent via certified mail, indicating that the permit shall be permanently revoked at the end of five days following service of such notice, unless the permit holder files a written request for a hearing with the health authority within the five-day period.

(Ord. 18-73, passed 8-20-2018)

ADMINISTRATION

§ 115.30 FOOD ESTABLISHMENT CONSTRUCTION OR REMODELING.

(A) Whenever any food establishment is to be constructed or extensively remodeled, or whenever an existing structure is to be converted to use as a food establishment, plans and specifications for such construction, remodeling or conversion shall be submitted to the Health Department for review and approval before construction, remodeling or conversion may begin.

(B) The plans and specifications shall indicate the proposed layout, arrangement, mechanical plans and construction materials of work areas, and the type and specification of fixed equipment and facilities, insofar as food preparation, storage and restroom facilities are concerned.

(C) A pre-opening inspection shall be conducted to inspect the establishment prior to the beginning or resumption of operations to determine compliance with the approved plans and specifications, and with the requirements of this chapter.

(Ord. 18-73, passed 8-20-2018)

§ 115.31 FOOD-BORNE DISEASE SURVEY.

(A) A surveillance and control system shall be established to monitor, identify and record instances of food-borne disease; to detect sources of contamination; to establish factors that contribute to

outbreaks; and to recommend preventive and control measures and take appropriate action to prevent further spread of disease.

(B) Hazardous food shall be identified and its distribution shall be restricted in accordance with procedures that include the following:

(1) Identification of and prohibition against foods that are unsafe and pose a potential threat to health and safety;

(2) Hold or embargo authority, criteria for destruction of adulterated or contaminated foods, and notification of recalls;

(3) Investigation of facilities upon receipt of complaints, following events such as fire, natural disaster and other occurrences that may compromise food safety;

(4) Establishment of a system to encourage community reporting of food-borne illness to the local health department, which will notify the Department within 24 hours of occurrence, whenever possible;

(5) Information shall be made available to the general public concerning prevention of food-borne illness and describing proper ways for storing, preparing, canning, preserving, and serving food; and

(6) Information shall be made available to primary and secondary schools to instruct children regarding food sanitation, personal hygiene and related subjects.

(Ord. 18-73, passed 8-20-2018)

§ 115.32 EMBARGO AND CONDEMNATION.

(A) Food may be examined or sampled by the health authority to determine freedom from adulteration or misbranding. Upon written notice to the permit holder, the health authority may condemn or embargo equipment or food they determine or have probable cause to believe to be unwholesome or otherwise unfit for use. Such conditions include, but are not limited to:

(1) Food that has been adulterated;

(2) Food that has been misbranded;

(3) Time/temperature control for safety food is found to be in the optimal temperature range for the growth of pathogenic, food-borne bacteria as defined in the Illinois Food Code;

(4) Where equipment used in the preparation of food products is found to be in a state of disrepair, unsafe, unsanitary or unsuitable for use in the preparation, display or service of food; or

(5) In the event that food is contaminated as a result of fire, flood, sewage backup, power outage or similar events.

(B) Condemned or embargoed food may be permitted to be suitably stored unless storage is not possible without risk to the public health; in which case immediate destruction shall be ordered and accomplished.

(C) It shall be unlawful for any person to remove or alter a condemnation or embargo order, notice or tag placed on food or food containers by the health authority. No such food, or containers thereof, shall be relabeled, replaced, reprocessed, altered, disposed of, or destroyed without the permission of the health authority, except with an order by a court of competent jurisdiction.

(D) Where equipment used in the preparation of food products is found to be in a state of disrepair, unsafe, unsanitary or unsuitable for use in the preparation, storage, display or service of food, it shall be taken out of use, and a hold order placed on it by the health authority.

(1) The equipment may not be put back into service until written permission is obtained from the health authority.

(2) It shall be unlawful for any person to remove or alter a hold order, notice or tag placed on equipment by the health authority.
(Ord. 18-73, passed 8-20-2018)

INSPECTIONS

§ 115.45 PERMIT CLASSIFICATIONS.

(A) The health authority shall inspect each food establishment within the county based upon the priority of the establishment. Priority will be based upon the following criteria.

(B) For each facility, the County Health Department shall annually assess the relative risks of causing food-borne illness, classifying each facility as Category I (high priority), Category II (medium priority) or Category III (low priority).

(C) ***CATEGORY I FACILITY*** means a food establishment that presents a high relative risk of causing food-borne illness, based on the large number of food-handling operations typically implicated

in food-borne outbreaks and/or the type of population served by the facility. The following criteria shall be used to classify high priority facilities:

- (1) Whenever cooling of time/temperature control for safety food occurs as part of the food-handling operations at the facility;
- (2) When time/temperature control for safety food are prepared hot or cold and held hot or cold for more than 12 hours before serving;
- (3) If time/temperature control for safety food previously cooked and cooled must be reheated;
- (4) When preparing time/temperature control for safety food for off-premises service for which time-temperature requirements during transportation, holding and service are relevant;
- (5) Whenever complex preparation of foods, or extensive handling of raw ingredients with hand contact for ready-to-eat foods, occurs as part of the food-handling operations at the facility;
- (6) If vacuum packaging, other forms of reduced-oxygen packaging, or other special processes occur at the facility; and/or
- (7) Whenever serving a highly susceptible population, where these individuals comprise the majority of the consuming population.

(D) **CATEGORY II FACILITY** means a food establishment that presents a medium relative risk of causing food-borne illness, based upon few food-handling operations typically implicated in food-borne illness outbreaks. The following criteria shall be used to classify medium risk facilities:

- (1) If hot or cold foods are held at required temperatures for no more than 12 hours and are restricted to same day service;
- (2) If preparing foods for service from raw ingredients uses only minimal assembly; and/or
- (3) Foods that require complex preparation (whether canned, frozen or freshly prepared) are obtained from approved food-processing plants, Category I food establishments, or retail food stores.

(E) **CATEGORY III FACILITY** means a food establishment that presents a low relative risk of causing food-borne illness, based upon few or no food-handling operations typically implicated in food-borne illness outbreaks. The following criteria shall be used to classify low priority facilities:

- (1) Only pre-packaged foods are available or served in the facility, and any time/temperature control for safety food available are commercially pre-packaged in an approved food-processing plant;

(2) Only limited preparation of food that is not time/temperature control for safety food and beverages, such as snack foods and carbonated beverages, occurs at the facility; and/or

(2) Only beverages, alcoholic or non-alcoholic, are served at the facility.

(F) The Health Department may reclassify a facility, based upon its experience with the facility (i.e., inspection history, number, frequency and severity of violations, corrective action, and the like), if, in its opinion, a health hazard will not result from the reclassification or the reclassification will provide better protection for the public. The basis for this decision must be documented (Ord. 18-73, passed 8-20-2018)

§ 115.46 INSPECTION FREQUENCY.

(A) Facilities shall be inspected at least as often as prescribed by the following schedule.

(1) Category I facilities shall receive at least three inspections per year, or two inspections per year if one of the following conditions is met:

(a) A certified food protection manager is present at all times the facility is in operation;
or

(b) Employees involved in food operations receive a HACCP-training exercise, in-service training in another food service sanitation area, or attend an educational conference on food safety or sanitation.

(2) Category II facilities shall receive at least one inspection per year.

(3) Category III facilities shall receive at least one inspection every two years.

(B) The health authority shall conduct re-inspections as necessary to determine compliance with this chapter. Re-inspections, consultation and enforcement actions shall be conducted in accordance with County Health Department's food inspection and enforcement procedures as necessary to ensure correction of deficiencies and violations of applicable ordinances, agreements or rules.

(C) In the event of an imminent health hazard, the food establishment owner shall immediately notify the health authority so that an inspection can be performed.
(Ord. 18-73, passed 8-20-2018)

§ 115.47 RIGHT OF ENTRY.

After proper identification, the health authority shall have access at any reasonable time to any establishment regulated by this chapter. For the purpose of this section, *REASONABLE TIME* shall mean at all times the establishment is open to the public. The health authority shall be permitted to examine all areas and records of the establishment that are reasonably necessary to their inspection or investigation. Denial of access, as herein provided, shall be deemed as interference with the health authority in the performance of their duties, including, but not limited to, denial of access to the license holder's building or records.

(Ord. 18-73, passed 8-20-2018)

HEARINGS**§ 115.60 HEARING BEFORE THE HEALTH AUTHORITY.**

(A) Any person affected by any order or notice issued by the health authority in connection with the enforcement of any section of this chapter, may file with the office of the Health Department a written request for a hearing before the health authority.

(1) The health authority shall designate the time and place of the hearing to take place within 30 days of the date in which the written request was filed.

(2) The petitioner for the hearing shall be notified of the time and place of the hearing not less than five days prior to the date on which the hearing is to be held.

(B) If, as a result of the hearing, the health authority finds that strict compliance with the order or notice would cause undue hardship on the petitioner, and that the public health would be adequately protected and substantial justice done by varying or withdrawing the order or notice, the health authority may modify or withdraw the order, or make requirements in addition to those prescribed in this chapter for the purpose of properly protecting the public health.

(C) The health authority shall render a decision within ten days after the date of the hearing, which shall be reduced to writing and placed on file in the office of the County Health Department as a matter of public record.

(D) Any person aggrieved by the decision of the health authority may seek relief through a hearing before the County Board of Health.

(Ord. 18-73, passed 8-20-2018)

§ 115.61 HEARING BEFORE THE BOARD OF HEALTH.

(A) Any person aggrieved by the decision of the health authority rendered as the result of a hearing held in accordance with § 115.60 may file with the President of the County Board of Health a written request for a hearing before the Board of Health.

(1) The President of the County Board of Health shall designate the time and place of the hearing to take place within 30 days of the date on which the request was filed.

(2) The petitioner for the hearing shall be notified of the time and place of the hearing not less than five days prior to the date on which the hearing is to be held.

(C) (1) If, as a result of facts elicited as a result of the hearing, the County Board of Health finds that strict compliance with the decision of the health authority would cause undue hardship on the petitioner and that the public health would be adequately protected and substantial justice done by granting a variance from the decision of the health authority, the County Board of Health may grant a variance.

(2) As a condition for granting the variance, the County Board of Health may, where it deems necessary, make requirements in addition to those prescribed by this chapter, all for the purpose of properly protecting the public health.

(D) The County Board of Health shall render a decision within ten days after the date of the hearing, which shall be reduced to writing and placed on file in the office of the County Health Department. A copy the decision shall be served on the petitioner personally or by delivery to the petitioner via certified mail.

(Ord. 18-73, passed 8-20-2018)

§ 115.99 PENALTY.

(A) Any person who violates any provision of this chapter shall, upon conviction, be assessed a fine of not less than \$50 nor more than \$500.

(1) Each and every violation of the provisions of this chapter shall constitute a separate offense.

(2) Each day a particular violation exists shall constitute a separate offense.

(B) The County State's Attorney shall bring such actions in the name of the People of the State of Illinois, or may bring action for an injunction to restrain such violation or to enjoin the operation of any such establishment causing such violation.

(Ord. 18-73, passed 8-20-2018)

