

KALKASKA CODE-BUSINESS REGULATIONS

TITLE XI: BUSINESS REGULATIONS

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CHAPTER 110: GENERAL LICENSING PROVISIONS

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Cross-reference:

Liquor licensing, see §§ 111.20 et seq.

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§ 110.01 LICENSE REQUIRED

No person shall engage in the operation, conduct, or carrying on of any trade, profession, business, or privilege for which any license is required by this code or any other ordinance of the village without first obtaining a license from the village in the manner provided for in this chapter and the chapter of this code requiring such license.

('67 Code, § 7.01) Penalty, see § 10.99

§ 110.02 CONDITIONS OF ISSUANCE

No license shall be granted or delivered until the applicant therefore has complied with all the conditions precedent to its issue, as set forth in the chapter of this code requiring such license.

('67 Code, § 7.02) Penalty, see § 10.99

§ 110.03 APPLICATION.

(A) Unless otherwise provided in this chapter, a person required to obtain a license from the village to engage in the operation, conduct, or carrying on of any trade, profession, business, or privilege shall make application for a license to the Clerk upon forms provided by the Clerk.

(B) All statements required to be made as to facts, which are required for, or applicable to the granting of any license required by the village shall be made under oath or affirmation.

('67 Code, § 7.03) Penalty, see § 10.99

§ 110.04 INVESTIGATION.

The Clerk may refer any application for a license to the Chief of the Police Department, the Chief of the Fire Department, or the Health Officer for an investigation and recommendation on matters pertaining to the public safety, health, or welfare which are or may be involved in the exercise of the license applied for, and the Clerk may require the giving of fingerprints and such other information as may be necessary to establish the identity of the applicant.

('67 Code, § 7.04)

§ 110.05 TERMINATION.

(A) Unless otherwise provided in this chapter, the license shall begin on May 1 each year and shall terminate on April 30 of the following year. Annual licenses issued after May 1 in any year shall terminate on April 30 of the following year.

(B) In all cases where the provisions of this chapter permit the issuance of licenses for a period of less than one year, any license so issued shall become effective on the date of the issuance thereof and shall terminate at the end of the period for which it is issued.

('67 Code, § 7.05) Penalty, see § 10.99

§ 110.06 STATE LICENSE.

No license required by this chapter shall be issued to any person who is required to have a license or permit from the state, until that person shall submit evidence that he has secured the state license or permit.

('67 Code, § 7.06)

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§ 110.07 RENEWAL.

Applications for the renewal of any license shall be considered to be and shall be treated in the same manner as an original application for a license. ('67 Code, § 7.07)

§ 110.08 EXEMPTION FROM FEE.

No license shall be issued by the Clerk under this chapter except upon payment of the fee or fees there for provided in § 110.15, provided, however, that no license fee shall be required to be paid by any person exempt from the payment of such fee by any provision of state or federal law. Such persons shall comply with all other provisions of this chapter.

('67 Code, § 7.08) Penalty, see § 10.99

§ 110.09 NONTRANSFERABILITY.

Licenses issued by the village shall not be transferable, unless specifically authorized by the section of this code requiring it, and then only in accordance with the provisions of that section.

('67 Code, § 7.09) Penalty, see § 10.99

§ 110.10 APPEAL TO COUNCIL.

An applicant for any license who has been refused a license, for any reason, by the authorized issuing officer may appeal the refusal to the Council by setting forth all the facts in a written petition and filing it with the Clerk. The Council may act on the petition upon the facts set forth therein or may grant a further hearing to the applicant. The decision of the Council on the appeal shall be final.

('67 Code, § 7.10)

§ 110.11 SUSPENSION AND REVOCATION.

(A) *Authorization.* Any license required by this chapter may be suspended or revoked, or the renewal thereof refused, for misrepresentation of any material fact in the application for the license or for any good cause by the Council, or by the officer of the village to whom application was required to be made to secure the license.

(B) *Definition. GOOD CAUSE.* Any act, omission, or the permitting of a condition to exist, with respect to the license in question, which is:

- (1) Contrary to the health, morals, safety, or welfare of the public;
- (2) Unlawful or fraudulent in nature;
- (3) A violation of the section under which the license was granted;
- (4) Beyond the scope of the license issued;
- (5) A fact, circumstance, or condition which, had it existed or been known to the issuing authority at the time the license was granted, would have been sufficient grounds for refusal thereof. ('67 Code, § 7.11)

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§ 110.12 NOTICE OF REVOCATION OF LICENSE; HEARING.

No license issued under this chapter shall be revoked except after hearing before the Council following not less than ten days notice to the licensee stating the time and place of the hearing and setting forth the reasons for revocation. The notice shall be given by the Clerk.

('67 Code, § 7.12)

§ 110.13 EXHIBITION OR CARRYING OF LICENSE REQUIRED.

(A) *Licensee to display or carry license.* No person to whom a license has been granted shall fail to carry such license upon his person when engaged in the operation, conduct, or carrying on of the trade, profession, business, or privilege for which the license was granted; except that where the trade, profession, business, or privilege is operated, conducted, or carried on at a fixed place or establishment, the license shall be exhibited at all times in some conspicuous place in the place or establishment.

(B) *Licensee to display on request.* No person shall fail to produce any license granted by the village when requested to do so by any village police officer or the Health Officer or by any person representing the issuing authority.

('67 Code, § 7.13) Penalty, see § 10.99

§ 110.14 RECORD OF LICENSES.

The Clerk shall keep a record of all applications for licenses made under this chapter, indicating whether the license applied for in each case has been granted or withheld, and if withheld, the reasons therefore.

('67 Code, § 7.14)

§ 110.99PENALTY

Any person, firm or corporation that violates any section of this chapter is responsible for a Municipal Civil Infraction as prescribed in Section 10.99 (A).

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CHAPTER 111: ALCOHOLIC BEVERAGES

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111.56 Nontransferability

Cross-reference:

Entertainment permits, see §§ 112.01 et seq.

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GENERAL PROVISIONS

§ 111.01 DEFINITIONS.

Words used in this section shall have their usual and customary meaning, provided, however, that all words defined in Public Act 8 of 1933 (Extra Session) as amended, being M.C.L.A. §§ 436.1 et seq., and used in this section, shall have the meaning given in that act.
(‘67 Code, § 4.23)

§ 111.02 VIOLATION OF STATE LAW.

Any violation not mentioned in this chapter shall be punishable according to applicable state law, rules and/or regulation pertaining to alcoholic liquor as adopted by any authorized agency of the state.
(‘67 Code, § 4.24)

§ 111.03 CONSUMPTION OF ALCOHOLIC LIQUOR PROHIBITED IN PUBLIC.

(A) No alcoholic beverages shall be consumed in public streets, parks, or in any other public place, including any store or establishment doing business with the public not licensed to sell alcoholic beverages for consumption on the premises.

(B) No person who owns, operates, or controls any such store or establishment shall permit the consumption of alcoholic beverages therein.
(‘67 Code, § 4.25)

§ 111.04 SALE TO MINORS PROHIBITED; MISREPRESENTATION.

(A) *Minimum drinking age.* It shall be unlawful for any person under the age of 21 years to offer to buy, obtain, or drink any alcoholic liquor in any place where alcoholic liquor is sold, and for any person to furnish, sell, give, or offer any alcoholic liquor to any person under the age of 21 years in any place where alcoholic liquor is sold.

(B) *False representation.* It shall be unlawful for any person under the age of 21 years to represent himself falsely to be 21 years of age or over and thereby procure the sale or furnishing to himself of any alcoholic liquor, and for any person to make false statements as to the age of another for the purpose of inducing the sale or furnishing to any person under the age of 21 years any alcoholic liquor.

(C) *Right to request identification.* The person in charge of any place where alcoholic liquor is sold shall have the right at any time to demand of any person offering to buy, buying, or obtaining any alcoholic liquor, satisfactory identification of the age of that person, and on failure of that person to show satisfactory identification of his age, may refuse to serve such person with any alcoholic liquor and may exclude that person from the place of business. If any such person shall refuse to leave the place of business, he shall be deemed a disorderly person.
(‘67 Code, § 4.26)

§ 111.05 SALE ON SUNDAYS AND HOLIDAYS PROHIBITED.

No licensees shall sell or permit the sale of any alcoholic beverage until after 12 noon on Sundays and on legal holidays as governed by the state and county law.
(‘67 Code, § 4.27)

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LICENSING

§ 111.20 PURPOSE; EXCEPTION TO SUBCHAPTER.

The purpose of this subchapter is to establish standards and procedures for the review of applications, transfers, renewals and revocations of state liquor licenses by the Village Council, other than those licenses issued pursuant to the special license provisions of the Michigan Liquor Control Act. For standards to be applied in approving or denying applications and guidelines for selection among qualified applicants for available licenses.

§ 111.21 LICENSE APPLICATIONS.

(A) A person applying to the Michigan Liquor Control Commission for a new state liquor license (other than special licenses), for the transfer of an existing or renewal of existing liquor license for the sale of beer, wine, or spirits for consumption on the premises within the village, shall file with the Clerk a form signed by the applicant, if an individual, or by a duly authorized agent thereof, if a partnership or corporation, verified by oath or affidavit, containing the following statements and information:

- (1) The name, age and address of the applicant, in the case of an individual; or, in the case of a copartnership, the names, addresses and ages of persons entitled to share in the profits thereof; or, in the case of a corporation, the objects for which such corporation is organized, the names, addresses and ages of the officers and directors thereof, and, if a majority interest in the stock of such corporation is owned by one person or his or her nominee, the name, address and age of such person;
- (2) The date and place of birth if the applicant is an individual;
- (3) The character of business the applicant intends to operate;
- (4) The length of time such applicant has been in business of that character, or, in the case of a corporation, the date when its charter was issued;
- (5) The location and description of the premises or place of business, which is to be operated under such license;
- (6) A statement as to whether or not the applicant has ever made application for a similar or other license on premises other than those described in the application, and the disposition of such application;
- (7) A statement that the applicant has never been convicted of a felony and is not disqualified to receive a license by reason of any item contained in this subchapter or the laws of the state;
- (8) A statement that the applicant will not violate any laws of the state or of the United States or any ordinance of the village in the conduct of its business; and
- (9) A statement that the applicant, or its agent, does not owe any personal property taxes to the village.

(B) The form shall be accompanied by building plans, unless the same are already on file with the village, and with plans showing the entire structure and premises and, in particular, the specific areas

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where the license is to be utilized. The plans shall demonstrate adequate off-street parking, lighting and refuse disposal facilities, and, where appropriate, adequate plans for screening and noise control, as provided under the zoning code, the building and fire code of the village and the Kalkaska County Building Code.

(C) All such forms shall be promptly forwarded by the Village Clerk, the Village Manager, the Police Department, the Fire Department, the Village Treasurer, the County Health Department, or any other department deemed necessary for written review prior to Village Council review.

(D) The following are standards which shall govern the Village Council in granting or denying any application for issuance, renewal, transfer to a new licensee or a new location, or revocation of any license to sell beer, wine, and spirits.

(1) The applicant, or the partners or shareholders of the applicant must be of good moral character whose criminal record evidences the applicants willingness and ability to obey village ordinances, state and federal laws, and the regulations of the Michigan Liquor Control Commission.

(2) The Chief of Police has recommended granting of the application; provided however that the Chief of Police, in determining whether or not to recommend granting of the application shall apply as standards in so doing, those standards set forth in this subchapter.

(3) The applicant must demonstrate, upon request of the Village Manager, that he has sufficient assets for the successful operation of the licensed premises;

(4) The licensed premises has not caused nor will be likely to cause law enforcement problems to the degree or extent that effective law enforcement in the remainder of the village has been, or will be impaired or denied;

(5) The licensed premises, or premises proposed to be licensed, has in full force and effect a certificate of occupancy as required pursuant to village ordinances;

(6) The applicant or applicants transferor is current in payment to the village of personal property taxes, assessments, utilities and any other lawful charges due the village;

(7) That the licensed premises, or premises proposed to be licensed, has adequate off-street and on-street parking, lighting, refuse disposal facilities, screening, and noise or nuisance control.

(8) The licensed premises, or premises proposed to be licensed, is reasonably harmonious with adjacent land uses and with the attitudes of adjacent residents and property owners; and that the premises have convenient access from abutting roads which are capable of accommodating increased commercial activity.

§ 111.22 PERIODIC INSPECTIONS.

The village, through the Police Department, and any other departments deemed necessary, shall review all sites and locations which are licensed by the Michigan Liquor Control Commission for the sale of beer, wine or spirits within the village, and on an annual basis, but under no circumstances later than 30

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days prior to the time set for the renewal of the applicable license, and forward to the Village Council a written recommendation concerning any violation.

§ 111.23 INVESTIGATION OF COMPLAINTS.

At any time, the village, through the Managers Office, the Police Department, the Fire Department or any other department deemed necessary, may investigate complaints regarding activities, conduct or conditions existing on any premises licensed by the Michigan Liquor Control Commission for the sale of beer, wine or spirits, whether or not for consumption on the premises, and forward to the Village Council written recommendations concerning the possible revocation of any state Liquor License.

§ 111.24 APPLICATION FEE.

The Village Council may establish an application fee to defray reasonable costs of application processing required by this subchapter.

§ 111.25 CRITERIA FOR REVOCATION OR OBJECTION TO TRANSFER, ISSUANCE OR RENEWAL OF LICENSES.

Upon determination of the existence of any one or more of the following elements, grounds or conditions, the village may request the Michigan Liquor Control Commission to revoke an existing license or a permit held in conjunction with the license, or object to the transfer, issuance or renewal of a license, to sell alcoholic liquor for consumption on the premises:

- (A) A person has had a license, under this subchapter or under any state law, revoked for cause in the three years preceding the date of application for a new license or transfer of an existing license.
- (B) A person, at the time of application for renewal of any license already issued under this subchapter, is not eligible for such a license upon a first application, as determined by state or Local law.
- (C) One or more of the members of a copartnership are not qualified to obtain a license. A limited partnership qualifies for a license if all general partners are qualified to obtain such a license, irrespective of the fact that other partners may not be so qualified.
- (D) Any officer, or manager or director of a corporation, or a stock owner or stockholder owning in the aggregate more than 10% of the stock of such corporation, is not eligible to receive a license under this subchapter for any reason.
- (E) A person has been convicted of a violation of any federal or state law concerning the manufacture, possession or sale of alcoholic liquor or a controlled substance, and the violation occurred on the licensed premises.
- (F) There exists on the premises a violation of any of the provisions of the building code, the fire code, or the zoning code of the village or any applicable public health law and/or regulation, any Michigan Liquor Control Commission rule or regulation or any other applicable village ordinance or state law.
- (G) The Village Council determines that certain premises do not, or will not reasonably soon after the

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commencement of operations, have adequate off-street parking, lighting, refuse disposal facilities, screening and noise control, or that a nuisance does or will exist on such premises, as determined by applicable village ordinances.

(H) The Village Council determines that the proposed location is inappropriate, considering the desirability of establishing a location in developed, commercial areas, in preference to isolated, undeveloped areas; traffic safety; accessibility to the site from abutting roads; capability of abutting roads to accommodate the commercial activity; distance from public or private schools for minors; proximity of inconsistent zoning classification; and accessibility from primary roads or state highways.

(I) The applicant or licensee owes personal property taxes.

(J) The applicant or licensee has filed an application containing false information with the Village Clerk.

(K) A public nuisance is maintained on the property.

(L) The licensee or applicant fails to comply with promises or representations made by him or her to the Village Council or any conditions imposed upon such applicant or licensee as a basis for the approval. (Ord. 497, passed 3-13-95)

§ 111.26 HEARINGS.

(A) Before filing an objection to the issuance of a liquor license or to the renewal of a liquor license, or before requesting the revocation of an already existing license, with the Michigan Liquor Control Commission, the Village Council shall hold a hearing on the matter and serve the license holder and any other person known to have a legal interest in such license, by first class mail, mailed not less than 10 days prior to the hearing, with notice of the hearing, which notice shall contain the following:

- (1) Notice of the proposed action;
- (2) Reasons for the proposed action;
- (3) The date, time and place of the hearing; and
- (4) A statement that the licensee may present evidence and testimony and confront witnesses.

(B) The hearing minutes shall be recorded and minutes will be available for review by all parties. The Village Council's decision shall be final and a written statement of its findings and conclusions shall be submitted to the license holder and the Liquor Control Commission.

§ 111.27 AVAILABLE LICENSES; SELECTION AMONG QUALIFIED APPLICANTS.

When a license shall be available for issuance to a new applicant, either by lapse of a current license or by authorization and allocation of additional licenses to the village, and there exist more qualified applicants for the license or licenses than the number of new licenses available for issuance, the Village Council shall choose the most qualified applicant(s) for approval based upon the following criteria:

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(A) The location of the proposed new business and its desirability in light of its location, the preferability of locations in the central business district as opposed to outlying locations, the surrounding land uses, and its proximity to other premises licensed for on-premises consumption;

(B) The experience of the applicant;

(C) The other uses proposed to be included on the premises or in the development (e.g., restaurant, motel);

(D) The cost and size of the overall project and number of new jobs to be created by the new business;

(E) The relative suitability of the design and size of the new business to the property on which it is proposed to be located, as evidenced by any building and grounds layout diagram required to be submitted with the application;

(F) The overall development or redevelopment of the village; and,

(G) Such other relevant factors as the Village Council may deem appropriate.

ENTERTAINMENT PERMITS WITH DRESSING ROOMS

§ 111.30 POLICY.

There are only two kinds of entertainment permits:

(A) With dressing rooms; and

(B) Without dressing rooms.

(Ord. 4.33, passed 4-10-89)

§ 111.31 DEFINITIONS.

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

APPLICANT. All persons, including their agents, servants, and employees, holding a Class C liquor license issued by the Michigan Liquor Control Commission.

LICENSED PREMISE. The location at which an applicant is authorized to sell alcoholic beverages (Ord. 4.33, passed 4-10-89)

§ 111.32 LICENSE REQUIREMENTS.

(A) All applications for entertainment permits which require dressing rooms as required by rule 1413 of the Administrative Code promulgated under the Michigan Liquor Control Act shall be in writing, signed by the person requesting a permit. The applicant shall hold a Class C liquor license issued by the Michigan Liquor Control Commission.

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(B) The application must state the location of the licensed premise for which the entertainment permit is requested.

(Ord. 4.33, passed 4-10-89) Penalty, see § 10.99

§ 111.33 COMPLIANCE WITH STATE AND VILLAGE REGULATIONS.

(A) *Requirements; inspection.* The licensed premise must comply with all of the building, electrical, plumbing, mechanical, and health requirements of the state and village; further, the applicant applying agrees to an inspection of the licensed premise at a reasonable time to determine if the licensed premise complies with the building, electrical, plumbing, mechanical, and health codes of the state and village.

(B) *Inspection requests; fees.* The applicant is required to make all requests for the permits and pay all fees for advisory inspections. A true copy of the inspection results will be supplied to the chief of police.

(C) *Notice of violation.* If, after the inspection, it is determined that the licensed premise does not meet the requirements of the building, electrical, plumbing, mechanical, and health codes of the state or village, the Village Clerk shall, in writing, notify the applicant of the defects. The applicant shall have 30 days from receipt of the notice to correct the defects.

(Ord. 4.33, passed 4-10-89) Penalty, see § 10.99

Cross-reference:

Building regulations, see Ch. 150

Health, safety and sanitation, see Ch. 93

§ 111.34 PERMANENT STAGE REQUIRED.

(A) *Dimensions.* The licensed premise shall be equipped with a permanent stage at least three feet high, ten feet long, and ten feet deep for the entertainer, if the entertainment is to be dancing, monologues or dialogues.

(B) *Access.* Access to the stage for the entertainer shall be provided so that the entertainer may enter the stage without walking in the area provided for the patrons of the licensed premise; the entertainer shall be on stage during his/her performance and shall not leave the stage during the performance.

(Ord. 4.33, passed 4-10-89) Penalty, see § 10.99

§ 111.35 DRESSING ROOM REQUIRED.

A separate dressing room, apart from facilities provided for the patrons of the licensed premise, shall be furnished for the entertainer.

(Ord. 4.33, passed 4-10-89) Penalty, see § 10.99

§ 111.36 PERMIT EXCLUSION FOR CRIMINAL CONVICTIONS.

(A) The applicant for the permit shall not have been convicted of a criminal violation of the statutes of the state or any other state in the last five years or an L.C.C. violation in the last five years.

(B) In the event a criminal charge is pending in a court in the state or any other state, or the applicant has been cited for an L.C.C. violation that has not been resolved at the time the applicant submits an application, or such criminal charge or L.C.C. violation is issued prior to the Council reaching a decision on the application, the Council may withhold further action on the application until the criminal charge or the L.C.C. violation is resolved.

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(Ord. 4.33, passed 4-10-89) Penalty, see § 10.99

§ 111.37 HEARING AND NOTICE.

Within 30 days of the receipt of the application, the Clerk of the village shall set a date for a hearing on the application. Notice of this hearing shall be served by the Village Clerk upon the applicant or his/her agent by registered mail to the address on the application, not less than 15 days before the scheduled hearing.

(Ord. 4.33, passed 4-10-89)

§ 111.38 PERMIT DENIAL.

If the Village Council after due notice and proper hearings determines that the applicant has failed to comply with the requirements of this policy, it may adopt a resolution denying the application. The resolution shall state the reasons why the application was denied.

(Ord. 4.33, passed 4-10-89)

§ 111.39 NONTRANSFERABILITY.

Any entertainment permit issued by the Village Council is nontransferable. In the event the licensed premise is sold, the new owner must submit an application to the Village Council for an entertainment permit.

(Ord. 4.33, passed 4-10-89) Penalty, see § 10.99

ENTERTAINMENT PERMITS WITHOUT DRESSING ROOMS

§ 111.50 DEFINITIONS.

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

APPLICANT. All persons, including their agents, servants, and employees, holding a Class C liquor license issued by the Michigan Liquor Control Commission.

LICENSED PREMISE. The location at which an applicant is authorized to sell alcoholic beverages.
(Ord. 4.33, passed 4-10-89)

§ 111.51 LICENSE REQUIREMENTS.

(A) All applications for entertainment permits which do not require dressing rooms as required by rule 1413 of the Administrative Code promulgated under the Michigan Liquor Control Act shall be in writing, signed by the person requesting a permit. The applicant shall hold a Class C liquor license issued by the Michigan Liquor Control Commission.

(B) The application must state the location of the licensed premise for which the entertainment permit is requested.

(Ord 4.33, passed 4-10-89) Penalty, see § 10.99

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§ 111.52 COMPLIANCE WITH STATE AND VILLAGE REGULATIONS.

(A) *Requirements; inspection.* The licensed premise must comply with all health requirements of the state and village; further, the applicant applying agrees to an inspection of the licensed premise at a reasonable time to determine if the licensed premise complies with the health codes of the state and village.

(B) *Notice of violation.* If, after the inspection, it is determined that the licensed premise does not meet the requirements of the health codes of the state or village, the Village Clerk shall, in writing, notify the applicant of the defects. The applicant shall have 30 days from receipt of the notice to correct the defects. (Ord. 4.33, passed 4-10-89) Penalty, see § 10.99

Cross-reference:

Health, safety and sanitation, see Ch. 93

§ 111.53 PERMIT EXCLUSION FOR CRIMINAL CONVICTION.

(A) The applicant for the permit shall not have been convicted of a criminal violation of the statutes of the state or any other state in the last five years or an L.C.C. violation in the last five years.

(B) In the event a criminal charge is pending in a court in the state or any other state, or the applicant has been cited for an L.C.C. violation that has not been resolved at the time the applicant submits an application, or a criminal charge or L.C.C. violation is issued prior to the Council reaching a decision on the application, the Council may withhold further action on the application until the criminal charge or L.L.C. violation is resolved.

(Ord. 4.33, passed 4-10-89) Penalty, see § 10.99

§ 111.54 HEARING AND NOTICE.

Within 30 days of the receipt of the application, the Village Clerk shall set a date for a hearing on the application. Notice of this hearing shall be served by the Village Clerk upon the applicant or his/her agent by registered mail to the address on the application, not less than 15 days before the scheduled hearing.

(Ord. 4.33, passed 4-10-89)

§ 111.55 PERMIT DENIAL.

If the Village Council, after due notice and proper hearings, determines that the applicant has failed to comply with the requirements of this policy, it may adopt a resolution denying the application. The resolution shall state the reasons why the application was denied.

(Ord. 4.33, passed 4-10-89)

§ 111.56 NONTRANSFERABILITY.

Any entertainment permit issued by the village council is nontransferable. In the event the licensed premise is sold, the new owner must submit an application to the village council for an entertainment permit.

(Ord. 4.33, passed 4-10-89) Penalty, see § 10.99

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CHAPTER 112: AMUSEMENTS

Section

Public Show, Circus or Exhibition

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Cross-reference:

Liquor licensing, see §§ 111.20 et seq.

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PUBLIC SHOW, CIRCUS, OR EXHIBITION

§ 112.01 LICENSE REQUIREMENT.

No person shall conduct, maintain, or operate any carnival, public show, circus, or exhibition to which admission is obtained upon payment of money, and which has no permanent location in the village without first obtaining a license as provided in this subchapter.

('67 Code, § 7.291) Penalty, see § 10.99

§ 112.02 EXEMPTIONS.

The provisions of this subchapter shall not extend to any exhibitions by the pupils of any school, to any entertainment for the benefit of any school or church, or for any benevolent or charitable object, and nothing contained herein shall be construed to require any school, church, or those giving or responsible for any entertainment for any benevolent or charitable object to obtain a license hereunder.

('67 Code, § 7.292)

§ 112.03 APPLICATION FOR LICENSE.

The Clerk shall require that any person desiring a license under this subchapter shall state in his application the proposed location of the business, the written consent of the owner of the property, the number of employees, a description of the sanitary facilities on the property, and a sufficient description of the type of show or exhibit to apprise the Clerk of its nature.

('67 Code, § 7.30)

§ 112.04 GRANTING OF LICENSE.

(A) *Certification.* The Clerk shall not grant such license except on certification of the Police Chief, Fire Chief, and Health Officer that all requirements prescribed by this code and any other applicable ordinance of the village have been complied with and that the public peace, health and safety are adequately safeguarded.

(B) *Bond.* The applicant, before being granted a license, shall file with the Clerk a bond, approved as to form by the Village Attorney, running to the village in the amount of \$1,000. The bond shall become available in the payment of any damage to public or private property and the payment of any personal injuries resulting from the conducting, maintenance, or operating of the business and shall be further contained that the applicant shall have the premises used by him in a clean and sanitary condition.

('67 Code, § 7.31) Penalty, see § 10.99

§ 112.09 PENALTY

Any person, firm or corporation that violates any section of this chapter is responsible for a Municipal Civil Infraction as prescribed in Section 10.99 (A).

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CHAPTER 113: AUCTIONEERS

Section

- 113.01 Intent
- 113.02 Registration required
- 113.03 Application for registration; fee
- 113.04 Bond
- 113.05 Permit required
- 113.06 Application for permits; fee
- 113.07 False bidding or pretending to buy
- 113.08 Penalty

KALKASKA CODE-BUSINESS REGULATIONS

§ 113.01 INTENT.

It is in the interest of the public morals and welfare to regulate auctions and auctioneers for the preventing of deceit, misrepresentation and fraud in the selling of goods, wares, merchandise and personal property.

§ 113.02 REGISTRATION REQUIRED.

No person shall engage in the trade or business of a general or livestock auctioneer without first obtaining a registration therefore. This chapter shall not apply to any public auction or sale made or conducted by a public officer or to an auction sale conducted solely for charitable purposes where none of the proceeds are paid to the auctioneer.

§ 113.03 APPLICATION FOR REGISTRATION; FEE.

An applicant for a auctioneer's registration shall file with the Village Clerk an application and such information as shall be required by the Village Clerk and pay an annual fee in an amount established by resolution of the Village Council.

§ 113.04 BOND.

Before an auctioneer's registration is issued, the applicant for such registration shall furnish to the Village Clerk an annual surety bond in an amount established by resolution of the Village Council, which surety bond shall be conditioned for the due observance, during the time of the registration, of the laws of the state and village. Any person aggrieved by the action of any such registration shall have a right of action on the surety bond for the recovery of money or damages, or both.

§ 113.05 PERMIT REQUIRED.

No person shall conduct an auction without first obtaining a permit therefore.

§ 113.06 APPLICATION FOR PERMIT; FEE.

Any applicant for an auction permit shall request a permit from the Village Clerk no later than three days prior to holding the auction. The applicant shall provide such information as shall be required by the Village Clerk and pay a fee in an amount established by resolution of the Village Council. The applicant shall state on the application whether the auction sale shall be with or without reservation. Permits shall be granted only to applicants holding an auctioneer's registration pursuant to this chapter.

§ 113.07 FALSE BIDDING OR PRETENDING TO BUY.

At any auction sale, no person shall act as "bidder" or what is commonly known as a "capper," "booster" or "shiller" or offer to make any false bid, or offer any false bid or pretend to buy any article sold or offered for sale at any sale by auction.

§ 113.08 PENALTY.

Except for section 113.07, any violation of this chapter by a person, firm or corporation constitutes punishment as prescribed in 10.99 (A), Municipal Civil Infraction. Any person, firm or corporation that violates section 113.07 is responsible for a misdemeanor as prescribed in 10.99 (B)

KALKASKA CODE-BUSINESS REGULATIONS

CHAPTER 114: JUNKYARDS

Section

- 114.01 Definitions
- 114.02 License requirement
- 114.03 Issuance
- 114.04 Applications
- 114.05 Authority of the Village Council
- 114.06 Application fee
- 114.07 License standards
- 114.09 Penalty

KALKASKA CODE-BUSINESS REGULATIONS

§ 114.01 DEFINITIONS.

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

PERSON. Any and every, or several individuals, co-partnerships, or corporations, or any combinations thereof. All such persons violating any of the several sections of this chapter shall be equally liable for any penalties thereunder, whether acting as principals, agents, servants, or employees.

JUNK DEALER. Any person who engages in the activity of operating a junkyard.

JUNKYARD. Any place fixed in location within the village where used metal, including brass, copper, tin, and iron, used paper and rags, or used machinery, including automobiles, is brought or bought for resale, or for dismantling and stripping for resale of parts or as scrap.
(‘67 Code, § 5.01)

§ 114.02 LICENSE REQUIREMENT.

Every person and all persons engaging or to engage henceforth in the operation of a junkyard or junkyards within the confines of the village shall be required to secure a license for each location within the village and shall, in order to secure a license, be subject to the standards, regulations, and rules set forth in this chapter.
(‘67 Code, § 5.021) Penalty, see § 10.99

§ 114.03 ISSUANCE.

Licenses shall be secured from the Village Council, and subsequent to the effective date of this chapter, no junkyard shall operate as such without having secured a license.
(‘67 Code, § 5.022) Penalty, see § 10.99

§ 114.04 APPLICATIONS.

Applications for license shall be submitted to the Village Clerk in writing. An application shall contain the names and addresses of all persons having an interest in the junkyard, whether as owners, agents, servants, or employees, including all officers of any corporate persons. The application shall also contain information as to the exact location and extent of area to be used by the junkyard. Any changes shall be made known upon application for license renewal.
(‘67 Code, § 5.023)

§ 114.05 AUTHORITY OF THE VILLAGE COUNCIL.

The Village Council shall have sole authority to grant, withhold, or revoke any license in existence or applied for, but does not have sole authority for bringing action against any violation of the terms, conditions, or regulations contained herein. Upon receipt of a license application, the Village Council shall make a full and complete investigation of the location as well as the applicant, using whatever means are available to them, or whatever agents are delegated by them. Action shall be taken upon the investigation and the application as quickly as possible.
(‘67 Code, § 5.024)

KALKASKA CODE-BUSINESS REGULATIONS

§ 114.06 APPLICATION FEE.

Upon application approval, the applicant shall forthwith pay an application fee and shall thereafter pay an annual license renewal fee as established from time to time by the Village Council unless the license shall be revoked in the interim. Each license shall be good for one year from the date of issuance, but only for the location indicated thereon.

('67 Code, § 5.025)

§ 114.07 LICENSE STANDARDS.

The following standards shall be criteria for determining whether or not a license shall be granted or renewed, or revoked, as well as conditions to be complied with in the operation of any and every junkyard:

(A) All places where junk is stored in a junkyard shall be suitably and completely screened, fenced, or walled from any public street or highway.

(B) No junkyard shall be so operated or used as to create a nuisance by reason of noise, disagreeable odors, air pollution, fumes, filth or loose debris.

(C) No junk dealer shall purchase, take, receive, or acquire junk from any person that the junk dealer knows or reasonably should know or suspect is intoxicated, a thief, an associate of thieves, or a receiver of stolen property.

('67 Code, § 5.026)

§ 114.09 PENALTY

Any person, firm or corporation that violates any section of this chapter is responsible for a Municipal Civil Infraction as prescribed in Section 10.99 (A).

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CHAPTER 115: SOLICITORS

Section

General Provisions

- 115.01 Definitions
- 115.02 Permit required; exception
- 115.03 Filing false applications
- 115.04 Duration; transferability
- 115.05 Solicitation permit application
- 115.06 Solicitation permit fees
- 115.07 Solicitors distributing food
- 115.08 Permit issuance or denial
- 115.09 Hours in residential areas
- 115.10 Revocation
- 115.11 Manner of soliciting; duties of solicitors
- 115.12 Complaints; appeals
- 115.13 Other permits or licenses
- 115.14 Pushcarts or pedal carts
- 115.15 Model checklist for solicitor's permit
- 115.20 Penalty

KALKASKA CODE-BUSINESS REGULATIONS

GENERAL PROVISIONS

§ 115.01 DEFINITIONS.

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

SOLICITOR. Any person who requests money, credit, property, financial assistance or other thing of value, by personal interview or otherwise, on the plea or representation that such money, credit, property, financial assistance or other thing of value, or the net proceeds over reasonable expenses thereof, will be used for a charitable, religious, patriotic, civic, educational or philanthropic purposes.

PERSON. Any individual, firm, co-partnership, corporation, company, association, or joint stock association, church, religious sect or denomination, society, organization or league, and includes any trustee, receiver, assignee, agent or other similar representative thereof.

§ 115.02 PERMIT REQUIRED; EXCEPTION.

(A) *Required.* No person shall solicit without a permit from the Village Clerk authorizing such solicitation. Permits shall bear the name and address of the person soliciting, type of permit, type and location of soliciting and a statement that the permit does not constitute an endorsement by the Village of the purpose of the solicitation or of the person or group conducting the solicitation. Such solicitation shall comply with this Code, State Laws, and regulations and the conditions of the permit.

(B) *Exceptions.* The following activities are exempt from this chapter:

(1) Solicitations made to a congregation or group in attendance at one location and made by the person or organization inviting the individuals composing the congregation or group.

(2) Solicitations made in books, magazines, periodicals, newspapers and other similar publications or through the mail.

(3) Solicitations made over the radio, television or telephone.

(4) The distribution of handbills or leaflets where the individual distributing them does not accept payments, orders or contributions.

(5) Any person qualifying as a “peddler” shall be excluded from the definition of a solicitor and the regulations contained in this chapter.

§ 115.03 FILING FALSE APPLICATIONS.

No person shall knowingly file or cause to be filed an application and a document supporting an application containing one or more false statements.

§ 115.04 DURATION; TRANSFERABILITY.

A permit may be issued for up to one calendar year. The permit issued under this chapter is non-transferable; provided however, that this shall not prevent any solicitor from using any number of

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representatives and provided, further, that the Village Clerk shall require that each representative shall wear a facsimile copy of such permit while engaged in solicitation or a standard identifiable uniform.

§ 115.05 SOLICITATION PERMIT APPLICATION.

Every person desiring to solicit is required to make written application for a permit from the Village Clerk. An application shall be made upon a form provided by the Village Clerk. The applicant shall truthfully state, in full, the information requested on the application, such as:

- (1) Type of organization (e.g., religious, charitable, educational, citizen group, civic, patriotic or philanthropic).
- (2) Name, address, telephone number and headquarters of the person applying for the permit.
- (3) The names, addresses and phone number of the person or persons who will be in direct charge of conducting the solicitations.
- (4) The purposes for which such solicitation is to be made and the approximate number of representatives who will be soliciting.
- (5) An outline of the method or methods to be used on conducting the solicitations.
- (6) Location of areas in which soliciting will be conducted.
- (7) The time when such solicitation shall be made, giving the proposed dates for the beginning and ending of such solicitations and the hours of the day thereof.
- (8) Such other information as may be required by the Village Clerk to determine the kind or character of the proposed solicitation and whether such solicitation is in the interest of, and not adverse to the public welfare.
- (9) If applicable, a copy of a State permit to solicit funds or an exemption certificate.
- (10) The date or approximate date of the last permit issued under this chapter.

§ 115.06 SOLICITATION PERMIT FEES.

An application for a solicitors permit shall be accompanied by a fee. Such fee shall be established by resolution of the Village Council. No fee shall be charged to religious groups. No refunds shall be given after permit has been processed.

§ 115.07 SOLICITORS DISTRIBUTING FOOD.

No permit shall be issued to a solicitor distributing food until the applicant and any vehicle and equipment used by such applicant are approved by the Health Department.

§ 115.08 PERMIT ISSUANCE OR DENIAL.

No permit shall be issued to, nor shall any soliciting be conducted by:

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- (1) Any person who has made a false material statement in the application for the permit.
- (2) Any person who has been convicted of a violation of this chapter or whose solicitation permit has previously been revoked by the Village.
- (3) Any person who has been convicted of any crime involving moral turpitude, breach of the peace or is a menace to health, safety or the general welfare of the public.

§ 115.09 HOURS IN RESIDENTIAL AREAS.

No person shall engage in soliciting in residential areas prior to 9:00 a.m. or after 9:00 p.m. or sunset whichever is earlier, on any weekday or Saturday, or at any time on a Sunday, New Years Day, Presidents Day, Memorial Day, Martin Luther King Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Eve or Christmas Day.

§ 115.10 REVOCATION.

(A) A permit shall be revoked by the Village Clerk if, upon receipt of written information or upon the Clerk's own investigation, the Clerk has reason to believe a permitted solicitor;

- (1) Has violated any of the provisions of this chapter, the Kalkaska Village Code, or any statute of the State of Michigan.
- (2) Has made a false material statement in the application or has otherwise become disqualified for the issuance of such a permit.
- (3) Has violated any of the provisions of this chapter, which violation has been documented by a written complaint certified by the Village Clerk.
- (4) Has conducted solicitation that is in any manner adverse to the protection of the public health, safety or welfare of the Village of Kalkaska.

(B) Immediately upon such revocation, written notice thereof shall be given by the Village Clerk to registered solicitor in person or by certified mail addressed to his or her place of business or residence address set forth in the application. Immediately upon the giving of such notice, the permit shall become null and void.

§ 115.11 MANNER OF SOLICITING; DUTIES OF SOLICITORS.

No solicitor shall:

- (A) Solicit upon a premises in defiance of a posted notice stating "No Solicitors or Peddlers" or "No Solicitors".
- (B) Fail to immediately and peacefully depart from a premises when requested to do so by the occupant.

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(C) Fail to accurately reveal all information contained in the application for a solicitation permit and all information required to be revealed by State Law to any person requesting such information. Failure of a solicitor to reveal such information shall be grounds for the revocation of the permit pursuant to Section § 115.10 or the denial of future solicitation permits pursuant to § 115.08.

(D) Fail to identify himself or herself and the name of the organization represented.

(F) Occupy a stationary location on a public street, sidewalk, parkway, park, parking lot or any other public property, which is used by pedestrians or persons operating motor vehicles. A solicitor shall be presumed to have occupied a stationary location if he or she has conducted business in any such public place for a period in excess of ten (10) minutes.

(G) Use or employ any flashing lights on any vehicle, or any other devise for the purpose of attracting attention.

(H) Represent that the granting of a permit under this chapter is an endorsement by the Village.

(I) Fail to follow all provisions of State Laws and regulations, Village ordinances and conditions of the solicitation permit.

§ 115.12 COMPLAINTS; APPEALS.

If a written complaint is filed alleging that a solicitor has violated any provision of this chapter, the Village Clerk shall promptly send a copy of the written complaint to the solicitor, together with a notice that an investigation will be made as to the truth of the complaint. The solicitor shall be invited to respond to the complaint and present evidence and respond to evidence produced by the investigation. If the Village Clerk after reviewing all relevant material finds the complaint to be supported by a preponderance of the evidence, the complaint shall be certified.

If a permit is denied or revoked by the Village Clerk, or if a written complaint is certified pursuant to this section the applicant or holder of a permit may appeal to and have a hearing before the Village Manager. The Village Manager shall make a written determination after presentation by the applicant and investigation by the Village Clerk, as to whether or not the grounds for denial, revocation or complaint are true. If the Village Manager determines that such grounds are supported by a preponderance of the evidence, the action of the Village Clerk or the filing of the complaint shall be sustained and the applicant may appeal the Village Managers decision to the Village Council. Review by the Village Council shall be under the same standards of review as the determination by the Village Manager and shall be in accordance with rules of procedure established by the Village Council. The Village Council decision may be reviewed by a court of competent jurisdiction.

§ 115.13 OTHER PERMITS OR LICENSES.

A permit obtained under this chapter shall not relieve any person of the responsibility for obtaining any other license, permit or authorization required by any other ordinance, statute or administrative rule.

§ 115.14 PUSHCARTS OR PEDAL CARTS.

Pushcarts are restricted to sidewalks in the residential districts unless otherwise prohibited by local ordinance. Pedal carts are restricted to sidewalks in the residential districts and are permitted on all

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Village streets in accordance with the Michigan Vehicle Code. Motor vehicles are permitted on all streets in accordance with the Michigan Vehicle Code. Any solicitor using a motor vehicle or pedal cart in a street, when stopped shall place the vehicle parallel to and within twelve inches of the curb and shall depart from such place as soon as the sale has been completed.

§ 115.15 MODEL CHECKLIST FOR SOLICITOR'S PERMIT.

The following is needed before a SOLICITOR PERMIT will be issued:

- ____ 1. Location to be used (see guidelines for solicitors). If at a fixed location, peddler must obtain written permission from the commercial private property owner (sample attached). If using a sign, solicitor must obtain a sign permit from the Village Manager. If in the residential area, there is a 72-hour waiting period.
- ____ 2. A copy of your Michigan Sales Tax License. If you do not have one, you must apply for one with the Michigan Department of Treasury.
- ____ 3. A copy of your Health Department Permit if you are selling food or drink products; 503 N. Birch St. (616) 258-8669.
- ____ 4. A 2" x 2" photo of front facial view. (Must be an original color photo, no copies or negatives).
- ____ 5. A fee of ten dollars (\$10.00) per permit.
- ____ 6. After completing steps 1-5, bring in the completed application and attachments to obtain your permit to the Village Clerk Office, 109 Fourth St., Kalkaska, MI; Monday through Friday 8:00 a.m. till 4:00 p.m.; closed holidays.

The Kalkaska Trout Festival Committee handles solicitors during the Trout Festival and persons interested during this festival should contact National Trout Festival, P.O. Box 291, Kalkaska, MI 49646, (231) 258-9103.

Anyone working with you must supply all information as required by this checklist.

GUIDELINES FOR SOLICITATIONS

PROOF OF PERMIT: When this office receives a completed application, with all attachments required, this office will issue a Village of Kalkaska permit and identification badge. The identification badge to be worn in a conspicuous place while soliciting. Michigan Department of Health approval is required for any sale of meat, food, beverage, confections, ice cream, or refreshments.

DUTIES: Solicitors must:

1. Immediately and peacefully depart from premises when requested to do so.
2. Identify him/herself and the name of the organization they represent.
3. Reveal all information contained on the application.

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§ 115.20 PENALTY

Any person, firm or corporation that violates any section of this chapter is responsible for a Municipal Civil Infraction as prescribed in Section 10.99 (A).

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CHAPTER 117: PAWNBROKERS

Section

- 117.01 Definition
- 117.02 License
- 117.03 Display of name
- 117.04 Records
- 117.05 Retention of goods purchased; tagging
- 117.06 Unlawful purchases at certain hours or from certain persons
- 117.07 Interest on loans; rate; storage charge; time of payment; computation
- 117.08 Pawned property; destruction or defacing unlawful
- 117.99 Penalty

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§ 117.01 DEFINITION.

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

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

§ 117.02 LICENSE.

(A) No person shall engage in the business of a pawnbroker without a license.

(B) No such license shall be issued to any person who has been previously convicted of a felony.

(C) The President of the Village of Kalkaska may from time to time grant under his or her hand, and the official seal of office, to any suitable person, corporation or firm, a license authorizing such business of a pawnbroker subject to the provisions of this chapter. The license shall designate the particular place in the village where such person, corporation or firm shall carry on the business, and no person, corporation or firm receiving a license shall carry on the business in any other place than the one designated in the license. The license shall be for the period of one year from the date of issuance, unless sooner revoked for cause, and shall not be transferable. Before any such license shall be issued, the person applying therefore shall pay to the Village Clerk an annual license fee, and shall give a bond to the Village in its corporate name, in the penal sum for \$10,000, with at least two sureties, to be approved by the Village Council conditioned for the faithful performance of the duties and obligations pertaining to the business and for the payment of all costs and damages incurred by any violation of this act; provided, that it shall be within the power of the Village Council to fix the amount to be paid as such annual license fee.

§ 117.03 DISPLAY OF NAME.

Every licensed pawnbroker shall place his or her name or the name of the firm with the words "Licensed Pawnbroker" in large, legible characters over the outside of the door of his or her place of business.

Cross-reference:

Sign ordinance, see § 151.37 (B) (6)

§ 117.04 RECORDS.

(A) All pawnbrokers shall keep accurate and comprehensive records of all goods purchased and sold, including the name of the persons from whom such goods are purchased and to whom such goods are sold.

(B) At the same time any pawnbroker shall receive any article of personal property, or other valuable thing, by way of pledge or pawn, or shall acquire or purchase any article of personal property, or other valuable thing, except new articles, wares or merchandise purchased at wholesale from manufacturers, wholesale distributors or jobbers for retail sale to customers, except also motor vehicle, old rags, waste paper, books, magazines, tapestries, antiques and household furniture, he or she shall take in duplicate the legible imprint of the right thumb, unless person doesn't have a right thumb, then the left thumb of the person from whom such property was received. Such fingerprints shall be taken under such rules and

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regulations as prescribed by the commissioner of the Michigan State Police. One copy shall be forwarded within 48 hours, together with a statement of the nature of the property received, to the Police Chief of the village in which the place of business of such pawnbroker is located together with a statement of the nature of the property received. The second copy shall be forwarded within 48 hours, together with a statement of the property received, to the commissioner of the Michigan State Police in East Lansing, Michigan. Every such pawnbroker shall keep a book to be inspected by the Police Chief of the village in which shall be written in English, at the time he or she shall receive any article of personal property, or other valuable thing by way of pledge or pawn a description of such article, the amount of money loaned thereon, the rate of interest to be paid on such loan, the name, residence and general description of the person and the day and hour when such property was received; and such book, and the place where such business is carried on, and all articles of property therein, shall be subject to examination at any time by the Mayor, President, Village Attorney, or other Police Officer of the village or by the Prosecuting Attorney or the sheriff or other Police Officer of the county in which the village is situated.

§ 117.05 RETENTION OF GOODS PURCHASED; TAGGING.

Articles purchased or exchanged shall be retained by the purchaser thereof, for at least six months before disposing of them, in an accessible place in the building where such articles are purchased and received. A tag shall be attached to such articles in some visible and convenient place, with the number written thereupon, to correspond with the entry number in such book as described in § 117.04.

§ 117.06 UNLAWFUL PURCHASES AT CERTAIN HOURS OR FROM CERTAIN PERSONS.

No person shall purchase or receive by sale, barter or exchange or otherwise, any article mentioned in this chapter between the hours of 9:00 p.m. and 9:00 a.m. or from any person who is under 18 years of age, nor from any person who is at the time intoxicated or from an habitual drunkard or from any person known by the pawnbroker, second hand dealer or junk dealer to be a thief or any associate of thieves or receiver of stolen property or from any person he or she has reason to suspect of being such.

§ 117.07 INTEREST ON LOANS; RATE; STORAGE CHARGE; TIME OF PAYMENT; COMPUTATION.

A licensed pawnbroker may charge upon any loan a rate of interest not to exceed 3% per month, except that he or she is not required to accept any interest less than \$.50 on a single loan. A pawnbroker may also charge \$1 per month or fraction thereof for the storage of property under any single pledge or pawn. No pawnbroker or agent or employee thereof shall make a loan upon any deposit, pawn or pledge at a rate of interest and charge or receive therefore in excess of the amounts provided for in this chapter. Interest on any loan shall not be payable in advance, and shall be computed on unpaid monthly balances only, but without compounding. A pawnbroker shall not charge an examination fee or to make any charge in excess of the amounts provided for in this chapter.

§ 117.08 PAWNED PROPERTY; DESTRUCTION OR DEFACING UNLAWFUL.

No pawnbroker shall deface, scratch, obliterate, melt, separate or break into parts any particle or thing received by him or her in pawn or otherwise, or in any manner to cause or suffer to be done by others, anything which shall destroy or tend to destroy the identity of such article or render the identification thereof more difficult.

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§ 117.99 PENALTY.

Every person violating any of the provisions of this chapter shall be guilty of a misdemeanor and be punished by a fine, or by imprisonment in the County jail not exceeding six months, or by both such imprisonment and fine. In case any person, corporation, copartnership or firm shall be found guilty of violating any of the provisions of this chapter, the license issued to such person, corporation, copartnership or firm shall be deemed to have been revoked by that very fact, and such person, corporation, copartnership or firm shall not be permitted to carry on such business within this village for a period of five years after such conviction.

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CHAPTER 118: SECONDHAND DEALER - JUNK DEALER

Section

- 118.01 Definition
- 118.02 License
- 118.03 Display of sign, record of transactions
- 118.04 Retention of goods purchased; tagging; copy of record for police; exception
- 118.05 Person without place of business; retention of goods; record for police
- 118.06 Unlawful purchases at certain hours or from certain persons
- 118.07 Storage of goods
- 118.09 Penalty

KALKASKA CODE-BUSINESS REGULATIONS

§ 118.01 DEFINITION.

The term “secondhand dealer” or “junk dealer” as used in this ordinance shall mean any person, corporation, or member or members of a copartnership or firm whose principal business is that of purchasing, storing, selling, exchanging and receiving secondhand personal property of any kind or description.

§ 118.02 LICENSE.

No person, corporation, copartnership or firm shall hereafter carry on the business of dealer in second hand goods or junk dealer in the Village of Kalkaska without having first obtained a license from the said Village. Said license shall be issued by the Village Manager or such other person as designated by resolution of the Village Council, and shall be for the period of one (1) year from the date of issuance, unless sooner revoked for cause, and shall be non-transferable. Each application for a license or renewal of a license under this ordinance shall be accompanied by a payment of the license fee as established by resolution of the Village Council.

§ 118.03 DISPLAY OF SIGN, RECORD OF TRANSACTIONS.

Such second hand dealer or junk dealer as defined shall have in a conspicuous place in or upon his place of business, a sign having his name and occupation legibly inscribed thereupon, and shall keep a separate book open to inspection by a member of the Police Force or Village designated person, in which shall be written in the English language at the time of the purchase or exchange of such articles, a description thereof, the name, description and residence of the person from whom the same was purchased and received, and the day and hour when such purchase or exchange was made. Each entry shall be numbered consecutively, commencing with the number one (1).

§ 118.04 RETENTION OF GOODS PURCHASED; TAGGING; COPY OF RECORD FOR POLICE; EXCEPTION.

Such articles, purchased or exchanged shall be retained by the purchaser thereof, for at least fifteen (15) days before disposing of them, in an accessible place in the building where such articles are purchased and received. A tag shall be attached to such articles in some visible and convenient place, with the number written thereupon, to correspond with the entry number in such book. Such purchaser shall prepare and deliver on Monday of each week to the Chief of Police of the village in which such business is carried on, before 12 o'clock noon, a legible and correct copy written in the English language from such book, containing a description of each article purchased or received during the preceding week, the hour and day when the purchase was made, and the description of the person from whom it was purchased. Such statement shall be verified by the affidavit of the person subscribing his name thereto. This section shall not apply to motor vehicles, old rags, waste paper, books, magazines, tapestries, antiques and household furniture (except radios, televisions, electronic sound equipment, computer components, record players, and electrical appliances). Nothing herein contained shall make it necessary for the purchaser to retain articles purchased from individuals, firms or corporations having a fixed place of business after said articles shall have been reported.

§ 118.05 PERSON WITHOUT PLACE OF BUSINESS; RETENTION OF GOODS; RECORD FOR POLICE.

If the purchaser or receiver, by exchange or otherwise, as described in section three (3), is a peddler and purchases or obtains by exchange or otherwise, any of such articles, and does not have a place of business in a building, he need not retain such articles for fifteen (15) days before selling them, provided on

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Monday of each week he files with the Chief of Police of the village in which he is located, a report showing the place of business of the person to whom such sale was made; a copy of the record required by such section to be kept in a separate book of the articles purchased or received during the preceding week, including a description of such articles sold, to whom sold and his place of business.

§ 118.06 UNLAWFUL PURCHASES AT CERTAIN HOURS OR FROM CERTAIN PERSONS.

No person shall purchase or receive by sale, barter or exchange or otherwise, any article mentioned in this act from any person between the hours of 9:00 p.m. and 7:00 a.m., nor from any person who is at the time intoxicated or from an habitual drunkard or from any person known by said second hand dealer or junk dealer to be a thief or any associate of thieves or receiver of stolen property or from any person he has reason to suspect of being such.

§ 118.07 STORAGE OF GOODS.

Goods or materials on the premises of a secondhand store shall not be stored, allowed to rest upon, or protrude over any public street, alley, walkway or curb, or become scattered or blown off the business premises. The area on the premises where goods or materials are kept shall be indoors or shall be enclosed, except for the entrance and exits, with a solid wood or masonry vertical wall or fence of a minimum height of six (6) feet measured from ground level. Entrance and exits shall not be wider or more numerous than reasonably necessary for the conduct of the licensed facility.

§ 118.09 PENALTY

Any person, firm or corporation that violates any section of this chapter is responsible for a Misdemeanor as prescribed in Section 10.99 (B).

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CHAPTER 119: PEDDLERS

Section

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GENERAL PROVISIONS

§ 119.01 DEFINITIONS.

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

(A) **PEDDLER.** Any person offering, exposing for sale or making available for a price or donation, making sales and delivering articles to purchasers, or taking or attempting to take orders for sale of goods, foodstuffs, or services of any kind, for immediate or future delivery or performance, whether or not such person has, carries or exposes for sale a sample of the subject of such sale or whether or not he or she is collecting advance payments on such sale, by any of the following means:

(1) Traveling by foot, automotive vehicle, or other conveyance, from place to place, house to house, or street, carrying, conveying or transporting such goods, wares, merchandise or foodstuffs.

(2) Hiring, leasing or occupying any building or structure for a period of less than six (6) months for the exhibit or sale of such goods, foodstuffs or services while not on the village tax rolls, including a person who associates temporarily with a local merchant or dealer, which building or structure is not otherwise used for that purpose.

(3) Offering out of doors such goods, foodstuffs or services from a stationary cart, stand, wagon, automotive vehicle or from one's person.

(B) **PERSON.** Any individual, firm, co-partnership, corporation, company, association, or joint stock association, society, organization or league, and includes any trustee, receiver, assignee, subcontractor, agent or other similar representative thereof.

§ 119.02 LICENSE REQUIRED; EXCEPTIONS.

(A) Required. No person shall peddle without a license from the Village Clerk authorizing such peddling. Licenses shall bear the name and address of the person authorizing such peddling. Licenses shall bear the name and address of the person peddling, term of license, type and location of peddling, a picture, and a statement that the license does not constitute an endorsement by the Village for the purpose of the peddling or of the person or group conducting the peddling. Such license shall be carried by the peddler. Such peddling shall comply with this code, State Laws, and regulations and the conditions of the license. No peddling license shall be granted except upon approval of the Chief of Police or his designee.

(B) Exceptions. The following activities are exempt from this chapter:

(1) Peddling made in books, magazines, periodicals, newspapers and other similar publications or through the mail.

(2) Peddling made over the radio, television or telephone.

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(3) Peddling by persons under the age of twelve years where all proceeds are retained by such peddler. No adult or business shall hire or subcontract such peddler in an attempt to evade the provisions of this chapter.

(4) Distributing handbills or leaflets where the distributor of them does not accept payments, orders or contributions.

(5) Peddling between merchants where neither merchant is the ultimate consumer of goods or services involved or the ultimate donor of the gifts involved.

(6) Any person qualifying as a “solicitor” shall be excluded from the definition of a peddler and the regulations contained in this chapter.

(7) Auctions.

(8) Any peddler associated with an advertised community, professional or special event as prescribed by the Village Council.

(9) Persons who have express Village Council approval.

§ 119.04 DURATION; TRANSFERABILITY.

Licenses may be issued for up to one calendar year. The license issued under this chapter is non-transferable.

§ 119.05 PEDDLING LICENSE APPLICATION.

Every person desiring to peddle is required to make a written application for a license from the Village Clerk. An application shall be made upon a form provided by the Village Clerk. The applicant shall truthfully state, in full the information requested on the application, such as:

(1) The applicants name, telephone number, address of present place of residence, length of residence at such address and business address if other than the residence address.

(2) Birthdate of applicant.

(3) The name, telephone number and address of the person by whom the applicant is employed or whom the applicant represents and the length of time if such employment or representation.

(4) A description sufficient for identification of the subject matter and method of the peddling in which the applicant will engage.

(5) The period of time for which the license is applied.

(6) The locations of all areas in which peddling will be conducted.

(7) The date, or approximate date, of the last license issued under this chapter.

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(8) An application for a peddlers permit shall be accompanied by a fee.

(9) A statement as to whether or not a license issued to the applicant (or organization) represented under this chapter has ever been revoked, and if so, the reason for revocation.

(10) A statement as to whether or not the applicant has ever been convicted of a felony under the laws of the State or any other State or Federal Law.

(11) Drivers license or personal identification number.

(12) Copy of Michigan sales tax license or Michigan Department of Treasury written approval.

(13) A 2" x 2" color photograph of the head and shoulders of the applicant.

(14) A signed permission slip from the property owner if setting up a stand on commercial property. No adult or business shall hire or subcontract such persons in an attempt to evade the provisions of this chapter.

§ 119.06 FOOD PEDDLERS.

No license shall be issued to a food peddler until the applicant and any vehicle and equipment used by such applicant are approved by the Health Department.

§ 119.07 INVESTIGATION OF RESIDENTIAL AREA PEDDLER; WAITING PERIOD.

Upon receipt of an application for license to peddle in a residential area, the Police Chief shall conduct an investigation of the applicant's business and moral character to be made as he or she deems necessary for the protection of the public good. No license shall be issued without the approval of the Police Chief. No license shall be issued under this chapter until a period of three working days has elapsed from the time of application; such period of time to be used by the Kalkaska Police Chief for proper investigation of each application.

§ 119.08 HOURS IN RESIDENTIAL AREAS.

No person shall engage in peddling in residential areas prior to 9:00 a.m., or after 9:00 p.m. or sunset whichever is earlier, on any weekday or Saturday or at any time on a Sunday, New Years Day, Presidents Day, Memorial Day, Martin Luther King Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Eve or Christmas Day.

LICENSING

§ 119.09 LICENSE ISSUANCE OR DENIAL.

No license shall be issued to, nor shall any peddling be conducted by:

(1) Any person who has made a false material statement in the application for the license.

(2) Any person who has been convicted of a violation of this chapter or whose solicitation permit or peddler's license has previously been revoked by the village.

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(3) Any person who has been convicted of any crime involving moral turpitude, breach of the peace or is a menace to health, safety or the general welfare of the public.

§ 119.10 REVOCATION.

(A) A license shall be revoked by the Village Clerk if, upon receipt of written information or upon the Clerk's own investigation, the Clerk has reason to believe a licensed peddler:

- (1) Has violated any of the provisions of this chapter, the Village of Kalkaska code, or any statute of the State of Michigan.
- (2) Has made a false material statement in the application or has otherwise become disqualified for the issuance of such license.
- (3) Has violated any provision of this chapter, which violation has been documented by a written complaint certified by the Village Clerk pursuant to § 119.12.
- (4) Has conducted peddling that is in any manner adverse to the protection of the public health, safety or welfare of the Village of Kalkaska.

(B) Immediately upon such revocation, written notice thereof shall be given by the Village Clerk to the licensed peddler in person or by certified mail addressed to his or her place of business or residence address set forth in the application. Immediately upon the giving of such notice, the license shall become null and void.

§ 119.11 MANNER OF PEDDLING; DUTIES OF PEDDLERS.

No peddler shall:

- (1) Peddle upon a premises in defiance of a posted notice stating "No Solicitors or Peddlers," "No Peddlers," or "No Solicitors".
- (2) Fail to immediately and peacefully depart from a premise when requested to do so by the occupant.
- (3) Fail to accurately reveal all information contained in the application for a peddler license and all information required to be revealed by State Law to any person requesting such information. Failure of a peddler to reveal such information shall be grounds for the revocation of the license pursuant to Section § 119.09.
- (4) Fail to identify himself or herself and the name of the organizations they represented.
- (5) Fail to prominently wear the picture identification badge issued by the Village Clerk.
- (6) Occupy a stationary location on a public street, sidewalk, parkway, park, parking lot or any other public property, which is used by pedestrians or persons operating motor vehicles. A peddler shall be presumed to have occupied a stationary location if he or she has conducted business in any such public place for a period in excess of ten (10) minutes.

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(7) Use or employ any flashing lights on any vehicle, or any other device for the purpose of attracting attention to any goods, wares or merchandise which the peddler proposes to sell.

(8) Represent that the granting of a license under this chapter is an endorsement by the Village.

(9) Fail to follow all provisions of State Laws and regulations, Village ordinances and conditions of the peddler's license.

§ 119.12 COMPLAINTS; APPEALS.

If a written complaint is filed alleging that a peddler has violated any provisions of this chapter, the Village Clerk shall promptly send a copy of the written complaint to the peddler, together with a notice that an investigation will be made as to the truth of the complaint. The peddler shall be invited to respond to the complaint and present evidence and respond to evidence, produced by the investigation. If the Village Clerk after reviewing all relevant material finds that the complaint to be supported by a preponderance of the evidence, the complaint shall be certified.

If a license is denied or revoked by the Village Clerk, or if a written complaint is certified pursuant to this section, the applicant or holder of a license may appeal to and have a hearing before the Village Manager. The Village Manager shall make written determination after presentation by the applicant and investigation by the Village Clerk, as to whether or not the grounds for denial, revocation or complaint are true. If the Village Manager determines that such grounds are supported by a preponderance of the evidence, the action of the Village Clerk or the filing of the complaint shall be sustained and the applicant may appeal the Village Manager's decision to the Village Council. Review by the Village Council shall be under the same standards of review as the determination by the Village Manager and shall be in accordance with the rules of procedure established by the Village Council. The Village Council's decision may be reviewed by a court of competent jurisdiction.

§ 119.13 OTHER LICENSES OR PERMITS.

A license obtained under this chapter shall not relieve any person of the responsibility for obtaining any other permit, license or authorization required by any other ordinance, statute or administrative rule.

§ 119.14 PUSH CARTS OR PEDAL CARTS.

Pushcarts are restricted to sidewalks in the residential districts unless otherwise prohibited by local ordinance. Pedal carts are restricted to sidewalks in the residential districts and are permitted on all village streets in accordance with Michigan Vehicle Code. Motor vehicles are permitted on all streets in accordance with the Michigan Vehicle Code. Any peddler using a motor vehicle or pedal cart in a street, when stopped shall place the vehicle parallel to within twelve inches of the curb and shall depart from such place as soon as the sale has been completed.

§ 119.15 GUIDELINES FOR PEDDLERS.

PROOF OF LICENSE: When this office receives a completed application, with all attachments required, this office will then issue a Village of Kalkaska License and Identification Badge. The Identification badge shall be in position at all times while selling merchandise. This badge alone serves as proof of license.

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MICHIGAN SALES TAX LICENSE: is required for all peddlers, exceptions permitted only by the Michigan Department of Treasury.

MICHIGAN HEALTH DEPARTMENT: approval is required for any sale of meat, food, beverages, confections, ice cream or refreshments.

DUTIES:

1. PEDDLERS MUST

- a. Immediately and peacefully depart from premises when requested.
- b. Identify him/herself and the name of the organization they represent.
- c. Reveal all information contained on the application.

2. PEDDLERS MUST NOT

- a. Peddler upon a premise in defiance of a posted notice stating: "NO SOLICITORS OR PEDDLERS", "NO
- b. Approach drivers of motor vehicles.
- c. Approach customers in stores without store manager permission.
- d. Touch people physically while making sales.

RESIDENTIAL AREAS:

1. No peddling prior to 9:00 a.m. or after 9:00 p.m. or sunset whichever is earlier on any weekday or Saturday; or at any time on a Sunday, New Years Day, Martin Luther King Day, Presidents Day, Memorial Day, Independence Day, Thanksgiving Day, Christmas Eve or Christmas Day.
2. No peddling license shall be issued until a waiting period of three working days has elapsed for proper investigation by the Kalkaska Police Department Chief.

WALKING PEDDLERS:

1. Are permitted on Village sidewalks. Peddlers shall keep moving, stopping only to conduct a sale, and shall not draw crowds.
2. Each peddler shall complete an application and pay the fee.
3. Shall have the identification badge displayed in the front torso area.

PEDDLER STANDS:

1. Shall receive written permission from commercial property owner to use his/her premises. Village property cannot be used by peddler stands. Stands may not be set up in residential areas. Stands situated on corners must be set back far enough to meet "Clear Vision Area" requirements.
2. The owner is required to fill out one (1) application per stand and pay fee per stand.
3. The badge shall be displayed on a conspicuous place on the exterior front of the stand visible by customers. (Individuals working at the stand need not have an identification badge.)
4. The owner shall have a sign permit issued by the Village Manager if a sign is used to advertise merchandise from a fixed location.

PUSHCARTS, PEDAL CARTS OR MOTOR VEHICLES:

Pushcarts are restricted to sidewalks in the residential districts. Pedal carts are restricted to sidewalks in the residential districts and are permitted on all Village streets in accordance with the Michigan Vehicle

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Code. Motor vehicle peddlers are permitted on all Village streets, shall keep moving, stopping only to make a sale, shall not draw crowds, must not obstruct traffic. Any peddler using a motor vehicle or pedal cart in a street when stopped shall place the vehicle parallel to and within twelve inches of the curb and shall depart as soon as sale is consummated.

§ 119.16 MODEL CHECKLIST FOR PEDDLERS LICENSE.

The following is needed before a Peddler License will be issued:

____ 1. Location to be used (see guidelines for peddlers). If at a fixed location, peddler must obtain written permission from the commercial private property owner (sample attached). If using a sign, peddler must obtain a sign permit from the Village Manager. If in the residential area, there is a waiting period of three working days.

____ 2. A copy of your Michigan Sales Tax License. If you do not have one, you must apply for one with the Michigan Department of Treasury.

____ 3. A copy of your Health Department Permit if you are selling food or drink products; 503 N. Birch Street, (616) 258-8669.

____ 4. A 2" x 2" photo of front facial view. (Must be an original color photo, no copies or negatives.)

____ 5. May 15 - September 15: \$50.00 per month residential
\$50.00 per day commercial

September 16 - May 14: \$100.00 entire period
\$ 15.00 per day residential and commercial

____ 6. After completing steps 1-5, bring in the completed application and attachments to obtain your Peddler License to the Village Clerk Office, 109 Fourth Street, Kalkaska, MI; Monday through Friday 8:00 a.m. till 4:00 p.m.; closed holidays.

The Kalkaska Trout Festival Committee handles peddlers during the Trout Festival and persons interested during this festival should contact National Trout Festival, P.O. Box 291, Kalkaska, MI 49646, (616) 258-9103.

Anyone working with you must supply all information as required by this checklist.

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§ 119.17 MODEL APPLICATION FOR PEDDLING LICENSE.

Applicant's Name: _____ Phone: _____

Address: _____

Street City State Zip

Length of Time at Residence: _____
Years/Months

Drivers License No.: _____ Date of Birth: _____

Business or Employer: _____

Name Address Phone

Type of Peddling: _____

Method/Location: ___ Commercial or ___ Residential (72 hour waiting period)

(Check one) ___ Walking or ___ Fixed Stand

Location: _____

Dates: _____ to _____ Times: _____ to _____

Date of last request for peddling: _____

Have you ever had a previous application or license revoked? Yes ___ No ___

If yes state reason for revocation: _____

Have you ever been convicted of a felony under the laws of the State, any other State, or Federal Law of the United States?

Yes ___ No ___ If yes, explain:

Please note by a check mark the following are attached as applicable:

MI Sales Tax License ___ or, Dept. of Treasury slip ___

2" x 2" color photo ___

If fixed location, property ownership permission slip ___

If using a sign, sign permit ___

If peddling food, Health Dept. Permit ___

Investigation approval from Chief of Police ___ (residential only)

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The undersigned, declares the following: that he/she wishes to be permitted to perform the operation, service or act stated hereon; that the statements made above are true and correct to the best of his/her knowledge and belief; that he/she will comply with all provisions of the ordinances of the Village of Kalkaska relative to the operation, service or act for which the license is requested; that he/she agrees to hold the Village of Kalkaska free and harmless from all liability which may be imposed upon it and to reimburse the Village of Kalkaska for all expenses of litigation in connection with the defense of claims as such liability and claims may arise because of negligence in the performance of the work or act for which the license was issued. The undersigned understands that peddling is not permitted in Village Parks, and acknowledges that he/she has received a copy of the rules for peddling. The fee during May 15 - Sept. 15 to be fifty dollars (\$50.00) per day commercial or fifty dollars (\$50.00) per month residential . The fee during Sept. 16 - May 14 to be one hundred dollars (\$100.00) per entire period or fifteen (\$15.00) per day for residential and commercial . (Cash or money orders only.)

Date: _____ Signature of Applicant: _____

Above conditions approved and fee paid \$ _____

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§ 119.18 MODEL PERMISSION SLIP.

**COMMERCIAL PRIVATE PROPERTY
PERMISSION SLIP**

PEDDLER'S NAME: _____

The following is to be completed by a commercial private property owner:

I, _____ hereby certify that the above name person has
contacted me for my permission to use my property located at _____

more commonly known as _____

for the period of time from _____ to _____.

DATE: _____ SIGNATURE: _____

§ 119.20 PENALTY

Any person, firm or corporation that violates any section of this chapter is responsible for a Municipal Civil Infraction as prescribed in Section 10.99(A).