

ORDINANCE NO. 080 - 2024

AN ORDINANCE REPEALING ARTICLE XXV OF CHAPTER 2 OF THE CODE OF ORDINANCES RELATED TO THE LEXINGTON-FAYETTE URBAN COUNTY SPECIAL EVENTS COMMISSION; PROVIDING THAT ALL DUTIES OF THE SPECIAL EVENTS COMMISSION SHALL BE ASSUMED BY THE OFFICE OF THE MAYOR; AND SUBSTITUTING THE OFFICE OF MAYOR FOR THE SPECIAL EVENTS COMMISSION IN SECTIONS 15-1.2(1); 17-29.4; AND 17-29.6 OF THE CODE; AND SUBSTITUTING FESTIVAL OR SPECIAL EVENT COORDINATOR IN SECTIONS 15-1.2(2) AND 17-29.8 OF THE CODE; ALLOWING STREET PERFORMERS TO CONNECT TO URBAN COUNTY POWER SOURCES WITH WRITTEN PERMISSION FROM THE URBAN COUNTY GOVERNMENT IN SECTION 17-29.8; AND SUBSTITUTING THE URBAN COUNTY GOVERNMENT OR ITS DEPARTMENTS FOR THE SPECIAL EVENTS COMMISSION IN SECTION 13-6 OF THE CODE, EFFECTIVE UPON PASSAGE OF COUNCIL.

BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That Article XXV of Chapter 2 of the Code of Ordinances be and hereby is repealed in its entirety.

Section 2 – That the duties of the Special Events Commission, including the responsibility to review applications for special events, shall be assumed by the Office of the Mayor, with assistance and coordination from relevant urban county divisions as necessary.

Section 3 – That Section 15-1.2 of the Code of Ordinances be and hereby is amended to read as follows:

Sec. 15-1.2. - Sale of food or goods in festival areas.

- (1) *Festival area*, as used in this section, shall mean all of the public right-of-way, including the sidewalks, of any area designated by the office of the mayor to be the site of a festival or special event duly established as such by the office of the mayor.
- (2) It shall be unlawful for any vendor or peddler to sell or offer for sale food or goods in a festival area, at any time during the festival, without securing a permit therefor from the festival or special event organizer.
- (3) Any vendor or peddler who shall sell or offer for sale food or goods, in violation of this section shall be fined not to exceed two hundred fifty dollars (\$250.00) or be imprisoned for a period not to exceed seven (7) days, or be both so fined and so imprisoned.

Section 4 – That Section 17-29.4 of the Code of Ordinances be and hereby is amended to read as follows:

Sec. 17-29.4. - Form and conditions of permits.

All permits shall be issued on a form deemed suitable by the administrator. In addition to naming the permittee and any other information deemed appropriate by the administrator, the permit shall contain the following conditions:

- (1) Each permit shall be effective for one (1) year, from January 1 to December 31, subject to annual renewal, unless revoked or suspended prior to expiration. No fees will be refunded for revocations or periods of suspension.
- (2) The permit issued shall be personal to the permittee only and shall not be transferable in any manner.
- (3) The urban county government may suspend the permit or modify its terms as to the size or location of the permitted area, the approved plan, or activities taking place within the permitted area when necessary to clear the public property for public safety or for a festival or special event approved by the office of the mayor. Unless there is an emergency circumstance any such suspension or modification shall be communicated to the permittee by either the administrator or the urban county government's director of special events a reasonable time in advance of the need for the suspension or modification.
- (4) The administrator may require the temporary removal of items within the permitted area when street, sidewalk, common areas, or utility repairs necessitate such action.
- (5) The permit shall be specifically limited to the area shown on the "exhibit" attached to and made part of the permit and shall indicate the maximum number of persons lawfully allowed within the permitted area.
- (6) The permitted area shall be maintained in a neat and orderly appearance at all times and the area shall be cleared of all debris on a periodic basis during the day, and again at the close of each business day. The clear zone must at all times be free from any items, obstacles, or barriers so as to allow clear movement for pedestrians along the right-of-way, and must comply with the requirements of the Americans with Disabilities Act.
- (7) No advertising, except for signs which comply with sign regulations in Article 17 of the zoning ordinance.
- (8) No furnishings, objects nor any other parts of the business shall be attached, chained, or in any manner affixed to any tree, post, sign, or other fixtures, curb, or sidewalk within or near the permitted area. No additional outdoor seating authorized herein shall be used for calculating seating requirements pertaining to location of, applications for, or issuance of an ABC license for any establishment; or, be used as the basis for computing required off-street parking.
- (9) The issuance of a permit does not grant or infer vested rights to use of the area by the permittee. The urban county government retains the right to deny the issuance of a permit or the renewal of a permit for any reason.
- (10) Furnishings and any other objects provided shall be maintained and shall be kept safe and in good repair at all times.
- (11) The urban county government retains the right to suspend the privilege of using glass containers within the permitted area

during festivals and events and when streets are closed. The use of glass containers will be revoked if an incident jeopardizes the health, safety, and welfare of customers or the general public. Any violation of state or local laws will also result in a revocation of this privilege. Repeated offenses may result in revocation or denial of the encroachment permit.

- (12) The serving and consumption of alcoholic beverages within the permitted area will be limited to those customers clearly located within the permitted area.
- (13) The outdoor cafe permit shall be posted or visibly displayed on the premises.

Section 5 – That Section 17-29.6 of the Code of Ordinances be and hereby is amended to read as follows:

Sec. 17-29.6. - Street entertainers—Definitions.

For the purposes of sections 17-29.6 through 17-29.10, the following words shall have the meanings respectively ascribed in this section:

- (1) *Downtown*. The area bounded by the south right of way line of High Street, the west right of way line of Jefferson Street, the north right of way line of Third Street, the east right of way line of Midland Avenue, the east right of way line of East Vine Street between Main Street and Rose Street, and the east right of way line of Rose Street between East Vine Street and East High Street.
- (2) *Street entertainer*. A person who, on a public sidewalk, public square or other outdoor public property, performs in order to provide amusement and includes, without limiting the generality of this definition, a street musician.
- (3) *Special Event*. All of the public right-of-way, including the sidewalks, of any area designated by the office of the mayor to be the site of a festival or event approved by the office of the mayor.

Section 6 – That Section 17-29.8 of the Code of Ordinances be and hereby is amended to read as follows:

Sec. 17-29.8. - Same—Prohibitions.

- (1) While performing in the downtown, a street entertainer must:
 - (a) Not be located so closely to another street entertainer so as to interfere with that other street entertainer's performance;
 - (b) Not obstruct pedestrian traffic;
 - (c) Not cause or allow the obstruction of pedestrian traffic by the street entertainer's audience; and
 - (d) Not excessively or unreasonably disturb the operation of another business to which the street entertainer is adjacent.

- (2) No street entertainer may perform in any one (1) location in the downtown for more than two (2) continuous hours.
- (3) No street entertainer may perform in downtown during a special event, as that term is defined in section 17-29.6(3), unless he receives permission from the event organizer. No street entertainer may perform along the route of a parade for which a permit has been issued pursuant to section 18-29, unless he has permission from the organizer of the parade. The provisions of sections 17-29.6—17-29.8, 17-29.10 shall not apply to any street entertainer who is performing during a special event or a parade and who has such a permit or permission.
- (4) No street entertainer in the downtown shall use any knife, sword, torch, flame, axe, saw or other object that can cause serious bodily injury to any person, or engage in any activity, including but not limited to, acrobatics, tumbling or unicycling, that can cause serious bodily injury as a part of his performance.
- (5) No street entertainer in the downtown shall use any generator, wet cell battery with removable fill caps, or any other power source that poses a fire source or public safety hazard, nor shall he connect or maintain an electrical cord to an adjacent building or urban county government power source without written permission from the property owner or the urban county government, respectively.

Section 7 – That Section 13-6 of the Code of Ordinances be and hereby is amended to read as follows:

Sec. 13-6. - Exempt activities.

- (a) No license under this article shall be required of nonresidents who sell farm products, other than trees, shrubs, or ornamental plants, in the urban county; or nonresident owners who sell livestock in the urban county or who board their livestock in the urban county for breeding purposes. The activities described in this subsection shall not constitute being engaged in any occupation, trade, profession or other activity as defined in section 13-4 of this article.
- (b) Natural persons of the age of sixty-five (65) and older shall be exempt from the provisions of the occupational license fee as to the first three thousand dollars (\$3,000.00) of salaries, wages, commissions or other compensation earned by such persons in the urban county for work done or services performed or rendered in the urban county, and the first three thousand dollars (\$3,000.00) of net profits of any business, profession or occupation conducted in the urban county.
- (c) No license under this article shall be required of any person authorized by the Lexington-Fayette Urban County Government to demonstrate, sell or offer for sale any goods, wares or merchandise at any festival or special event sponsored by the urban county government or its departments.
- (d) No license under this article shall be required of precinct workers for election training or work at election booths in state, county, and local primary, regular, or special elections within the urban county.
- (e) No license under this article is required where expressly exempted elsewhere by ordinance, federal or state law.
- (f) Any bank, trust company, combined bank and trust company, or trust, banking and title insurance company organized and doing business in this state, any savings and loan association whether state or federally chartered;

- (g) Public service corporations that pay an ad valorem tax on property valued and assessed by the Kentucky Department of Revenue pursuant to the provisions of KRS 136.120. Licensees whose businesses are predominantly non-public service who are also engaged in public service activity are required to pay a license fee on their net profit derived from the non-public service activities apportioned to the urban county government;
- (h) Persons or business entities that have been issued a license under KRS Chapter 243 to engage in manufacturing or trafficking in alcoholic beverages. Persons engaged in the business of manufacturing or trafficking in alcoholic beverages are required to file a return, but may exclude the portion of their net profits derived from the manufacturing or trafficking in alcoholic beverages;
- (i) Insurance companies incorporated under the laws of and doing business in the Commonwealth of Kentucky, except as provided in KRS 91A.080.
- (j) Any compensation received by members of the Kentucky national guard for active duty training, unit training assemblies and annual field training;
- (k) Funds received from the state as a share of the tobacco settlement funds to be paid to farmers is exempt from inclusion in net profits for the purpose of calculating the net profits which are subject to this occupational license fee as follows:
 - (1) Any amount received by a producer of tobacco or a tobacco quota owner from the multi-state settlement with the tobacco industry, known as the Master Settlement Agreement, signed on November 22, 1998;
 - (2) Any amount received from the secondary settlement fund, referred to as "Phase II", established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses caused by the national tobacco settlement; and
 - (3) Any amount received from funds of the Commodity Credit Corporation for the Tobacco Loss Assistance Program as a result of a reduction in the quantity of the tobacco quota allotted from the 1998 to the 1999 calendar year as provided under Public Law 106-78 Title 8 sec. 803.
 - (4) Any amount received as a result of a tobacco buydown program that all quota owners and growers are eligible to participate in.
- (l) Individuals and sole proprietorships who file a return as prescribed by section 13-8 which reports gross receipts of four thousand four hundred dollars (\$4,400.00) or less for a tax year shall not be required to pay the annual minimum license fee provided in section 13-9 after initial licensure of that business, or the net profit occupational license fees for that tax year.

Section 8 – That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: July 9, 2024



 MAYOR

ATTEST:


 CLERK OF URBAN COUNTY COUNCIL

PUBLISHED: July 16, 2024-1t
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