

**CODIFIED ORDINANCES OF GLEN DALE**  
**PART SEVEN - BUSINESS AND TAXATION CODE**

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**ARTICLE 705**  
**General Licensing Provisions**

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| <p><b>705.01</b> City Licensing Officer; duties.</p> <p><b>705.02</b> Applications; authority to administer oaths.</p> <p><b>705.03</b> Certification of license and permit forms by various City officers.</p> <p><b>705.04</b> Form in which license and permit certificates issued; retained records.</p> <p><b>705.05</b> Certificate fee.</p> <p><b>705.06</b> Issuance of licenses and permits.</p> <p><b>705.07</b> When duplicate license or permit issuable.</p> <p><b>705.08</b> Bonds and insurance policies.</p> <p><b>705.09</b> Late fees.</p> <p><b>705.10</b> Renewals.</p> <p><b>705.11</b> Assignments and transfers.</p> <p><b>705.12</b> Revocations, suspensions and alterations; scope of term "cause".</p> <p><b>705.13</b> False statements, misrepresentations, etc.</p> | <p><b>705.14</b> Separate licenses and permits for certain activities.</p> <p><b>705.15</b> Effect of State license.</p> <p><b>705.16</b> Limitations of authority granted by licenses and permits.</p> <p><b>705.17</b> Use, etc., of license or permit in a name of other than owner.</p> <p><b>705.18</b> Duration.</p> <p><b>705.19</b> Carrying, display and production; use or display of expired, etc., licenses.</p> <p><b>705.20</b> Authority of Mayor as to certain disputes, etc.</p> <p><b>705.21</b> Exemptions: persons; creation, powers and duties of Exemption Board.</p> <p><b>705.22</b> Exemptions: activities.</p> <p><b>705.23</b> Prorating.</p> <p><b>705.24</b> Minimum fees.</p> <p><b>705.25</b> Evidence of engaging in activities covered in chapter.</p> <p><b>705.26</b> Violations of chapter.</p> <p><b>705.99</b> Penalty.</p> |
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**CROSS REFERENCES**

General licensing authority - see W. Va. Code 8-13-4; 11-12-4

**705.01 CITY LICENSING OFFICER; DUTIES.**

The Recorder shall be the City Licensing Officer and shall issue all licenses required by this chapter; and, except where provided to the contrary, shall issue all permits required by this chapter. (Ord. 6-9-03.)

**705.02 APPLICATIONS; AUTHORITY TO ADMINISTER OATHS.**

Any person who desires a City license or permit, except as otherwise provided, shall apply therefor to the City Licensing Officer and may be required to state under oath or affirmation such facts as may be applicable to the requirements of the license or permit applied for. The City Licensing Officer and regulating officers and their deputies shall have authority to administer oaths and affirmations hereunder.  
(Ord. 6-9-03.)

**705.03 CERTIFICATION OF LICENSE AND PERMIT FORMS BY VARIOUS CITY OFFICERS.**

If any license or permit requires the certification of some other official before issuance thereof, the City Licensing Officer shall provide the applicant with a form on which to obtain such certification. Such forms, when returned to the City Licensing Officer with the required certification, shall be filed by him.

In all cases where the certification of the Fire Chief or the Bureau of Fire Prevention or the Chief Inspector thereof is required prior to the issuance of a license or permit, such certification shall be based on a finding of fact that the premises to which the application relates complies with all fire protection requirements of this Code and other ordinances of the City and that in all cases where the certification of the City Engineer, Building Inspector, Plumbing Inspector or Electrical Inspector is required prior to the issuance of a license or permit such certification shall be based on a finding of fact that the premises, machinery, appliances, equipment, contrivance or device to which the application relates complies with all pertinent requirements of this Code and other ordinances of the City and the statutes of the State, or that such premises, equipment, contrivance or device is safe for the purpose intended, and those officers may delegate authority to certify hereunder to any technician in their respective departments.

In all cases where the prior certification of the Chief of Police of the City is required prior to the issuance of a license or permit, such certification shall be based on a finding of fact that the applicant has no police record involving moral turpitude, and is not under suspicion of any offense involving moral turpitude, or that the issuance of such license or permit would not prevent proper control of traffic on the City streets, depending on the purpose of the application.  
(Ord. 6-9-03.)

**705.04 FORM IN WHICH LICENSE AND PERMIT CERTIFICATES ISSUED; RETAINED RECORDS.**

License and permit certificates and the stubs or other means for preserving a complete record of all matters relating thereto, shall be in such form as the City Licensing Officer shall prescribe, with the approval of the City Council and the City's Mayor. Each certificate and the stub or other record thereof shall set forth the following items:

- (a) Date issued;
- (b) To whom issued;
- (c) Purpose and authority granted;

- (d) Premises or places to which applicable;
  - (e) Certificate number;
  - (f) Date of expiration, or period for which license or permit is valid;
  - (g) Amount paid therefor;
  - (h) Amount of bond posted, if any;
  - (i) Place for the Director of Finance to stamp "Paid";
  - (j) Signature of issuing officer.
- (Ord. 6-9-03.)

#### **705.05 CERTIFICATE FEE.**

For each license or permit issued, but not for certificates granting free permits or free licenses, the City Licensing Officer shall charge a certificate fee of fifty cents.  
(Ord. 6-9-03.)

#### **705.06 ISSUANCE OF LICENSES AND PERMITS.**

When proper application has been made, when any required certification has been filed, when any required bond has been posted and when the City Licensing Officer has made any required investigation, the City Licensing Officer shall issue to the applicant a license or permit certificate, and shall preserve a record thereof in his own files. Such certificate shall not be valid until stamped thereon by the City Treasurer as having been paid, except that in cases wherein no payment is required, or wherein payment is due at some other time, the City Licensing Officer shall so endorse in the place provided for such stamp, and the certificate shall then be valid.  
(Ord. 6-9-03.)

#### **705.07 WHEN DUPLICATE LICENSE OR PERMIT ISSUABLE.**

Any licensee or permittee who takes oath before the issuing officer that he has lost his license or permit certificate, or that such certificate has been destroyed or mutilated, shall be issued a duplicate of such certificate, plainly marked as such, upon payment of a certificate fee of one dollar, if then otherwise entitled to such certificate.  
(Ord. 6-9-03.)

#### **705.08 BONDS AND INSURANCE POLICIES.**

Where the provisions of this or any other chapter of this Code require that the applicant for any license or permit post a bond, such bond shall be furnished to the City Clerk except that bonds conditioned on the payment of license or permit fees shall be filed with the City Treasurer. Such bond shall be in the amount specified for the purpose of this Code, or if no amount is specified, then it shall be such amount as shall be deemed sufficient by the officer whose certification is required, or the City Licensing Officer, as the case may be. Such bonds shall be payable to the City for the use and benefit of persons intended to be protected thereby, and, unless otherwise provided, shall be conditioned on the payment of any damage to public or private property, and the payment for any personal injuries or damages or losses resulting from any malfeasance, misfeasance, nonfeasance or negligence in connection with any of the activities or conditions for which the license or permit applied for is granted.

In lieu of such bond, an applicant may furnish one or more policies of insurance in the same amount and providing the same protection. Such bonds and insurance policies shall be approved as to substance by the officer whose certification is required, or by the City Licensing Officer, as the case may be, and as to form and legality by the City Attorney. The City Licensing Officer or other proper officer concerned may require corporate sureties on such bond.  
(Ord. 6-9-03.)

**705.09 LATE FEES.**

If any person shall conduct any activity or exercise any privilege for which the payment of a license or permit fee or tax is required by this Code, without first paying such fee or tax, he shall, in addition to paying the fee or tax required for such activity or privileges, pay a late fee of ten percent (10%) of the regular fee for each month or fraction of a month that he has been in default. Such late fee shall be deemed a license fee, and shall be assessed and collected in the manner provided in this chapter, except that the certificate shall state separately thereon the amount paid as a regular fee and the amount paid as a late fee.

(Ord. 6-9-03.)

**705.10 RENEWALS.**

Unless otherwise provided in this chapter, an application for renewal of a license or permit shall be considered in the same manner as an original application.

(Ord. 6-9-03.)

**705.11 ASSIGNMENTS AND TRANSFERS.**

Any person holding a license or permit may, except as otherwise provided in this Code, apply to the issuing authority to have such license or permit assigned to another person or transferred to another premise, for the unexpired term thereof; provided, that no assignment or transfer shall be made of any license or permit which is personal in its nature, as for example, a food handler's license or permit; nor shall any transfer to another premises be made without prior certification by an officer whose certification was required in the first instance.

For each such assignment or transfer a certificate fee shall be charged, and in addition thereto, a certification fee of one dollar (\$1.00) shall be charged for each new certification required. No license or permit which has been suspended or revoked shall be assignable or transferable. On each assignment or transfer, a new certificate shall be issued and the old certificate shall be filed with its original record.

(Ord. 6-9-03.)

**705.12 REVOCATIONS, SUSPENSIONS AND ALTERATIONS;  
SCOPE OF TERM "CAUSE".**

(a) Any license or permit issued by the City may be revoked, suspended or altered, for cause, by the City Council. Upon such revocations, suspensions or alterations, the City shall not be required to make any refund whatever.

(b) The term "cause" as used in this section shall include the doing or omitting of any act, or permitting any condition to exist in connection with any activity or privilege for which a license or permission is held, when such is:

- (1) Contrary to the health, morals, safety or well being of the public;
- (2) Unlawful, irregular or fraudulent in nature;
- (3) Unauthorized or beyond the scope of the license or permit granted;
- (4) Contrary to any provision of this Code or of any lawful and duly promulgated rule or regulation of any City officer applicable to the subject matter for which such license or permit has been granted.

(Ord. 6-9-03.)

**705.13 FALSE STATEMENTS, MISREPRESENTATIONS, ETC.**

Any person who knowingly makes a false statement to any officer of this City for the purpose of obtaining a license or permit under this chapter, or for the purpose of assisting another to obtain a license or permit under this chapter, and any person who procures, or attempts to procure, or who assists, or attempts to assist, another in procuring a license or permit under this chapter by means of deceit, willful misrepresentation or willful concealment of a material fact, shall be guilty of an offense, and upon conviction thereof, if any license or permit has been issued, it shall become null and void, and no refund shall be made.

(Ord. 6-9-03.)

**705.14 SEPARATE LICENSES AND PERMITS FOR CERTAIN ACTIVITIES.**

The granting of a license or permit to any person to carry on an activity or to exercise a privilege which contains within itself, or is composed of, activities or privileges which are required by this chapter to be licensed, shall not relieve the person to whom such license or permit is granted from the necessity of procuring separate licenses or permits for each activity or privilege except as may otherwise be provided in this chapter.

(Ord. 6-9-03.)

**705.15 EFFECT OF STATE LICENSE.**

Unless otherwise provided by statute, no state license or permit shall exempt any person from the license or permit requirements of this chapter, nor shall the issuance of any state license or permit be deemed to compel the City to issue a similar license or permit contrary to the provisions of this chapter.

(Ord. 6-9-03.)

**705.16 LIMITATIONS OF AUTHORITY GRANTED BY LICENSES AND PERMITS.**

Any license or permit issued by the City shall be valid only for the licensee or permittee named therein, for the purpose therein specified, at the location or premises therein specified and for the period of time therein specified. Nothing in this chapter shall be construed to authorize anything which is prohibited by law or by any provision of this Code or other ordinance.

(Ord. 6-9-03.)

**705.17 USE, ETC., OF LICENSE OR PERMIT IN A NAME OF OTHER THAN OWNER.**

No person shall apply for, or cause to be applied for, or use or cause to be used, a license or permit in the name of any agent, employee, officer or other person, or resort to any subterfuge for the purpose of evading any provision of this Code.

(Ord. 6-9-03.)

**705.18 DURATION.**

All licenses required by this chapter, except as may be otherwise provided to the contrary, and all annual permits required or authorized by this chapter, except as may be otherwise provided to the contrary, shall run from the first of July, if issued on such date, and if not then issued, from the first day of July last past, and shall expire on the next succeeding thirtieth day of June, unless sooner revoked or suspended.

(Ord. 6-9-03.)

**705.19 CARRYING, DISPLAY AND PRODUCTION; USE OR DISPLAY OF EXPIRED, ETC., LICENSES.**

No person shall fail to carry on his person any license or permit issued under this chapter at all times when engaged in the activity, or while exercising the privilege granted by such license or permit; provided, that where such activity is to be carried on, or such privilege is to be exercised, at a fixed place or location, such license or permit shall be displayed predominantly in some conspicuous place at such location at all times. A licensee shall produce his license or permit when applying for a renewal thereof, and when requested to do so by any public officer. No person shall use or display an unexpired, revoked, or suspended license or permit, or a license or permit, for which a duplicate has been issued.

(Ord. 6-9-03.)

**705.20 AUTHORITY OF MAYOR AS TO CERTAIN DISPUTES, ETC.**

The Mayor, with the consent of the City Council, shall have authority to adjust, with fairness to all concerned, all bona fide matters of controversy between licensees or permittee or applicants for licenses or permits, and the City, and to adjust all matters of minor detail which may from time to time arise, but nothing in this section shall be construed as authority to sanction intentional violations of this article, or to waive any required license or permit.

(Ord. 6-9-03.)

**705.21 EXEMPTIONS: PERSONS; CREATION, POWERS AND DUTIES OF EXEMPTION BOARD.**

No license, permit or fee shall be required from any person exempted from municipal license by federal or State law. The Mayor and the Treasurer of the City are hereby created as a License Exemption Board, and shall have the power to grant an exemption from, or reduction in any license or permit fee under this chapter to any disabled/handicapped person, or to any charitable, religious, civic, political, benevolent, or patriotic organization deemed by such Board to merit exemption or reduction; provided, that such exemption or reduction shall not be granted for a period longer than the current license year, and provided further, that the licensee or permittee shall be given a certificate with the exemption or reduction clearly marked thereon, and the reason therefor. Each exemption or reduction granted under the provisions of this section shall be reported to the City Council at its next meeting, and the City Council may affirm, qualify, or reject any such exemption or reduction. The action of the City Council shall be final.

(Ord. 6-9-03.)

**705.22 EXEMPTIONS: ACTIVITIES.**

Nothing in this chapter shall be construed:

- (a) To require a license or to impose a fee to keep a boarding house or boarding school where boarders are not received for less than three days; or
- (b) To require any person to obtain a license or to pay a fee to exhibit any work or production of his own invention or skill; or
- (c) To require a license or to impose a fee for any school, religious or handicraft exhibition, literary or scientific lecture or musical concert; or
- (d) To require a license or impose a fee for selling refreshments or selling goods or wares at any public dinner, fair, festival or celebration, if such refreshments, goods or wares are to be furnished or sold by a religious, educational, civic, benevolent, charitable or patriotic organization not organized for profit; or



- (e) To require any trustee selling trust property, or any personal representative or committee selling property belonging to the estate under his charge, or any officer or commissioner of any court selling property under court order, decree or other process to obtain a license or pay a fee therefor; or
- (f) To require any corporation or person selling religious books to obtain a license or pay a fee; or
- (g) To require a license or to impose a fee on any person engaged in the business of horticulture, agriculture or grazing for selling or offering for sale his own products. (Ord. 6-9-03.)

#### **705.23 PRORATING.**

Except as may be provided to the contrary, the license fees provided for in this chapter are for a period of a whole license year. If a license be granted for a period less than a year, the initial fee therefor shall be computed on the basis of the annual fee, for as many months or fractions thereof as the license has to run, but no license fee shall be reduced below the minimum fee provided for in Section 705.24; provided, that in cases wherein license fees are specified for periods less than a year, or for separate occasions, then the specified fees shall be charged for such periods or occasions.

(Ord. 6-9-03.)

#### **705.24 MINIMUM FEES.**

The minimum fee to be charged for any license under this chapter shall be one dollar (\$1.00), exclusive of the certificate fee of fifty cents (\$.50).

(Ord. 6-9-03.)

#### **705.25 EVIDENCE OF ENGAGING IN ACTIVITIES COVERED IN CHAPTER.**

In any trial of any action relating to the provisions of this chapter, the fact that any party to such action represented himself as engaged in any activity or occupation, for the transaction of which a license or permit is required by this chapter, or that such party exhibited a sign or advertisement, indicating such activity or occupation, shall be evidence of the liability of such party to pay the fee for such license or permit.

(Ord. 6-9-03.)

#### **705.26 VIOLATIONS OF CHAPTER.**

It shall be unlawful for any person to violate knowingly any provisions of this chapter, to do, or attempt to do, any act prohibited by this chapter, or to aid or conspire with another to violate any provision of this chapter, or to resort to subterfuge for the purpose of evading any provision of this chapter.

(Ord. 6-9-03.)

#### **705.99 PENALTY.**

Whoever violates any provision of this Part Seven - Business and Taxation Code for which no other penalty is provided shall be fined not more than five hundred dollars (\$500.00).



**ARTICLE 709**  
**License Schedule and Fees**

<b>709.01</b>	<b>Activities licensed.</b>	<b>709.19</b>	<b>Itinerant vendors.</b>
<b>709.02</b>	<b>Auctions.</b>	<b>709.20</b>	<b>Itinerant wholesale dealers in fruits or garden produce.</b>
<b>709.03</b>	<b>Bowling alleys.</b>	<b>709.21</b>	<b>Merry-go-rounds and other amusement devices.</b>
<b>709.04</b>	<b>Billiard or pool tables.</b>	<b>709.22</b>	<b>Night clubs.</b>
<b>709.05</b>	<b>Drugstores.</b>	<b>709.23</b>	<b>Occasional vendors.</b>
<b>709.06</b>	<b>Hawkers and peddlers.</b>	<b>709.24</b>	<b>Occasional dances, exhibitions or other forms of public attractions.</b>
<b>709.07</b>	<b>Junk dealers, etc.</b>	<b>709.25</b>	<b>Photographers.</b>
<b>709.08</b>	<b>Practitioners of professions such as attorney, medicine, accounting, embalming, etc.</b>	<b>709.26</b>	<b>Punch boards, etc.</b>
<b>709.09</b>	<b>Private clubs licensed by State.</b>	<b>709.27</b>	<b>Real estate agent or broker.</b>
<b>709.10</b>	<b>Operation of "pinball machines" by minors.</b>	<b>709.28</b>	<b>Street photographers and weighers.</b>
<b>709.11</b>	<b>Soft drinks; manufacture, distribution, etc.; application of section.</b>	<b>709.29</b>	<b>Street corner hawkers.</b>
<b>709.12</b>	<b>Stores.</b>	<b>709.30</b>	<b>Second hand dealers.</b>
<b>709.13</b>	<b>Circuses, carnivals and other public shows.</b>	<b>709.31</b>	<b>Slot machines and automatic devices.</b>
<b>709.14</b>	<b>Dancing.</b>	<b>709.32</b>	<b>Shooting galleries.</b>
<b>709.15</b>	<b>Explosives.</b>	<b>709.33</b>	<b>Pawnbrokers.</b>
<b>709.16</b>	<b>Fortune telling.</b>	<b>709.34</b>	<b>Miscellaneous businesses and professions.</b>
<b>709.17</b>	<b>House boats.</b>	<b>709.35</b>	<b>Administrative fee.</b>
<b>709.18</b>	<b>House razors.</b>		

**CROSS REFERENCES**

Authority to tax - see W. Va. Code 8-13-4, 11-12-4

**709.01 ACTIVITIES LICENSED.**

All persons engaged in the trades, businesses, professions, occupations, activities and privileges listed in this article shall be licensed in accord with the provisions of this article. No person shall carry on any activity hereinafter mentioned, upon which a fee is imposed, without payment of such license fee. The payment in full of the proper fee, the issuance of a license certificate under the provisions of this article and the fulfillment of all terms and conditions of such grant shall be conditions precedent to the carrying on of any activity for which a license is required by this article; provided, however, that no such license certificate shall be issued to any applicant who owes a prior, delinquent financial debt to the City resulting from the nonpayment of any tax, fee, lien, service charge or other assessment. In the event such an applicant has entered into payment arrangements acceptable to the City to pay such prior delinquent financial debt, a license shall be issued contingent upon compliance with such payment arrangements.  
(Ord. 7-26-04.)

**709.02 AUCTIONS.**

The license fee to hold an auction sale shall be fifteen dollars (\$15.00), and no license shall be granted under this section for a longer period than thirty successive days, (Sundays and holidays excepted) at any one location and no subsequent license shall be granted to the same licensee until a whole year has elapsed from the expiration of the former license. No license shall be issued hereunder until the applicant has posted a bond, in such amount as the licensing officer may deem sufficient, as determined by the value of the inventory required herein, conditioned on the faithful performance and observation by the applicant of each and all provisions of this section, in addition to the usual conditions of bonds required for licenses under this article. Before issuing any license hereunder, each applicant for a license to conduct an auction sale shall file a complete and detailed inventory with the licensing officer, which inventory shall be open to the public inspection of all goods, wares and merchandise, which shall be offered for sale at such auction together with a sworn statement that all goods, wares and merchandise listed in said inventory have been the property of the applicant for a period of more than sixty (60) days prior to the date of making application, and that all of said goods as listed in said inventory have been marked by tag or other label, firmly affixed thereto, on which is written plainly in English the quality of such article, or its weight or fineness as may be customary to designate the quality of each particular article which is to be offered for sale.

Applications for license hereunder shall be made on suitable forms, setting forth under oath:

- (a) The name and address of the person whose goods, wares and merchandise are to be sold;
- (b) The names and addresses of the persons who are to act as auctioneers, such auctioneers to be duly licensed;
- (c) The reasons for desiring to sell such goods at auction; and
- (d) The location and time at which such auction sale is to be conducted.

It shall be a violation of this section if such licensee shall sell, or cause to be sold, any article not listed in the said inventory. A license hereunder will be held responsible for the conduct of his auctioneer, and shall not make or permit anyone to make untruthful statements or misrepresent articles to bidders as to the description, quality or kind of goods, wares or merchandise offered for sale, nor shall he employ, use, or permit the employment or use of by-bidders, commonly called "capper", nor shall he offer or permit anyone to offer or make a false bid or a pretense of buying goods, wares and merchandise offered for sale by virtue of such license nor shall the licensee offer or permit to be offered, to give or permit to be given any premiums or any merchandise whatever as a premium or incentive to bidders, and it shall be the licensee's duty to have the contents of the tag or other label affixed to each article to be read aloud before such article is offered for sale so that the contents of same may easily be heard by all persons attending such sale, said tag or other label to remain affixed to such article when said article is delivered to the purchaser thereof.

(Ord. 6-9-03.)

**709.03 BOWLING ALLEYS.**

The annual license fee to keep or maintain a bowling alley for public use where any charge is made for the use of the same, shall be twenty-five dollars (\$25.00); but if more than one be kept or maintained in the same building by the same person, the fee shall be twenty-five dollars (\$25.00) for the first one, and fifteen dollars (\$15.00) for each additional one.

(Ord. 6-9-03.)

**709.04 BILLIARD OR POOL TABLES.**

(a) The annual license fee to keep or maintain a billiard or pool table, or table of like kind, for public use, where any charge is made for the use of the same, shall be twenty-five dollars (\$25.00), but if more than one of such tables be kept in the same building by the same person, the fee shall be twenty-five dollars (\$25.00) for the first one and fifteen dollars (\$15.00) for each additional one.

(b) It shall be unlawful for the owner, proprietor, or any one having charge of any poolroom or billiard room, or any room, building, or place in which or where the game of pool or billiards is played or exhibited to be played, within the corporate limits of the City, to keep such room, building or place open, or exhibit such game or games on the first day of the week called Sunday, and all such rooms, buildings or places shall be closed at 11:50 p.m., Saturday, Eastern Standard Time, and kept closed until 6:00 a.m., Eastern Standard Time, on Monday following.

(c) It shall be unlawful for any owner or proprietor, or any person in charge of any room, building, or place where or in which the game of pool or billiards is played or exhibited to be played within the corporate limits of the City, to permit to enter or remain in any such room, building or place, any minor under the age of eighteen (18) years of age, unless such minor is accompanied by his or her parent or legal guardian.

(d) It shall be unlawful for any person or persons to bet, gamble, or wager any money or other thing of value on any game of billiards, pool, pea pool, or any other game of like nature, within the corporate limits of the City, and it shall be unlawful for the owner, proprietor, or other person in charge of any room, building or place within the corporate limits of the City, in which such games are played, or exhibited to be played, to permit any person or persons to bet, gamble or wager any money, or other thing of value on any game of pool, billiards, or pea pool, or any other game played or exhibited to be played in such room, building or place.

(e) Any person guilty of this section, shall upon conviction, be fined not less than one dollar (\$1.00), nor more than fifty dollars (\$50.00) for each offense.  
(Ord. 6-9-03.)

**709.05 DRUGSTORES.**

(a) The annual license fee to conduct the business of drugstore or pharmacy shall be five dollars (\$5.00) for each store. If a lunch counter, soda fountain or soft drink bar is operated in conjunction therewith, no license shall be issued without the state health permit therefor.

(b) No prescription shall be filled or issued unless under the supervision of a pharmacist who is licensed by the State.  
(Ord. 6-9-03.)

**709.06 HAWKERS AND PEDDLERS.****(a) Defined; Application to Traveling Salesmen, Etc.**

- (1) All persons who shall carry goods, wares or merchandise from place to place, either in person or by agent or employee and offer to sell or barter, or actually sell or barter and deliver any of such goods, wares and merchandise to any purchasers, at wholesale or retail, shall be deemed a hawker or peddler under this and the following two sections, except that nothing in this and the following two sections shall be construed as levying a license fee on an agent or traveling salesman of a manufacturer or wholesaler, who may directly supply articles manufactured or handled by such manufacturer or wholesaler or customers engaged in retail merchandise at bona fide fixed and stationary places of business.
- (2) The annual license fee to act as a hawker or peddler, when the licensee travels without a motor vehicle, shall be ten dollars (\$10.00); if he travels with a motor vehicle of not more than one-half ton capacity, fifteen dollars (\$15.00); if more than one-half ton capacity, but not more than one ton capacity, fifty dollars (\$50.00); if more than one ton capacity, but not more than two ton capacity, one hundred dollars (\$100.00) plus one hundred fifty dollars (\$150.00) for every ton or fraction of a ton in excess of two tons; and the person licensed shall pay at the same rate for each and every vehicle used and shall be issued as many certificates as there are vehicles used; and such certificate shall always be carried in such vehicle. All licenses issued hereunder shall be issued only on annual basis and the fee shall not be prorated.

(b) **Exemptions.** The following persons, in addition to those exempt under the provisions of Section 705.21, shall be exempt from the license required by this section of this chapter:

- (1) Any person engaged in the business or calling of agriculture, horticulture or grazing, who sells individually or collectively, the products derived from his business or calling.
- (2) Any wholesaler or jobber selling soft drinks or nonintoxicating beer for which he is duly licensed under other provisions of this chapter.
- (3) Any sales by societies, groups or organizations acting for charitable, religious or benevolent purposes.

(c) **Drugs, Medicines, Soaps, Etc.** The license fee to act as a hawker of drugs, medicines, nostrums, soaps, and articles of like character from a vehicle or stand erected or placed on a street corner, pavement or vacant lot or store in the City shall be fifty dollars (\$50.00) a day, but such license shall not be issued without the prior certification of the Chief of Police of the City. (Ord. 6-9-03.)

**709.07 JUNK DEALERS, ETC.**

(a) **License Required.** The annual license fee to carry on the business of a junk dealer, either within a warehouse or storehouse, shall be twenty-five dollars (\$25.00); and to act as a junk dealer's agent or itinerant junk collector, as defined in the Code of West Virginia, section 11-12-7, shall be fifteen dollars (\$15.00); provided that no license shall be issued under this section until the applicant produces to the City Licensing Officer a valid state license therefor.

(b) Record of Purchases, Etc. Every person engaged in buying or dealing in junk shall keep in a well-bound book a written record of all purchases made of cooper, brass, zinc, lead or rubber tires for vehicles. Such record shall be made in the English language and shall state the time and place each purchase was made; a description of the articles purchased, the name of the seller, his address, and the price paid therefor.

(c) Dealing With Minors. It shall be unlawful for any person to buy junk consisting of cooper, brass, zinc, lead and rubber tires for vehicles from a minor without the written consent of the father, mother or guardian of the minor.  
(Ord. 6-9-03.)

**709.08 PRACTITIONERS OF PROFESSIONS SUCH AS ATTORNEY, MEDICINE, ACCOUNTING, EMBALMING, ETC.**

(a) The annual license fee to carry on, practice or conduct the professions of physician, surgeon, dentist, dental hygienist, embalmer, funeral director, optometrist, certified public accountant, chiroprapist, engineer, chiropractor and professions recognized and regulated as such by the laws of the State, shall be fifteen dollars (\$15.00).

(b) The annual license fee to carry on, practice or conduct the profession of osteopath physician, shall be ten dollars (\$10.00).

(c) The annual license fee to carry on, practice or conduct the professions of attorney at law, pharmacist, assistant pharmacist, optometrist, veterinarian, chiroprapist, architect, and all other professions recognized and regulated as such by the laws of the State, shall be five dollars (\$5.00). (Ord. 6-9-03.)

**709.09 PRIVATE CLUBS LICENSED BY STATE.**

(a) The annual licensee fee for any private club, as defined, regulated and licensed by the State, under Article 7, Chapter 60 of the Code of West Virginia, shall be as follows:

- (1) For any profit club, five hundred dollars (\$500.00);
- (2) For any non-profit club, two hundred seventy-five dollars (\$275.00).

(b) The fee for any licenses issued following the first day of January of any year and to expire on the thirtieth day of June of each year shall be one-half of that prescribed by subsection (a) hereof.

(c) Any license issued under the provisions of this section shall expire on the thirtieth day of June next following the date of issue.  
(Ord. 6-9-03.)

**709.10 OPERATION OF "PINBALL MACHINES" BY MINORS.**

(a) It shall be unlawful within the City for any person under the age of eighteen years to play, operate, use or deposit coins in any coin-operated device commonly known and designated as a "pinball machine".

(b) It shall be unlawful for any person, being the owner, lessee, bailee or exhibitor of such device known and designated as a "pinball machine", or the owner or operator or the employee or agent of the owner or operator of any premises upon which such "pinball machine" shall be kept, maintained, exhibited, operated, or used, to suffer or permit any person under the age of eighteen years to play, operate, use or deposit coins in such "pinball machine".  
(Ord. 6-9-03.)

#### **709.11 SOFT DRINKS; MANUFACTURE, DISTRIBUTION, ETC.;** **APPLICATION OF SECTION.**

The annual license fee to conduct the business of wholesaler, distributor or manufacturer of any and all preparations of every kind whether carbonated or not, commonly known as "soft drinks", including "Bevo", "Pablo", "Moxie", ginger ale, near beer, "Coca-Cola", grape juice, fruit juices and "pop", shall be fifty dollars (\$50.00). The annual license fee on every retailer of any of the products named in this section shall be fifteen dollars (\$15.00); provided, that this section shall not be construed as requiring a license of any person engaged in wholesale or retail grocery business, who sells, as an incident thereof, canned or bottled fruit juices; and provided, further that this section shall apply to such persons only if their places of business or warehouses are situated in the City.  
(Ord. 6-9-03.)

#### **709.12 STORES.**

(a) Definition of a Store. The term "store" as used in this section shall be construed to mean and include any store or any mercantile establishment which is owned, operated, maintained or controlled by the same person, either domestic or foreign, in which goods, wares or merchandise of any kind are sold, either at retail or wholesale.

(b) Licensing Provisions. Every person opening, establishing, operating, maintaining one or more stores or mercantile establishments within the City under the same general management, supervision or ownership, shall pay the license fees prescribed for the privilege of opening, establishing, operating or maintaining such stores or mercantile establishments. The annual license fee prescribed herein shall be fifteen dollars (\$15.00) for each such store.  
(Ord. 6-9-03.)

#### **709.13 CIRCUSES, CARNIVALS AND OTHER PUBLIC SHOWS.**

The license fee to exhibit a circus shall be twenty-five dollars (\$25.00) for each exhibition or performance; and the license fee to exhibit a menagerie shall be fifteen dollars (\$15.00) for each exhibition; and the license fee to exhibit a circus and menagerie combined shall be thirty-five dollars (\$35.00) for each exhibition or performance; and the license fee to exhibit each and every side show in the vicinity of a circus, menagerie, or circus and menagerie combined shall be ten dollars (\$10.00) for each exhibition or performance and the license fee to exhibit a trained animal, or dog and pony show, shall be fifteen dollars (\$15.00) for each exhibition or performance; and the license fee to exhibit a wild west show shall be twenty-five dollars (\$25.00) for each exhibition or performance; and the license fee to exhibit a magic lantern, vitascope or similar entertainment shall be two dollars and fifty cents (\$2.50) for each exhibition or performance; and the license fee to exhibit a street or other carnival shall be twenty dollars (\$20.00) a week for each separate entertainment or exhibition for which a fee is charged; and a license fee of ten dollars (\$10.00) for each exhibition shall be charged for any other show not herein otherwise provided



for. Each such entertainment, performance or exhibition shall require a separate license, whether or not shown under the same canvas and whether or not exhibited for additional compensation; and upon any such entertainment, performance or exhibition being conducted, so that an additional fee for admission is charged, an additional license fee shall be required for any further or additional entertainment, performance or exhibition. To operate any riding device of any kind at or in the vicinity of any street or carnival show, the fee shall be ten dollars (\$10.00) a week for each such device. To keep or maintain any concession stand selling service, goods, wares or merchandise, such as food, soft drinks, ice cream, candy floss and the like, at or in the vicinity of such street or carnival show, the fee shall be five dollars (\$5.00) a week for each such concession. To maintain any concession stand such as ball games, bingo, can rack, penny pitch, pitch-till-you-win, striking machine, weighing machines, shooting gallery, artful dodger, bumper, fish pond, dart game or other legitimate games of skill, none of which shall be controlled by the operator, at or in the vicinity of any street or carnival show, the fee shall be ten dollars (\$10.00) a week for each such concession. To operate or maintain a candy wheel or any other legitimate merchandise wheels, when operated without control of the operator, shall be twenty-five dollars (\$25.00) a week. To operate or maintain rides of all kinds shall be ten dollars (\$10.00) each a week; provided, however, that such games as roll cows, blowers, spinners, swinging ball, creepers, race tracks, spot the spot, and all other games controlled by the operator are hereby forbidden and no license shall be granted to any circus, show or street carnival where such games are operated: Provided, further, that no circus, show or street carnival shall be licensed which has any gypsy fortune tellers or gypsies connected therewith in any manner.

No person without a City license therefor, shall exhibit any circus, menagerie, circus and menagerie combined, theatrical performance, street or other carnival, dramatic performance, tent show or anything of like nature, to which admission is obtained for money or reward, except for the benefit or under the auspices of a volunteer fire department; or run or operate for profit a merry-go-round, shooting gallery, cane rack, doll-baby rack, knife-rack, striking machines or device of like nature.

Any person violating any of the provisions of said section above shall, upon conviction thereof, be fined not less than twenty dollars (\$20.00) nor more than fifty dollars (\$50.00). (Ord. 6-9-03.)

#### **709.14 DANCING.**

The annual fee to maintain a floor for dancing, whether dancing is permitted as an incidental attraction to some other established business or activity, or where no other business or activity is conducted in connection therewith; or where a dance floor is regularly or frequently open to the public upon payment of an admission fee, or the equivalent thereof, shall be fifty dollars (\$50.00) for a floor of nine hundred (900) square feet or less and one hundred dollars (\$100.00) for a floor of more than nine hundred (900) square feet. This section shall not apply to night clubs as defined in Section 709.22.

(Ord. 6-9-03.)

#### **709.15 EXPLOSIVES.**

The annual license fee to sell, or to offer for sale, gun powder, mining powder, nitro-glycerine, dynamite, or other explosives, (other than fire-crackers and similar small noisemakers) shall be five dollars (\$5.00). No license shall be issued hereunder without the prior certification of the Fire Chief.

(Ord. 6-9-03.)

**709.16 FORTUNE TELLING.**

The annual license to act as a fortune teller, palmist, phrenologist, spiritualist, medium, clairvoyant, mind reader or any other person who performs the art or profession of telling the past or forecasting the future, shall be two hundred dollars (\$200.00) , but such fee shall not be divisible. (Ord. 6-9-03.)

**709.17 HOUSE BOATS .**

The annual license fee to maintain or occupy a house boat or like structure or vessel, shall be ten dollars (\$10.00).  
(Ord. 6-9-03.)

**709.18 HOUSE RAZORS.**

The annual license fee to regularly carry on or conduct the business of razing houses or other buildings, shall be fifteen dollars(\$15.00); but no license shall be issued hereunder until a bond in the penal sum of five thousand dollars (\$5,000) has been posted with the licensing officer. (Ord. 6-9-03.)

**709.19 ITINERANT VENDORS.**

The annual fee to conduct the business of itinerant vendor shall be five hundred dollars (\$500.00), and no such license shall be issued for any period less than one year. The term "Itinerant Vendor" for the purpose of this section shall mean and include all persons, firms, or corporations, both principals and agents who engage or conduct within this City either in one locality or in traveling from place to place a temporary or transient business of selling goods, wares and merchandise; and who, for the purpose of carrying on such business, use, lease or occupy either in whole or in part, a room, building or other structure, or who use, lease or occupy for such purposes, a room, or rooms, in any hotel or lodging house, for the exhibition and sale of such goods, wares and merchandise; and the person, firm or corporation so engaged shall not be relieved from the provisions of this section by reason of association temporarily with any local dealer, trader, merchant or auctioneer. The provisions of this section shall not apply to sales made to persons by commercial travelers, or selling agents in the usual course of business, nor to bona fide sales of goods, wares and merchandise by sample for future delivery; nor to hawkers or peddlers in the streets, from packs or vehicles nor to persons selling meat or the products of the farm, garden or dairy; nor to any sales by societies acting for charitable, religious or public purposes, nor to judicial sales, directed by law, or under the order of any court; nor to the sale of the common necessities of life in any public market place. No itinerant vendor shall advertise, represent or hold forth a sale of goods, wares, or merchandise as a bankrupt, insolvent, assignee, trustee, estate, executor, administrator, receiver, attorney, manufacturer, wholesale or closing out sale, or a sale of any goods damaged by smoke, fire, water or otherwise, unless before doing so, he shall state in writing, under oath, to the licensing officer, at the time he makes application for a license all the facts relating to the reason and character of such special sale so advertised, held forth, or represented, including a statement of the names of the persons applying for licenses; the place, if any, where said goods, wares or merchandise were previously exposed for sale, in such details as are necessary to exactly locate and fully identify all such goods, wares and merchandise proposed to be sold. And such itinerant vendor shall also include in the said statement the names of and residences of the owner or owners in whose interest the business is conducted, to be kept by the licensing officer with all such statements in convenient form and open to public inspection. (Ord. 6-9-03.)

### **709.20 ITINERANT WHOLESALE DEALERS IN FRUITS OR GARDEN PRODUCE.**

The annual license fee to carry on the business of itinerant wholesale dealer in fruits or garden produce shall be fifty dollars (\$50.00) and such license shall not be transferable or assignable.

Any license issued hereunder shall be carried by the licensee at all times while exercising the authority and privilege thereby granted. The term "itinerant wholesale dealer in fruits or garden produce" as used in this section, shall be defined as a person, firm or corporation who sells, or offers for sale, from any vehicle or vehicles, any fruits, vegetables or garden produce to any person, firm, corporation or association, engaged in the business of selling at retail, within the City, or to any person, firm, corporation or association for the purpose of resale within the City, to any hotel, restaurant or eating place within the City; provided, however, that this section shall not apply to, and no license shall be required from any farmer or producer, or any employee of a farmer or producer, of any fruits, vegetables or garden produce raised by such farmer or producer or employee; nor shall this section apply to any permanent dealer who is serving regular customers upon substantially fixed routes and who is operating under a United States Department of Agriculture license (and evidence of such permanence shall be prior activity of this nature for such period as indicated permanence) nor shall this section apply to or affect any person, firm or corporation who sells exclusively to or through, or buys exclusively from a duly accredited wholesale food establishment of this City.  
(Ord. 6-9-03.)

### **709.21 MERRY-GO-ROUNDS AND OTHER AMUSEMENT DEVICES.**

The license fee to operate for profit a roller coaster, merry-go-round, scenic railway, or device of like character shall be, for one week, ten dollars (\$10.00); for three months, thirty dollars (\$30.00); for six months, fifty dollars (\$50.00); and for a period of one year, one hundred dollars (\$100.00). The license fee to run or operate a doll baby rack, or cane rack, knife rack, a striking machine or like device, human laundry device, dip device, jingle board, artful dodger, candy wheel, or other scheme or device, by which merchandise or other things of value are disposed of by game of chance or like device, except such as may be mentioned in other sections of this chapter, shall be five dollars (\$5.00) for one week; twenty dollars (\$20.00) for a period of three months; thirty dollars (\$30.00) for six months; and fifty dollars (\$50.00) for one year; provided, however, that for any such rack, wheel or other scheme or device which is located in the vicinity of a fair or carnival, the license fee for one week shall be forty-five dollars (\$45.00) for each device. No license to operate any device or contrivance hereunder shall be issued without the prior certification of the City Engineer and Chief of Police; and the licensing officer shall confer with the Mayor prior to the issuance of any license hereunder. The Mayor may require the posting of a bond in such amount as he may deem sufficient prior to the issuance of any license hereunder.  
(Ord. 6-9-03.)

### **709.22 NIGHT CLUBS.**

(a) License; Fee. The annual license fee for the privilege of conducting a night club shall be one hundred dollars (\$100.00), which shall be in addition to the license fee required to sell non-intoxicating beer at retail, and in addition to other license which may be required. No license hereunder shall be issued to any except a natural person, who shows by written application, under oath, that:

- (1) The location of the building where the applicant intends to operate;
- (2) The name of the owner of said building, and, if the owner is not the applicant, that such applicant is the actual lessee of such premises;

- (3) The said building conforms to all laws and ordinances and health and fire regulations applicable thereto. No license shall be issued hereunder without the prior certification of the Health Officer and Fire Chief.

(b) Assignment or Transfer of Licenses. No license issued under subsection (a) of this section shall be assigned or transferred until an assignment fee of ten dollars (\$10.00) has been paid to the City Treasurer, and in no event shall an assignment of such license be made where the licensee has violated any of the provisions of this chapter or on which action or proceedings are still pending.

(c) Definition of Night Club. A "night club" for the purpose of this article, shall be deemed to be a place regularly operated for profit, where food or beverages are sold on the premises, with or without a membership fee and where a floor show provided with entertainment, either professional or amateur, is furnished; provided, however, that no bona fide theatrical performance or entertainment held in or by a school or church, or entertainments for bona fide fraternal, civic, patriotic, educational or religious purposes shall be classed as a night club.

(d) Appeal to Council if License Refused. Any person who feels aggrieved by the refusal of the licensing officer to issue a license under subsection (a) hereof this article, or any assignment under subsection (b) hereof, shall have an appeal to the Council. Such an appeal shall be in writing, presented through the Recorder, within thirty (30) days after such refusal, and the action of the Council shall be final.

(e) Occasional or "One Night Stands". The Licensing Officer may issue a license for occasional single benefit performances or occasional furnishing of floor shows or entertainment for one night, provided that the applicant is not engaged in the business of conducting a night club, or is not an operator of dances and is not principally engaged in the business of selling at retail non-intoxicating beer; and provided that any license fee required for such occasional performances or entertainment under any other provision of this chapter shall be paid. The license fee under this section shall be twenty-five dollars (\$25.00) for each twenty-four (24) hour period.

(f) License Revocation. Any license issued under subsection (a) hereof may be suspended or revoked for any one of the following causes:

- (1) Permitting persons under the age of eighteen (18) years of age to frequent a night club as guest, patron, or customer;
- (2) The serving of non-intoxicating beer, unless licensed by the City; and
- (3) The performance of immoral or indecent entertainment.  
(Ord. 6-9-03.)

### **709.23 OCCASIONAL VENDORS.**

The license fee to sell or offer for sale miscellaneous goods or products for short periods of time shall be five dollars (\$5.00) for one (1) day or fifteen dollars (\$15.00) for one (1) week, but no license shall be issued hereunder in contradiction of the provisions of any other section of this chapter, or if the subject matter of the license applied for is covered by any other section of this chapter; it being the intention of this section to require a license for selling or offering for sale goods and commodities which are regularly dealt in by licensed merchants of this City, and in competition with such licensed merchants, and no annual license under any other section of this chapter shall be issued.  
(Ord. 6-9-03.)

**709.24 OCCASIONAL DANCES, EXHIBITIONS, OR OTHER FORMS OF PUBLIC ATTRACTIONS.**

The license fee for conducting, for profit, a dance, exhibition, or other form of public attraction, for each day thereof, shall be fifteen dollars (\$15.00) if the admission fee thereto be twenty-five cents (\$0.25) or less; twenty-five dollars (\$25.00) if the admission fee thereto be more than twenty-five cents (\$0.25) and not more than fifty cents (\$0.50); thirty-five dollars (\$35.00) if the admission fee thereto be more than fifty cents (\$0.50) and not more than one dollar (\$1.00). This section shall not apply to any dance, exhibition or other form of public attraction conducted by any bona fide school, church, civil, fraternal or patriotic organization of this City for its own benefit exclusively.

(Ord. 6-9-03.)

**709.25 PHOTOGRAPHERS.**

The annual license fee to carry on, solicit, or conduct the business of photography, shall be ten dollars (\$10.00).

(Ord. 6-9-03.)

**709.26 PUNCH BOARDS, ETC.**

(a) License Fees. The annual license fee to keep or maintain or exhibit for use or play not more than two tip boards or cards, pull boards or cards, punch boards or cards, baseball boards or cards, jungle boards or cards, or other similar devices, which are not gambling devices under the laws of the State of West Virginia by which merchandise, or a token, check, slip, coupon metal counter, or coin is returned to the player whether exchangeable for a thing of value or not, shall be twenty dollars (\$20.00); and for more than two of any kind of such boards or cards, the annual license fee shall be twenty dollars (\$20.00) for the first two, and ten dollars (\$10.00) for each additional such board or card that may be maintained or exhibited for use or play at the same time at one place of business; provided, however, that licenses for any such boards or cards shall be ten dollars (\$10.00) per week if such boards or cards are to be maintained or exhibited for use or play at or in the vicinity of any carnival or any show connected with any fair.

(b) Seizure For Nonpayment of License Fees. In the event that the owner or proprietor of any board or card mentioned in subsection (a) hereof neglects or fails to pay the license fee due upon any such board or card, the licensing officer may take such board or card into possession and deliver the same to the City Treasurer. If such card or board has no value the same shall be destroyed, but if such a card or board has value, it shall be disposed of, and the proceeds therefrom shall be applied in the manner set forth in Section 709.31(b).

(Ord. 6-9-03.)

**709.27 REAL ESTATE AGENT OR BROKER.**

The annual license fee to act as a real estate agent or broker shall be fifteen dollars (\$15.00). (Ord. 6-9-03.)

**709.28 STREET PHOTOGRAPHERS AND WEIGHERS.**

The annual license fee to occupy a stand upon a street, alley, open lot or public place for the purpose of taking pictures, operating a weighing machine attended by an operator, or like purpose shall be one hundred dollars (\$100.00). Such fee for one month shall be fifty dollars (\$50.00), and for one day, five dollars (\$5.00). No license shall be issued under this section until the licensee has first procured from the Chief of Police permission to occupy a location or place, nor shall such licensee occupy any other place or location without permission for such change to be given by the Chief of Police.

(Ord. 6-9-03.)

**709.29 STREET CORNER HAWKERS.**

The license fee to act as a hawker of drugs, medicines, nostrums, soaps, and articles of like character from a vehicle or stand erected or placed on a street corner, pavement or vacant lot or store in the City shall be fifteen dollars (\$15.00) a day; but no such license shall be issued without the prior certification of the Chief of Police; and in the case of drugs, medicines or nostrums, no license shall be issued without the prior certification of the Health Officer.

(Ord. 6-9-03.)

**709.30 SECOND HAND DEALERS.**

The annual license fee to carry on or conduct the business of dealing in second hand goods and chattels shall be ten dollars (\$10.00) for each place of business. No license shall be issued hereunder without the prior certification of the Chief of Police.

(Ord. 6-9-03.)

**709.31 SLOT MACHINES AND AUTOMATIC DEVICES.**

(a) License fees. The annual license fee to keep or maintain an automatic baggage or parcel checking machine, or device, which is used for the storage of baggage or parcels of any character, shall be fifty cents (\$0.50) for each section of any such device which is operated on the coin-in-the-slot principle; the annual license fee to keep or maintain any other automatic penny slot machine or device which is not a gambling device under any law of this State, shall be two dollars (\$2.00) for every such machine or device; and, the annual license fee to keep or maintain any other automatic slot machine or device, which is not a gambling device, as aforesaid, shall be twelve dollars (\$12.00) for every such machine or device; provided, however, that the license fees for slot machines or devices which do not vend any product, or perform any service shall be as follows:

- Class A. Bowling, shuffleboard, pin-pool and all similar games involving skill -- \$12.00 per year.
- Class B. Pin ball machines and similar devices, operated by a ball or balls -- \$12.00 per year.
- Class C. All other slot machines or devices not vending products or performing services -- \$12.00 per year .

The term "slot machine" when used in this section shall not be deemed to mean or include any pay telephone or postage stamp machine operated on the coin-in-the-slot principle.

(b) Seizure of Machines For Nonpayment of License Fees. In the event the owner of any automatic machine or device required to be licensed under subsection (a) hereof neglects or fails to pay the license fee due upon any such machine or device, then the proprietor or owner of the business conducted in the store room or place where such machine is installed, operated, or maintained, shall be liable for the payment of such license fee, and upon his refusal or failure to pay such license fee, the Licensing Officer may take the machine or device into possession and deliver the same to the City Treasurer and the machine or device shall be impounded until such license fee is paid. In the event the license fees and late fees and penalties are not paid to the Treasurer within ten days after such impounding, then the Treasurer shall sell such machine or device in the manner provided by law for the sale of personal property for taxes, and the proceeds thereof shall discharge and pay the license fees and penalties due on such machine or device, and all costs, and the balance, if any, shall be forfeited to the City.  
(Ord. 6-9-03.)

**709.32 SHOOTING GALLERIES.**

The annual license fee to keep or maintain a shooting gallery for public use shall be twenty-five dollars (\$25.00). No license shall be issued hereunder without the prior certification of the Fire Chief.  
(Ord. 6-9-03.)

**709.33 PAWNBROKERS.**

The annual license fee to carry on the business of pawnbroker shall be one hundred fifty dollars (\$150.00).  
(Ord. 6-9-03.)

**709.34 MISCELLANEOUS BUSINESSES AND PROFESSIONS.**

The annual fee to engage or carry on the business of window cleaner, sample distributor, social worker, collection agency, employment agency, car wash, laundromat, bondsman, medical corporation, nursing home, plumber, private detective, insurance broker, landscape architect, surveyor, barber, contractor or any other business not otherwise found or set forth in this code, is fifteen dollars (\$15.00).  
(Ord. 6-9-03.)

**709.35 ADMINISTRATIVE FEE.**

In addition to the license fee, the City shall charge a fee of fifty cents (\$0.50) to issue any license as an administrative fee.  
(Ord. 6-9-03.)





**ARTICLE 715**  
**Solicitors and Canvassers**

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|---|---|
| <p><b>715.01</b> "Canvasser" and "solicitor" defined.</p> <p><b>715.02</b> Permit and license required.</p> <p><b>715.03</b> Permit and license application; investigation fee.</p> <p><b>715.04</b> Permit and license; investigation of applicant; rejection or issuance.</p> <p><b>715.05</b> License fee; amount; fiscal year.</p> <p><b>715.06</b> License fee; adjustment when fee imposes burden on interstate commerce.</p> | <p><b>715.07</b> Bond required.</p> <p><b>715.08</b> Display of license.</p> <p><b>715.09</b> Enforcement of article by police officers.</p> <p><b>715.10</b> Reports and records of violations.</p> <p><b>715.11</b> Revocation of license and permits following hearing.</p> <p><b>715.12</b> Appeals from actions of Chief of Police, Recorder.</p> <p><b>715.13</b> Expiration of permits and licenses.</p> |
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**CROSS REFERENCES**

Solicitation of charitable funds - see W. Va. Code Art. 29-19  
Obtaining money by false pretenses - see W. Va. Code 61-3-24 et seq.  
Trespass - see GEN. OFF. 533.02

**715.01 "CANVASSER" AND "SOLICITOR" DEFINED.**

For the purposes of this article a "canvasser" or "solicitor" is defined as any individual, whether resident of the city or not, traveling either on foot, wagon, automobile, motor truck or any other type of conveyance, from place to place, from house to house or from street to street, taking or attempting to take orders for merchandise for future delivery or for services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sales or not; provided, that such definition shall include any person, who, for himself or for another person, hires, leases, uses or occupies any building, structure, tent, railroad car, boat, hotel room, lodging house, apartment, shop or any other place within the City for the sole purpose of exhibiting samples and taking orders for future delivery.  
(1987 Code §26-1-1.)

**715.02 PERMIT AND LICENSE REQUIRED.**

It shall be unlawful for any solicitor or canvasser to engage in such business without first obtaining a permit or license therefor in compliance with the provisions of this article.  
(1987 Code §26-1-2.)

**715.03 PERMIT AND LICENSE APPLICATION; INVESTIGATION FEE.**

(a) Applicants for permit and license under this article shall file with the Recorder a sworn application (see Exhibit A at the end of this article) in writing and in duplicate on a form to be furnished by the Recorder, which shall give the following information:

- (1) Name and description of applicant;
- (2) Permanent home address and full local address of the applicant;
- (3) A brief description of the nature of the business and the goods to be sold;
- (4) If employed, the name and address of the employer, together with credentials establishing the exact relationship of applicant to the employer;
- (5) The length of time for which the right to do business is desired;
- (6) The place where the goods or property proposed to be sold, or order taken for the sale thereof, is manufactured or produced, where such goods or products are located at the time the application is filed, and the proposed method of delivery;
- (7) A photograph of the applicant, taken within sixty days immediately prior to the date of filing of the application, which picture shall be two inches by two inches showing the head and shoulders of the applicant in a clear and distinguishing manner;
- (8) The names of at least two reliable owners of property in the City who will certify as to the applicant's good character and business respectability, or, in lieu of the names of references, such other available evidence as to the good character and business responsibility of the applicant as will enable an investigator to properly evaluate such character and business responsibility; and
- (9) A statement as to whether or not the applicant has been convicted of any crime or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor.

(b) At the time of filing the application, a fee of two dollars and fifty cents (\$2.50) shall be paid to the Recorder to cover the cost of investigation of the facts stated therein. (1987 Code §26-1-3.)

**715.04 PERMIT AND LICENSE; INVESTIGATION OF APPLICANT;  
REJECTION OR ISSUANCE.**

(a) Upon receipt of an application for a canvasser's or solicitor's license the original shall be referred to the Chief of Police, who shall cause such investigation of the applicant's business and moral character to be made as he deems necessary for the protection of the public good.

(b) If, as a result of such investigation, the applicant's character or business responsibility is found to be unsatisfactory, the Chief of Police shall endorse on such application his disapproval and his reasons therefor and return it to the Recorder, who shall notify the applicant that his application is disapproved and that no permit and license will be issued.

(c) If, as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the Chief of Police shall endorse on the application his approval, execute a permit addressed to the applicant for the carrying on of the business applied for and return such permit, along with the application, to the Recorder, who shall, upon payment of the prescribed license fee, deliver to the applicant his permit and issue a license. Such license shall contain the signature and seal of the issuing officer and shall show the name, address and photograph of the licensee, the class of license issued and the kind of goods to be sold thereunder, the amount of fee paid, the date of issuance and the length of time the license shall be operative, as well as the license number and other identifying description of any vehicles used in such soliciting or canvassing. The Recorder shall keep a permanent record of all licenses issued. (1987 Code §26-1-4.)

#### **715.05 LICENSE FEE; AMOUNT; FISCAL YEAR.**

For each canvasser's or solicitor's license issued under this article the licensee shall pay to the City Treasurer a license fee of ten dollars (\$10.00) per year, which shall be assessed on the fiscal year basis; and on or after January first, and before July first the amount of such fee for the annual license shall be one-half the amount stipulated above for a fiscal year which begins on July first and terminates the following June thirtieth. (1987 Code §26-1-5.)

#### **715.06 LICENSE FEE; ADJUSTMENT WHEN FEE IMPOSES BURDEN ON INTERSTATE COMMERCE.**

(a) No license fee required by this article shall be so applied as to occasion an undue burden upon interstate commerce. In any case where a license fee is believed by a licensee or applicant for license to place an undue burden upon interstate commerce, he may apply to the Council for an adjustment of the fee so that it shall not be discriminatory, unreasonable or unfair as a burden upon interstate commerce.

(b) Such application may be made before, at or within six months after payment of the prescribed license fee. The applicant shall, by affidavit and supporting testimony, show his method of business and the gross volume or estimated gross volume of business and such other information as the Recorder may deem necessary in order to determine the extent, if any, of such undue burden on interstate commerce. The Recorder shall then conduct an investigation, comparing applicant's business with other businesses of like nature, and shall make finding of fact from which he shall determine whether the fee fixed by this article is unfair, unreasonable or discriminatory as to applicant's business, and shall fix as the license fee for the applicant, an amount that is fair, reasonable and nondiscriminatory, or if the fee has already been paid, shall order a refund of the amount over and above the fee so fixed.

(c) In fixing the fee to be charged, the Recorder shall have the power to base the fee upon a percentage of gross sales or any other method which will assure that the fee assessed shall be uniform with that assessed on businesses of like nature, so long as the amount assessed does not exceed ten dollars (\$10.00). Should the Recorder determine the gross sales measure of the fee to be the fair basis, he may require the applicant to submit, either at the time of termination of applicant's business in the City or at the end of each three-month period, a sworn statement of the gross sales and pay the amount of fee therefor, provided that no additional fee during any one fiscal year shall be required after the licensee shall have paid an amount equal to the annual license fee of ten dollars (\$10.00). (1987 Code §26-1-6.)

**715.07 BOND REQUIRED.**

Every applicant for a license under this article who is not a resident of the City or who, being a resident of the City, represents a firm whose principal place of business is located outside the State, shall file with the Recorder a surety bond, running to the City in the amount of one thousand dollars (\$1,000), with surety acceptable to and approved by the Recorder, conditioned that the applicant shall comply fully with all the provisions of this code and other ordinances and the statutes of the State regulating or concerning the business of solicitor and guaranteeing to any resident of the City that all money paid as a down payment will be accounted for and applied according to the representations of such solicitor. Action on such bond may be brought in the name of the City to the use or benefit of any aggrieved person.  
(1987 Code §26-1-7.)

**715.08 DISPLAY OF LICENSE.**

Solicitors and canvassers are required to exhibit their licenses at the request of any citizen who may be concerned therewith.  
(1987 Code §26-1-8.)

**715.09 ENFORCEMENT OF ARTICLE BY POLICE OFFICERS.**

It shall be the duty of any police officer of the City to require any person seen soliciting or canvassing, and who is not known by such officer to be duly licensed, to produce his solicitor's or canvasser's license and to enforce the provisions of this article against any person found to be in violation thereof.  
(1987 Code §26-1-9.)

**715.10 REPORTS AND RECORDS OF VIOLATIONS.**

The Clerk of the Municipal Court shall report to the Recorder all convictions for violations of this article; and the Recorder shall maintain a record for each license issued and record the reports of violation therein.  
(1987 Code §26-1-10.)

**715.11 REVOCATION OF LICENSE AND PERMITS FOLLOWING HEARING.**

(a) Permits and licenses issued under the provision of this article may be revoked by Council after notice and hearing, for any of the following causes:

- (1) Fraud, misrepresentation or false statement contained in the application for license;
- (2) Fraud, misrepresentation or false statement made in the course of carrying on business as solicitor or as canvasser;
- (3) Any violation of this article;
- (4) Conviction of any crime or misdemeanor involving moral turpitude; or
- (5) Conducting the business of soliciting or of canvassing in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

(b) Notice of the hearing for revocation of a license or permit shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at this last known address at least five days prior to the date set for hearing.  
(1987 Code §26-1-11.)

**715.12 APPEALS FROM ACTIONS OF CHIEF OF POLICE, RECORDER.**

Any person aggrieved by the action of the Chief of Police or the Recorder in the denial of a permit or license under this article, or the action of the Recorder in assessing of the fee as provided in Section 715.06 shall have the right to appeal to the City Council within fourteen days after notice of the action appealed from, by a written statement setting forth fully the grounds for the appeal. The City Council shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the appellant in the same manner as provided in Section 715.11(b) for notice of hearing on revocation. The decision and order of the City Council on such appeal shall be final and conclusive.

(1987 Code §26-1-12.)

**715.13 EXPIRATION OF PERMITS AND LICENSES.**

All annual license and permits issued under the provision of this article shall expire on the thirtieth day of June next succeeding the date of issuance. Other than annual licenses and permits shall expire on the date specified therein.



EXHIBIT A

CITY OF GLEN DALE  
APPLICATION FOR CITY LICENSE  
SOLICITORS AND CANVASSERS

LIST FULL NAME \_\_\_\_\_  
 PERMANENT HOME ADDRESS \_\_\_\_\_  
 DATE OF BIRTH \_\_\_\_\_ SOCIAL SECURITY \_\_\_\_\_  
 FULL LOCAL ADDRESS \_\_\_\_\_  
 ATTACH COPY OF OPERATORS LICENSE OR DESCRIPTION AND PHOTOGRAPH OF  
 APPLICANT: \_\_\_\_\_  
 NAME OF EMPLOYER \_\_\_\_\_  
 ADDRESS OF EMPLOYER \_\_\_\_\_  
 TELEPHONE NUMBER \_\_\_\_\_  
 DATE(S) OF SOLICITATION \_\_\_\_\_  
 DO YOU HAVE A WEST VIRGINIA BUSINESS LICENSE? YES/NO \_\_\_\_\_  
 LIST WEST VIRGINIA TAX IDENTIFICATION NUMBER \_\_\_\_\_  
 TYPE OF VEHICLE TO BE USED IN SOLICITATION: YEAR \_\_\_\_\_  
 COLOR \_\_\_\_\_ MAKE \_\_\_\_\_ LICENSE # \_\_\_\_\_ STATE \_\_\_\_\_  
 ARE YOU TAKING ORDERS FOR GOODS? YES/NO \_\_\_\_\_  
 EXPECTED DELIVERY DATE \_\_\_\_\_ OR  
 DELIVERY AT TIME OF ORDER.  
 LIST TWO CREDIT REFERENCES \_\_\_\_\_  
 \_\_\_\_\_  
 HAVE YOU EVER BEEN CONVICTED OF A FELONY? YES/NO \_\_\_\_\_  
 IF YES, EXPLAIN \_\_\_\_\_  
 I HEREBY CERTIFY THAT THE ABOVE INFORMATION IS TRUE AND CORRECT.  
 DATE \_\_\_\_\_ SIGNATURE \_\_\_\_\_

=====

DATE \_\_\_\_\_ SIGNATURE \_\_\_\_\_  
 PERMIT # \_\_\_\_\_ EXPIRATION DATE \_\_\_\_\_ FEE \_\_\_\_\_  
 SECURITY AMOUNT \$ \_\_\_\_\_

PERMIT TO BE USED DURING THE DAYLIGHT  
HOURS ONLY.





**ARTICLE 717**  
**Motor Carrier Road Tax Identification Markers**

**717.01 Definitions.**

**717.99 Penalty.**

**717.02 Identification markers, trip permit, or transportation marker.**

**717.01 DEFINITIONS.**

For the purpose of this article:

- (a) "Commissioner" or "Tax Commissioner" means the Tax Commissioner of the State of West Virginia or his duly authorized agent.
- (b) "Highway" means every highway or place of whatever nature open to the use of the public as a matter of right for the purpose of vehicular travel, which is maintained by this State or some taxing subdivision or unit thereof or the federal government or any of its agencies.
- (c) "Identification marker" means the decal issued by the Commissioner for display upon a particular motor carrier and authorizing a person to operate or cause to be operated a motor carrier upon any highway of the State.
- (d) "Motor carrier" means any passenger vehicle which has seats for more than nine passengers in addition to the driver, or any road tractor, or any tractor truck, or any truck having more than two axles which is operated or caused to be operated by any person on any highway in this State.
- (e) "Operation" means any operation of any motor carrier, whether loaded or empty, whether for compensation or not, and whether owned by or leased to the person who operates or causes to be operated such motor carrier.
- (f) "Person" means and includes any individual, firm, partnership, limited partnership, joint adventure, association, company, corporation, organization, syndicate, receiver, trust or any group or combination acting as a unit, in the plural as well as the singular number and means and includes the officers, directors, trustees or members of any firm, partnership, limited partnership, joint adventure, association, company, corporation, organization, syndicate, receiver, trust or any other group or combination acting as a unit, in the plural as well as the singular number unless the intention to give a more limited meaning is disclosed by the context.
- (g) "Road tractor" means and includes any acquisition of ownership of property or of a security interest for a consideration.

- (h) "Tractor truck" means every motor carrier designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.
- (i) "Truck" means every motor carrier designed, used or maintained primarily for the transportation of property and having more than two axles.  
(1987 Code §29-5-1.)

**717.02 IDENTIFICATION MARKERS, TRIP PERMIT, OR  
TRANSPORTATION MARKER.**

No person shall operate or cause to be operated in this Municipality any motor carrier subject to Article 14A, Chapter 11 of the West Virginia Code, without first securing from the Commissioner an identification marker, trip permit, or transportation marker. The identification marker, trip permit or transportation marker shall be displayed on the motor carrier as required by the Commissioner.  
(1987 Code §29-5-2.)

**717.03 PENALTY.**

Upon conviction for failure to obtain and display the identification marker, trip permit, or transportation marker, on each motor carrier, the person which operates or causes to be operated said motor carrier shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) per day; and each day of such failure shall constitute a separate offense.  
(1987 Code §29-5-3.)

**ARTICLE 719  
Yard and Garage Sales**

**719.01 Two sales a year permitted.**

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**719.01 TWO SALES A YEAR PERMITTED.**

(a) It shall be unlawful to conduct, hold, or otherwise permit in excess of two yard sales/garage sales/rummage sales per residence or household each calendar year within the City.

(b) Residence or household shall be deemed to be defined as the same for the purposes of this article. This article shall apply to residences only, and not to locations zoned for other than residential purposes.

(c) Yard sale, garage sale, rummage sale, flea market, tag sale or any similar event shall be deemed for the purposes of this article to be the same, and no more than two such events shall be held per calendar year as above described. Any one such sale or event cannot last more than 48 hours in continuous duration.

(d) All such persons desiring to conduct an event as described above must first obtain a no cost permit from the City Clerk's Office. That person shall be responsible for any violations, if any, that would accrue to any given residence or household. The penalty for such violations shall be up to one hundred dollars (\$100.00) per day for any violation over the two events per year defined above. (Ord. 9-25-00.)



### **CHAPTER THREE - Taxation and Service Charges**

- Art. 721. General Taxation Provisions.
- Art. 727. Intoxicating Liquor Tax.
- Art. 733. Business and Occupation Taxes.
- Art. 734. Hotel Occupancy Tax.
- Art. 739. Public Utility Charges.
- Art. 745. Sale of Wines.
- Art. 751. Municipal Service Fee.
- Art. 755. Nonintoxicating Beer.

#### **ARTICLE 721 General Taxation Provisions**

- |  |                                      |
|--|--------------------------------------|
| <b>721.01 Annual fiscal statement.</b> | <b>721.03 Certification of levy.</b> |
| <b>721.02 Levy of additional tax.</b>  |                                      |

#### **CROSS REFERENCES** Taxation - see W. Va. Code Art. 8-13

#### **721.01 ANNUAL FISCAL STATEMENT.**

(a) When Adopted; Contents. Between the seventh and twenty-eighth days of March of each and every year, the City Council shall meet and ascertain the fiscal condition of the City, and made an itemized statement setting forth:

- (1) The amount due and the amount that will become due and collectible from every source during the current fiscal year except from the levy of taxes to be made for the year.
- (2) The interest, sinking fund and amortization requirements for the fiscal year of bonded indebtedness, legally incurred upon a vote of the people as provided by law.
- (3) All other expenditures to be paid out of the receipts of the City for the current fiscal year with proper allowance for delinquent taxes, exonerations and contingencies.
- (4) The total amount necessary to be raised by the levy of taxes for the current fiscal year.
- (5) The proposed rate of levy in cents on each one hundred dollars assessed valuation of each class of property; and
- (6) The separate and aggregate assessed valuations of real, personal and public utility property in each class in the City.

(b) Copy to State Tax Commissioner; Publication; Reconvening of City Council.

Immediately after the meeting of the City Council mentioned in subsection (a) hereof, the Recorder shall forthwith forward a copy of the itemized statement therein described, to the State Tax Commissioner and shall publish a copy thereof as provided by the Code of West Virginia (WVa 11-8-14). The City Council shall reconvene each third Tuesday in April.

(c) Procedure of City Council at next Reconvened Meeting; Levy of Taxes.

When the City Council reconvenes on the third Tuesday in April, it shall proceed in a manner similar in all respects to that provided by the Code of West Virginia (WVa 11-8-10a) for County Commissioners in hearing objections to proposed levies and in revising such levies.

The City Council shall not finally enter any levy until it has been approved in writing by the State Tax Commissioner. After receiving such approval, the City Council shall enter the statement as provided in its record of proceedings, together with the written approval.

The City Council shall levy as many cents per hundred dollars assessed valuation on each class of property in the City as will produce the amounts, according to the last assessment, shown to be necessary by the statement in the following order:

First, for the bonded debt and for the contractual debt not bonded, if any:

Second, for general current expenses.

The rates of levy for each purpose shall not exceed the amounts fixed by law unless another rate is authorized by the Tax Commissioner according to law. When less than the maximum levies are imposed, the levies on each class of property shall be in the same proportions as to maximums authorized.

(1987 Code §§29-1-1, 2, 3.)

**721.02 LEVY OF ADDITIONAL TAX.**

The City Council may impose any tax not theretofore levied, or may increase any tax theretofore levied, and may make such tax or increase effective as of the date of the adoption of the ordinance imposing or increasing the tax, or as of any date thereafter specified in the ordinance regardless of whether or not such tax or the increase thereof is included within the levy estimate for the current or ensuing fiscal year provided for in Section 721.01; provided, that when such tax or increase is not included within such levy estimate, such tax or increase shall not be imposed until such levy estimate is revised in accordance with the provisions of the Code of West Virginia (WVa 11-8-26a). If such tax or increase is continued in effect during subsequent fiscal years, it shall thereafter be included in the levy estimate.

(1987 Code §29-1-4.)

**721.03 CERTIFICATION OF LEVY.**

Each year, within three days after the City Council has laid the levies, the Recorder shall forward certified copies of the order laying the levies to the State Tax Commissioner, the State Auditor, and the County Assessor.

(1987 Code §29-1-5.)

**ARTICLE 727**  
**Intoxicating Liquor Tax**

**727.01 Tax on purchase.**

**CROSS REFERENCES**

Authority to levy - see W. Va. Code 8-13-7; 60-7-7

Liquor control - see GEN. OFF. Art. 521

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**727.01 TAX ON PURCHASE.**

Pursuant to Chapter 8, Article 13, Section 7 of the West Virginia Code, there is hereby imposed a tax of five percent (5%) of the retail purchase price of any and all intoxicating liquors purchased from the Alcohol Beverage Control Commission or from any person licensed to sell wine at retail to the public under the provision of Chapter 60, Article 8 of the aforesaid Code of West Virginia, within the corporate boundaries of the Municipality. Such tax shall be levied upon the purchaser of said intoxicating liquor or wine, and shall be added to any collected with the retail purchase price of such intoxicating liquor or wine. Such tax shall be received by the Municipality from the State Treasury pursuant to the rules and regulations adopted by the said Alcohol Beverage Control Commissioner. Provided, however, that such tax shall not be collected on intoxicating liquors, other than wine sold by or purchased from holders of a license issued under the provisions of Chapter 60, Article 7 of said West Virginia Code. Provided further, such tax shall be collected upon all sales of wine to holders of a license issued under the provisions of Chapter 60, Article 7 of said West Virginia Code from a wine distributor licensed pursuant to the provisions of Chapter 60, Article 3 et seq. of said West Virginia Code.  
(1987 Code §29-2-1.)





**ARTICLE 733**  
**Business and Occupation Taxes**

- |         |  |         |   |
|---------|--|---------|---|
| 733.01  | Definitions.   | 733.16C | Industrial expansion credit; eligible investment.   |
| 733.02  | Interstate and foreign commerce revenue excluded in measuring tax.             | 733.16D | Industrial expansion credit; forfeiture, redetermination.                                       |
| 733.03  | Administration and construction of article.                                    | 733.16E | Transfer of eligible investment to successors.  |
| 733.04  | Imposition of privilege tax.   | 733.17  | Computation of tax; remittance.   |
| 733.05  | Production of coal and other natural resource products.                        | 733.18  | Return and remittance by taxpayer.  |
| 733.06  | Manufacturing, compounding or preparing products; processing of food excepted. | 733.19  | Erroneous computation.  |
| 733.07  | Business of selling tangible property, sales exempt.                           | 733.20  | Failure to make return; assessment by Director of Finance when return believed to be deficient. |
| 733.08  | Public service or utility business.  | 733.21  | Jeopardy assessments.   |
| 733.09  | Business of contracting.   | 733.22  | Notice of assessment; petition for reassessment; hearing.                                       |
| 733.10  | Business of operating amusements.  | 733.22A | Hearing.  |
| 733.11  | Service business or calling not otherwise specifically taxed.                  | 733.23  | Appeal.   |
| 733.12  | Business of furnishing property for hire.                                      | 733.24  | Tax year.   |
| 733.13  | Small loan and industrial loan businesses.                                     | 733.25  | Tax cumulative.   |
| 733.14  | Banking and other financial business.  | 733.26  | Payment; penalty for nonpayment.  |
| 733.15  | Exemptions.  | 733.27  | Lien of tax due and unpaid.   |
| 733.15A | Tax credit for certain multiple activities.                                    | 733.28  | Enforcement of collection.  |
| 733.16  | Tax credit for industrial expansion; regulations.                              | 733.29  | Payment when person sells out or quits business; lien liability of successor.                   |
| 733.16A | Industrial expansion credit; definitions.                                      | 733.30  | Recording of tax liens.   |
| 733.16B | Industrial expansion credit; amount of credit allowed.                         | 733.31  | Collection by distraint; suit to enforce lien.  |
|         |  | 733.32  | Offenses; penalties.  |
|         |  | 733.33  | Authority of City Council to revoke City licenses, as additional penalty.                       |
|         |  | 733.34  | Penalties for unlawful disclosure of information.   |
|         |  | 733.35  | Refunds and credits.  |

**CROSS REFERENCES**

- Authority to tax - see W. Va. Code 8-13-5  
 Business and occupation tax - see W. Va. Code Art. 11-13  
 Collection of taxes - see W. Va. Code 8-13-15 et seq.

**733.01 DEFINITIONS.**

When used in this chapter, the term "person" or the term "company" herein used interchangeable, includes any individual, firm, co-partnership, joint adventure, association, corporation, trust, or any other group or combination acting as a unit, and the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by the context; and, for the purposes of this chapter the following words, terms and phrases shall have the meanings respectively ascribed to them by this section;

- (a) The term "banking business" or "financial organization" shall mean any bank, banking association, trust company, industrial loan company, small loan company or licensee, building and loan association, savings and loan association, credit union, finance company, investment company, investment broker or dealer, and any other similar business organization at least ninety per centum of the assets of which consists of intangible personal property and at least ninety per centum of the gross receipts of which consists of dividends, interest and other charges derived from the use of money or credit.
- (b) "Business" shall include all activities engaged in or caused to be engaged in with the object of gain or economic benefit, either direct or indirect. "Business" shall not include a casual sale by a person who is not engaged in the business of selling the type of property involved in such casual sale. "Business" shall include the production of natural resources or manufactured products which are used or consumed by the producer or manufacturer and shall include the activities of a banking business or financial organization.
- (c) "City" shall mean the City of Glen Dale or its duly appointed agent.
- (d) "Contracting" shall include the furnishing of work, or both materials and work, in the fulfillment of a contract for the construction, alteration, repair, decoration or improvement of a new or existing building or structure, or any part thereof, or for the alteration, improvement or development of real property.
- (e) "Gross income" means the gross receipts of the taxpayer, other than a banking or financial business, received as compensation for personal services and the gross receipts of the taxpayer derived from trade, business, commerce or sales and the value proceeding or accruing from the sale of tangible property (real or personal), or service, or both, and all receipts by reason of the investment of the capital of the business engaged in, including rentals, royalties, fees, reimbursed costs or expenses or other emoluments however designed and including all interest, carrying charges, fees or other like income, however denominated, derived by the taxpayer from repetitive carrying of accounts, in the regular course and conduct of his business, and extension of credit in connection with the sale of any tangible personal property or service, and without any deductions on account of the cost of property sold, the cost of materials used, labor costs, taxes, royalties paid in cash or in kind or otherwise, interest or discount paid or any other expense whatsoever. "Gross income" of a banking or financial business is specified in Section 733.14.
- (f) "Gross Proceeds of sales" means the value, whether in money or other property, actually proceeding from the sale of tangible property without any deduction on account of the cost of property sold or expenses of any kind.
- (g) The terms "gross income" and "gross proceeds of sales" shall not be construed to include:
  - (1) Cash discounts allowed and taken on sales;
  - (2) The proceeds of sale of goods, wares or merchandise returned by customers when the sale price is refunded either in cash or by credit;

- (3) The amount allowed as "trade-in-value" for any article accepted as payment for any article sold;
  - (4) Excise taxes imposed by this State; or
  - (5) Money or other property received or held by a professional person for the sole use and benefit of a client or another person or money received by the taxpayer on behalf of a bank or other financial institution for the repayment of a debt of another.
- (h) "Sale", "sales" or "selling" includes any transfer of ownership of, or title to, property, whether for money or in exchange for other property.
- (i) "Selling at wholesale" or "wholesale sales" shall mean and include:
- (1) Sales of any tangible personal property for the purpose of resale in the form of tangible personal property;
  - (2) Sales of machinery, supplies or materials which are to be directly consumed or used by the purchaser in the conduct of any business or activity which is subject to the tax imposed by this chapter;
  - (3) Sales of any tangible personal property to the United States of America, its agencies and instrumentalities or to the State of West Virginia, its institutions or political subdivisions.
- (j) "Service business or calling" shall include all activities engaged in by a person for other persons for a consideration, which involve the rendering of a service as distinguished from the sale of tangible property, but shall not include the services rendered by an employee to this employer. The term shall include, but not be limited to:
- (1) Persons engaged in the manufacturing, compounding or preparing for sale, profit, or commercial use, articles, substances or commodities which are owned by another or others;
  - (2) Persons engaged as independent contractors in producing natural resource products which are owned by another or others, as personal property, immediately after the same are served, extracted, reduced to possession and produced;
  - (3) The repetitive carrying of accounts, in the regular course and conduct of business, and extension of credit in connection with the sale of tangible property or service, except as to persons taxed to the provisions of Section 733.14.
- (4-23-07)

### **733.02 INTERSTATE AND FOREIGN COMMERCE REVENUE EXCLUDED IN MEASURING TAX.**

The measure of tax assessed in this article shall not include gross income derived from commerce between this State and other states of the United States or between this State and foreign countries. (4-23-07)

### **733.03 ADMINISTRATION AND CONSTRUCTION OF ARTICLE.**

(a) The administration of this article is vested in and shall be exercised by the Director of Finance, who shall prescribe forms and reasonable rules or procedure in conformity with this article, subject to the approval of the City Council, for the making of returns and for the ascertainment, assessment and collection of the taxes imposed hereunder; and the enforcement of any of the provisions of this article in any of the courts of the State shall be under the exclusive jurisdiction of the Director of Finance who shall require the assistance and act through the City Attorney.

(b) This article is based upon the provisions of Article 13, Chapter 11 of the Code of West Virginia, and it is intended that the sections of this article be construed with the light of said law, so far as the premises admit hereof.

(4-23-07)

#### **733.04 IMPOSITION OF PRIVILEGE TAX.**

(a) There is hereby levied and shall be collected annual privilege taxes against the persons, on account of the business or other activities, and in the amounts to be determined by the application of rates against values or gross income as set forth in Section 733.05 to 733.14 inclusive of this article.

(b) If any person liable for any tax under Sections 733.05 or 733.06 shall ship or transport his products or any part thereof out of the City without making sale of such products, the value of the products in the condition or form in which they exist immediately before transportation out of the City shall be the basis for the assessment of the tax imposed in those sections. The Director of Finance shall prescribe equitable and uniform rules for ascertaining such value.

(c) In determining value, however, as regards sales from one to another of affiliated companies or persons, or under other circumstances where the relation between the buyer and seller is such that the gross proceeds from the sales are not indicative of the true value of the subject matter of the sale, the Director of Finance shall prescribe uniform and equitable rules for determining the value upon which such privilege tax shall be levied, corresponding as nearly as possible to the gross proceeds from the sale of similar products of like quality or character where no common interest exists between the buyer and the seller but the circumstances and conditions are otherwise similar.

(d) A person exercising any privilege taxable under Sections 733.05 or 733.06 and engaging in the business of selling his natural resources or manufacturing products in this City shall be required to make returns of the gross proceeds of such sales and pay the tax imposed in Section 733.07 for the privilege of engaging in the business of selling such natural resources or manufactured products in this City..

(e) A person exercising privileges taxable under the other sections of this chapter, producing coal, oil, natural gas, minerals, timber or other natural resource products, the production of which is taxable under Section 733.05, and using or consuming the same in his business, shall be deemed to be engaged in the business of mining and producing coal, oil, natural gas, minerals, timber or other natural resource products for sale, profit or commercial use, and shall be required to make returns on account of the production of the business showing the gross proceeds or equivalent in accordance with uniform and equitable rules responding as nearly as possible to the gross proceeds from the sale of similar products of like quality or character by other taxpayers, which rules the Director of Finance shall prescribe.

(4-23-07)

#### **733.05 PRODUCTION OF COAL AND OTHER NATURAL RESOURCE PRODUCTS.**

(a) Upon every person engaging or continuing within the City in the business of producing for sale, profit or commercial use any natural resource products, the amount of such tax to be equal to the value of the articles produced as shown by the gross proceeds derived from

the sale thereof by the producer, except as hereinafter provided, multiplied by the respective rates per one hundred dollars (\$100.00), as follows: Coal, one dollar (\$1.00); limestone or sandstone, quarried or mined, eighty-eight cents (\$0.88); oil, one dollar and seventy-three cents (\$1.73); natural gas, in excess of the value of five thousand dollars, three dollars and forty-five cents (\$3.45); blast furnace slag, one dollar and seventy-three cents (\$1.73); sand, gravel or other mineral products, not quarried or mined, one dollar and seventy-three cents (\$1.73); timber, one dollar (\$1.00); other natural resource products, one dollar and fourteen cents (\$1.14). The measure of this tax is the value of the entire production in this City, regardless of the place of sale or the fact that delivery may be made to points outside of the City; provided, that for the purposes of the production of oil classification, and the production of natural gas classification, as set forth in this section, multiple co-owners of oil or natural gas, in place, lessees thereof, or others being vested with title and ownership to part or all of the oil and gas, as personal property, immediately after severance, extraction, reduction to possession and production, except royalty recipients, in kind, shall be deemed to be a "group or combination acting as a unit" and one "person", as defined in Section 733.01, if not otherwise defined therein, whenever engaged in the business of producing oil or natural gas through common use, by joint or separately executed contracts, of the same independent contractor, driller or operator's services; and notwithstanding provisions of private contracts for separate deposit of gross receipts in separate members' accounts or for members of such group or combination to take in kind any proportionate part of such natural resources.

(b) Lessees, sublessees or other denominated lessees are considered to be producers of all of the oil or natural gas produced, regardless of any payment, in kind, to lessors, sublessor or other denominated lessors of a part of such natural resources as rents or royalties. Recipients of royalties or rents, in kind, in cash or otherwise are taxable of their gross income pursuant to the provisions of Section 733.12.

(4-23-07)

#### **733.06 MANUFACTURING, COMPOUNDING OR PREPARING PRODUCTS; PROCESSING OF FOOD EXCEPTED.**

Upon every person engaging or continuing within the City in the business of manufacturing, compounding, or preparing for sale, profit, or commercial use, either directly or through the activity of others in whole or part, any article or articles, substance or substances commodity or commodities, or electric power produced by public utilities or others not taxed under other provisions of this chapter, substance, commodities or electric power manufactured, compounded or prepared for sale, as shown by the gross proceeds derived from the sale thereof by the manufacturer or person compounding or preparing the same except as hereinafter provided, multiplied by a rate of thirty cents (\$0.30) per one hundred dollars (\$100.00). The measure of this tax is the value of the entire product manufactured, compounded, or prepared in this City for sale, profit or commercial use, regardless of the place of sale or the fact the deliveries may be made to points outside the City. However, the dressing and processing of food by a person, firm or corporation, which food is to be sold on a wholesale basis by such person, firm or corporation shall not be considered as manufacturing or compounding, but the sale of these products on a wholesale basis shall be subject to the same tax as is imposed on the business of selling at wholesale as provided in Section 733.07.

(4-23-07)

**733.07 BUSINESS OF SELLING TANGIBLE PROPERTY, SALES EXEMPT.**

Upon every person engaging or continuing within this City in this business of selling any tangible property whatsoever, real or personal, including the sale of food, and the services incident to the sale of food in hotels, restaurants, cafeterias, confectioneries, and other public eating houses, except sales by any person engaging or continuing in the business of horticulture, agriculture or grazing, or of selling stocks, bonds or other evidences of indebtedness, there is likewise hereby levied, and shall be collected, a tax equivalent to thirty-five cents (\$0.35) per one hundred dollars (\$100.00) of the gross income of the business, except that in the case of selling at wholesale (or jobber) the tax shall be equal to fifteen cents (\$0.15) per one hundred dollars (\$100.00) of the gross income of the business.

(4-23-07)

**733.08 PUBLIC SERVICE OR UTILITY BUSINESS.**

Upon any person engaging or continuing within this City in any public service or utility business, except railroad, railroad car, express, pipeline, telephone and telegraph companies, water carriers by steamboat or steamship and motor vehicle carriers, there is likewise hereby levied and shall be collected taxes on account of the business engaged in equal to the gross income of the business multiplied by the respective rates as follows: Street and inter-urban and electric railways, eighty cents (\$0.80) per one hundred dollars (\$100.00); water companies, one dollar and seventy-six cents (\$1.76) per one hundred dollars (\$100.00), except as to income from municipally owned water plants; electric light and power companies, three dollars (\$3.00) per one hundred dollars (\$100.00); on sales and demand charges for domestic purposes and commercial lighting and three dollars (\$3.00) per one hundred dollars (\$100.00) on sales and demand charges for all other purposes, except as to income from municipally owned plants producing or purchasing electricity and distributing the same; natural gas companies, three dollars (\$3.00) per one hundred dollars (\$100.00) on the gross income for this purpose to be determined by deducting from gross income from all sales to consumers the amount of tax paid by the taxpayers under Section 733.05; toll bridge companies, one dollar and seventy-one cents (\$1.71) per one hundred dollars (\$100.00); and upon all other public service or utility businesses, one dollar and fourteen cents (\$1.14) per one hundred dollars (\$100.00). The measure of this tax shall not include gross income derived from commerce between this State and other states of the United States or between this City and other localities. The measure of the tax under this section shall include only gross income received from the supplying of public services. The gross income of the taxpayer from any other activity shall be included in the measure of the tax imposed upon the appropriate section or sections of this article. (4-23-07)

**733.09 BUSINESS OF CONTRACTING.**

Upon every person engaging or continuing within the City in the business of contracting, the tax shall be two dollars (\$2.00) on each one hundred dollars (\$100.00) of the gross income of the business. (4-23-07)

**733.10 BUSINESS OF OPERATING AMUSEMENTS.**

Upon every person engaging or continuing within this City in the business of operating a theater, opera house, moving picture show, vaudeville, amusement park, dance hall, skating rink, race track, radio broadcasting station or other place at which amusements are offered to the public, the tax shall be equal to fifty cents (\$0.50) per one hundred dollars (\$100.00) of the gross income of the business. (4-23-07)

**733.11 SERVICE BUSINESS OR CALLING NOT OTHERWISE SPECIFICALLY TAXED.**

Upon every person engaging or continuing within this City in any service business or calling not otherwise specifically taxed under this chapter, there is likewise thereby levied and shall be collected a tax equal to seventy-five cents (\$.75) per one hundred dollars (\$100.00) of the gross income of any such business. (4-23-07)

**733.12 BUSINESS OF FURNISHING PROPERTY FOR HIRE.**

Upon every person engaging or continuing with this City in this business of furnishing any real or tangible personal property which as a tax situs in this City, or any interest continued therein, for hire, loan, lease or otherwise, the tax shall be seventy-five cents (\$.75) per one hundred dollars (\$100.00) of the gross income of any such activity.

The term "tangible personal property" as used herein, shall not include money or public securities. (4-23-07)

**733.13 SMALL LOAN AND INDUSTRIAL LOAN BUSINESSES.**

Every person engaging or continuing within the City in the business of making loans of money, credits goods, or things in action, who because of such activity is required under the provisions of Article 7A of Chapter 47 of the Code of West Virginia to obtain a license from the Commissioner of Banking of the State of West Virginia, and each and every industrial loan company shall be subject to the provisions of, and shall pay the taxes specified in, Section 733.14. (4-23-07)

**733.14 BANKING AND OTHER FINANCIAL BUSINESS.**

(a) Upon every person engaging or continuing within this City in the business of banking or financial business, the tax shall be equal to one dollar (\$1.00) per one hundred dollars (\$100.00) of the gross income received from interest, premiums, discounts, dividends, service fees or charges, commission, fines, rents from real or tangible personal property, however denominated, royalties, charges for bookkeeping or date processing, receipts from check sales, charges for fees, and receipts from the sale of tangible personal property: Provided, that gross income shall not include:

- (1) Interest received on the obligations of the United States, its agencies and instrumentalities,
- (2) Interest received on the obligations of this or any other state, territory or possession of the United States or any political subdivision of any of the foregoing or of the District of Columbia, or
- (3) Interest received on investments or loans primarily secured by first mortgages or deeds of trust on residential property occupied by nontransients;

provided further, that all interest derived on activities exempt under subsection (a)(3) above, shall be reported, as to amounts, on the return of a person taxable under the provisions of this section.

(b) Persons taxed pursuant to the provision of this section shall not be taxed under Section 733.05 to Section 733.13 inclusive.

(c) The City Council hereby finds and declares that it is the intent of the Council to subject national banking associations and other financial organizations to the tax imposed by this article, in accordance with the authorization contained in Sections 5219 of the Revised Statutes of the United States as amended by Public Law 91-156 enacted by the Congress of the United States on December 24, 1969. (4-23-07)



**733.15 EXEMPTIONS.**

The provisions of this chapter shall not apply to:

- (a) Insurance companies which pay the State of West Virginia a tax upon premiums; provided, that such exemption shall not extend to that part of a gross income of insurance companies which is received for the use of real property, other than property in which any such company maintains its office or offices in this City, whether such income be in the form of rentals or royalties;
- (b) Nonprofit cemetery companies organized and operated for the exclusive benefit of their members;
- (c) Fraternal societies, organizations and associations organized and operated for the exclusive benefit of their members and not for profit; provided, that this exemption shall not extend to that part of the gross income arising from the sale of alcoholic beverages, food and related services, of such fraternal societies, organizations and associations which are licensed as private clubs under the provisions of Article 7, Chapter 60, of the Code of West Virginia;
- (d) Corporations, associations and societies organized and operated exclusively for religious or charitable purposes;
- (e) Production credit association, organized under the provisions of the federal "Farm Credit Act of one thousand nine hundred thirty-three";
- (f) Any credit union organized under the provisions of Chapter 31 or any other chapter of the code of West Virginia; provided, that the exemptions of this section shall not apply to corporations or cooperative associations organized under the provisions of Article 4, Chapter 19, of the Code of West Virginia;
- (g) Gross income derived from advertising service rendered in the business of radio and television broadcasting; and
- (h) The gross income or gross proceeds of sale of a gasification or liquification of coal project in the demonstration, pilot or research stages;

and provided that prior to the commencement of operation of any such project, the Director of Finance shall have first certified the project as eligible for such exemption; and provided further, that such exemption shall expire seven years from the date the project first receives gross income or gross proceeds from sales. (4-23-07)

**733.15A TAX CREDIT FOR CERTAIN MULTIPLE ACTIVITIES.**

(a) A person taxable under Section 733.07 with respect to selling products at wholesale in the City shall be allowed a non-refundable credit against those taxes for any

- (1) Manufacturing taxes paid by such person with respect to the manufacturing of products so sold at wholesale in this City, and/or
- (2) Extracting taxes paid by such person with respect to the extracting of products so sold in this City or ingredients of products so sold at wholesale in this City.

(b) For the purposes of this section:

- (1) "Manufacturing tax" means a gross receipts tax imposed by a municipality or other local government unit on the act or privilege of engaging in the business as a manufacturer and includes (i) the tax imposed in Section 733.06 and (ii) similar gross receipts taxes paid to other municipalities or other local government units (other than State governments) within the United States.



- (2) "Extracting tax" means a gross receipts tax imposed by a municipality or other local government unit on the act or privilege of engaging in the business as a producer of natural resource products and includes (i) the tax imposed in Section 733.05 and (ii) similar gross receipts taxes paid to other municipalities or other government units within the United States ( other than State governments) within the United States.
- (3) "Gross receipts tax" means a tax which (i) is imposed on or measured by the gross volume of business in terms of gross receipts or in terms and in the determination of which deductions allowed would not constitute the tax an income tax or value added tax and (ii) which is not, pursuant to law or custom, separately stated from the sales price.  
(4-23-07)

### **733.16 TAX CREDIT FOR INDUSTRIAL EXPANSION; REGULATIONS.**

(a) There shall be allowed as a credit against tax imposed by this article the amount determined pursuant to Sections 733.16A through 733.16E inclusive, relating to tax credit for industrial expansion.

(b) The Director of Finance may prescribe such forms and regulations as may be helpful to carry out the purposes the tax credit for industrial expansion within this City.  
(4-23-07)

### **733.16A INDUSTRIAL EXPANSION CREDIT; DEFINITIONS.**

- (a) For purpose of this article, the term:
- (1) "Eligible investment" means that amount determined under Section 733.16C, for investment in a new or expanded or revitalized industrial facility.
  - (2) "Eligible taxpayer" means an industrial taxpayer who purchases new property for the purpose of industrial expansion in this City.
  - (3) "Industrial business" means any privilege taxable under Section 733.06 and includes a manufacturing service taxable under Section 733.11.
  - (4) "Industrial facility" means any factory, mill, plant, refinery, warehouse, building or complex of buildings located within this City, including the land on which it is located, and all machinery, equipment and other real and tangible personal property located at or within such facility used in connection with the operation of such facility in an industrial business.
  - (5) "Industrial expansion" means capital investment in a new or expanded industrial facility in this City.
  - (6) "Industrial taxpayer" means any person subject to business and occupation taxes under this article exercising any privilege taxable under Section 733.06 or providing a manufacturing service taxable under Section 733.11.
  - (7) Subject to subdivision (8) below, "property purchased for industrial expansion" means real property, and improvements thereto and tangible personal property, but only if such property was constructed, or purchased, on or after the first day of January two thousand seven, for use as a component part of a new or expanded industrial facility as defined in subdivision (4) of this subsection located within this City.

This term includes only tangible personal property with respect to which depreciation, or amortization in lieu of depreciation, is allowable in determining the personal income tax or corporation net income tax liability of the industrial taxpayer under State tax laws and has a useful life, at the time such property is placed in service or use in this City, of four years or more. Property acquired by written lease, for a primary term of ten years or longer, if used as a component part of a new or expanded industrial facility, shall be included within this definition.

- (8) "Property purchased for industrial expansion" shall not include:
- A. Repair Costs including materials used in the repair, unless for federal income tax purposes, the cost of the repair must be capitalized and not expensed;
  - B. Motor Vehicles licensed by the department of motor vehicles;
  - C. Airplanes;
  - D. Off-premises transportation equipment;
  - E. Property which is primarily used outside this City; and
  - F. Property which is acquired incident to the purchase of the stock or assets of an industrial taxpayer which property was or had been used by the seller in his industrial business in this City, or which property was previously designated "property purchased for industrial expansion", and used to qualify for business and occupation tax credit for industrial expansion except that successors in business shall have successor credit available pursuant to Section 733.16E.
- (9) Property shall be deemed to have been purchased prior to a specified date only if:
- A. The physical construction, reconstruction or erection of the property was begun prior to the specified date, or such property was constructed, reconstructed, erected or acquired pursuant to a written contract as existing and binding on the taxpayer prior to the specified date;
  - B. The machinery or equipment was owned by the taxpayer prior to the specified date or was acquired by the taxpayer pursuant to a binding purchase contract which was in effect prior to the specified date; or
  - C. In the case of leased property, there was a binding written lease or contract to lease identifiable property in effect prior to the specified date. (4-23-07)

**733.16B INDUSTRIAL EXPANSION CREDIT; AMOUNT OF CREDIT ALLOWED.**

(a) Credit Allowed. There shall be allowed to eligible taxpayers a credit against the tax imposed by this article for industrial expansion. The amount of credit shall be determined as hereinafter provided in this section.

(b) For property purchased for industrial expansion during the period beginning the first day of January, two thousand seven, the amount of allowable credit shall be equal to ten percent of the qualified investment (as determined in section 733.16C made for industrial expansion, and shall reduce the business and occupation tax liability of the industrial taxpayer under this article, subject to the following conditions and limitations.

- (1) The amount of credit allowable shall be applied over a ten-year period, at the rate of one-tenth thereof per taxable year, beginning with the taxable year in which the qualified investment is first placed in service or use in this City.
  - (2) The amount of credit allowed shall not reduce the business and occupation tax under this article below fifty percent of the amount which would be imposed for such taxable year in the absence of this credit against tax.
  - (3) No carryover to a subsequent taxable year or carryback to a prior taxable year shall be allowed for the amount of any unused portion of any annual credit allowance. Such unused credit shall be forfeited.
- (4-23-07)

#### **733.16C INDUSTRIAL EXPANSION CREDIT - ELIGIBLE INVESTMENT.**

(a) General. The eligible or qualified investment in property purchased for industrial expansion shall be the applicable percentage of the cost of each property purchased for the purpose of industrial expansion, which is placed in service or use in this City, by the eligible taxpayer during the taxable year.

(b) Applicable Percentage. For the purpose of subsection (a) hereof, the applicable percentage for any property shall be determined under the following table;

If useful life is	The applicable percentage is:
4 years or more but less than 6 years	33 1/3
6 years or more but less than 8 years	66 2/3
8 years or more	100

The useful life of any property for purposes of this section shall be determined as of the date such property is first placed in service or use in this City by the taxpayer determined in accordance with federal income tax law.

(c) Cost. For purposes of subsection (a) hereof, the cost of each property purchased for industrial expansion or revitalization, or for conduct of an eligible research and development project, shall be determined under the following rules:

- (1) Trade-ins. Cost shall not include the value of property given in trade or exchange for the property purchased for industrial expansion or revitalization.
- (2) Damaged, destroyed or stolen property. If property is damaged or destroyed by fire, flood, storm or other casualty, or is stolen, then the cost of replacement property shall not include any insurance proceeds received in compensation for the loss.
- (3) Rental property. The cost of property acquired by lease for a term of ten years or longer shall be one hundred percent of the rent reserved for the primary term of the lease, not to exceed twenty years.

- (4) Property purchased for multiple use. The cost of property purchased for multiple business use including use as a component part of a new or expanded or revitalized industrial business, together with some other business or activity not eligible for credit under this article, shall be apportioned between such businesses and occupations. The amount apportioned to the new or expanded or revitalized industrial business, shall be considered to be as an eligible investment, subject to the conditions and limitations of this section.
- (5) Self-constructed property. In the case of self-constructed property, the cost thereof shall be the amount properly charged to the capital account for purposes of depreciation. (4-23-07)

**733.16D INDUSTRIAL EXPANSION CREDIT; FORFEITURE:  
REDETERMINATION.**

(a) Disposition of Property or Cessation of Use. If during any taxable year, property with respect to which a tax credit has been allowed under Section 733.16B:

- (1) Is disposed of prior to the end of its useful life, as determined under Section 733.16C of this article; or
- (2) Ceases to be used in the new industrial business of the taxpayer in the City prior to the end of its useful life, as determined under Section 733.16C, then the unused portion of the credit allowed for such property shall be forfeited for the taxable year and all ensuing years. Additionally, except when the property is damaged or destroyed by fire, flood, storm or other casualty, or is stolen, the taxpayer shall redetermine the amount of credit allowed in all earlier years by reducing the applicable percentage of cost of such property allowed under said Section 733.16C, to correspond with the percentage of cost allowable for the period of time that the property was actually used in this City in the industrial business of the taxpayer. The taxpayer shall then file a reconciliation statement with its annual tax return for the year in which the forfeiture occurs and pay any additional taxes owed due to reduction of the amount of credit allowable for such earlier years, plus interest and any applicable penalties.

(b) Cessation of Operation of Industrial Facility. If during any taxable year, the taxpayer ceases operation of an industrial facility for which credit was allowed under this article then the unused portion of the allowed credit shall be forfeited for the taxable year and all ensuing years. Additionally, except when the cessation is due to fire, flood, storm or other casualty, the taxpayer shall redetermine the amount of credit allowed in earlier years by reducing the applicable percentage of cost of such property allowed under Section 733.16C to correspond with the percentage of cost allowable for the period of time that the property was actually used in this City in the industrial business of the taxpayer. The taxpayer shall then file a reconciliation statement with its annual tax return for the year in which the forfeiture occurs and pay any additional taxes owed due to reduction of the amount of credit allowable for such earlier years, plus interest and any applicable penalties. (4-23-07)

**733.16E INDUSTRIAL EXPANSION CREDIT - TRANSFER OF ELIGIBLE INVESTMENT TO SUCCESSORS.**

(a) Mere Change in Form of Business. Property shall not be treated as disposed of under Section 733.16D by reason of a mere change in the form of conducting the business as long as the property is retained in a similar industrial business or management information services business activity in this City and the taxpayer retains a controlling interest in the successor business. In this event, the successor business shall not be allowed to claim the amount of credit still available with respect to the industrial facility or facilities transferred and the taxpayer shall not be required to redetermine the amount of credit allowed in earlier years.

(b) Transfer or Sale to Successor. Provided that the Director of Finance gives prior approval of a transfer or sale, property shall not be treated as disposed of under Section 733.16D by reason of any transfer or sale to a successor business which continues to operate the industrial facility in this City. Upon transfer or sale, the successor shall acquire the amount of credit that remains available under this article for each taxable year subsequent to the taxable year of the transferor during which the transfer occurred, and, for the year of transfer, an amount of annual credit for such year in the same proportion as the number of days remaining in the transferor's taxable year bears to the total number of days in such taxable year, and the taxable (transferor) shall not be required to redetermine the amount of credit allowed in earlier years.

(4-23-07)

**733.17 COMPUTATION OF TAX; REMITTANCE.**

(a) The taxes levied hereunder shall be due and payable in quarterly installments on or before the expiration of one month from the end of the quarter in which they accrue. The taxpayer shall, within one month from the expiration of each quarter, make out an estimate of the tax for which he is liable for such quarter, sign it and mail it, together with a remittance of the amount of tax to the office of the Director of Finance. In estimating the amount of tax due for each quarter, the taxpayer may deduct one-fourth of the tax credit for industrial expansion allowable for the taxable year and one-fourth of the total exemption allowed for the total exemption allowed for the year. When the total tax for which any person is liable under this article does not exceed the sum of one hundred dollars (\$100.00) in any year, the taxpayer may pay the same quarterly as aforesaid or, with the consent in writing of the Director of Finance, at the end of the month next following the close of the tax year.

(b) Any other provision of this section notwithstanding, the Director of Finance, if he deems it necessary to insure payment of the tax, may require the return and payment under this section for periods of shorter duration than quarter-year periods.

(4-23-07)

**733.18 RETURN AND REMITTANCE BY TAXPAYER.**

On or before the expiration of one month after the end of the tax year, each taxpayer shall make a return for the entire year showing the gross proceeds of sales or gross income of business, trade or calling, and compute the amount of tax chargeable against him in accordance with the provisions of this article and deduct the amount of quarterly payments (as hereinbefore provided), if any, and transmit with his report a remittance covering the residue of the tax chargeable against him to the office of the Director of Finance; such return shall be signed by the taxpayer, if made by an individual, or by the president, vice president, secretary or treasurer of a corporation, if made on behalf of the corporation. If made on behalf of a partnership, joint adventure, association, trust, or any other group or combination acting as a unit, any individual delegated by such firm,

copartnership, joint adventure, association, trust or any other group or combination acting as a unit shall sign the return on behalf of the taxpayer. The Director of Finance, for good cause shown, may extend the time for making the annual return on the application of any taxpayer and grant such reasonable additional time within which to make the same as may, by him, be deemed advisable. (4-23-07)

#### **733.19 ERRONEOUS COMPUTATION.**

(a) If the taxpayer shall make any error in computing the tax assessable against him, the Director of Finance shall correct such error or reassess the proper amount of taxes, and notify the taxpayer of his action by mailing to him promptly a copy of the corrected assessment, and any additional tax for which such taxpayer may be liable shall be paid within ten days after the receipt of such statement.

(b) If the amount already paid exceeds that which should have been paid on the basis of the tax so recomputed, the excess so paid shall be immediately refunded to the taxpayer upon the requisition of the Director of Finance and shall be payable out of any funds available for the purposes. The taxpayer may, at his election, apply an overpayment credit to taxes subsequently accruing hereunder. (4-23-07)

#### **733.20 FAILURE TO MAKE RETURN; ASSESSMENT BY DIRECTOR OF FINANCE WHEN RETURN BELIEVED TO BE DEFICIENT.**

If any person shall fail or refuse to make a return, either in whole or in part, or if the Director of Finance has grounds to believe that any return made is insufficient to form the basis of a satisfactory assessment of the tax, he may proceed as he deems best to obtain information on which to base the assessment of the tax. The Director of Finance may, in person or by duly appointed agent, make examination of the books, records and papers, and audit the accounts of any such person, and may take the evidence, on oath, of any person whom he may believe shall be in possession of any relevant information. As soon as possible after procuring such information as the Director of Finance may be able to obtain as to any person failing or refusing to make a return, he shall proceed to assess the tax and shall notify the person assessed of the amount of the tax. (4-23-07)

#### **733.21 JEOPARDY ASSESSMENTS.**

(a) If the Director of Finance believes that the collection of any tax which he is required to administer will be jeopardized by delay, he shall thereupon make an assessment of the tax, noting the fact upon the assessment. The amount assessed shall be immediately due and payable. Unless the taxpayer against whom a jeopardy assessment is made petitions for reassessment within twenty days after service of notice of the jeopardy assessment, such an assessment becomes final.

(b) A petition for reassessment by a person against whom a jeopardy assessment has been made must be accompanied by such security as the Director of Finance may deem necessary to insure compliance with this article. (4-23-07)

**733.22 NOTICE OF ASSESSMENT; PETITION FOR REASSESSMENT.**

The Director of Finance shall give to the taxpayer written notice of any assessment made pursuant to this article. Unless the taxpayer to whom a notice of assessment is directed shall within thirty days after thereof, (except in the case of jeopardy assessments), either personally or by certified mail, file with the Director of Finance a petition in writing, verified under oath by said taxpayer or his duly appointed agent having knowledge of the facts, setting forth with definiteness and particularity the items of the assessment objected to, together with the reason for such objections, such assessment shall become and be deemed conclusive and the amount thereof shall pay payable at the end of thirty-day period.

(4-23-07)

**733.22A HEARING.**

In every case where a petition for reassessment or refund as provided in Sections 733.22 and 733.35 (d) is filed, the Director of Finance shall assign a time and place for the hearing thereon and shall notify the petitioner of such a hearing by written notice at least twenty days in advance thereof. Such hearing shall be held within ninety days from the filing of the petition unless continued by agreement or by the Director of Finance for good cause. The hearing shall be informal and may be conducted by an examiner designated by the Director of Finance. The burden of proof shall be on the petitioner to show that the assessment or denial of refund or credit is incorrect and contrary to law, in whole or in part. After such hearing, the Director of Finance shall, within a reasonable time, give notice in writing of the decision. Unless an appeal is taken within thirty days from service of this notice in accordance with Section 733.23, the Director of Finance's decision shall be final. (4-23-07)

**733.23 APPEAL**

If any person feels aggrieved by the decision of the Director of Finance pursuant to Section 733.22A, he may appeal to the Circuit Court of Marshall County within the time prescribed in section. (4-23-07)

**733.24 TAX YEAR.**

The assessment of taxes herein made and the returns required therefor shall be for the year ending on the thirty-first day of December. If the taxpayer, in exercising a privilege taxable under this article, keeps the books reflecting the same on a basis other than such year, he may, with the consent of the Director of Finance, make his annual returns and pay taxes for the year covering his accounting period, as shown by the method of keeping his books.

(4-23-07)

**733.25 TAX CUMULATIVE.**

The tax imposed by this article shall be in addition to all other licenses and taxes levied by this Code and other City ordinances as a condition precedent to engaging in any business, trade and calling. A person exercising a privilege taxable under this article, subject to the payment of all licenses and charges which are a condition precedent to exercising the privilege taxed, may exercise the privilege for the current tax year upon the condition that he shall pay the tax accruing under this article. (4-23-07)

**733.26 PAYMENT; INTEREST AND PENALTY FOR LATE PAYMENT.**

(a) Every remittance of taxes imposed by this article shall be made by bank draft, certified check, money order, or certificate of deposit to the Director of Finance, who shall issue his receipt therefor for the taxpayer and pay the money into the City Treasury to be kept and accounted for as provided by law.

(b) The tax imposed by this article, if not paid when due, shall bear interest at the rate of at least eight percent per annum from the due date of the return until paid, in addition, if any taxpayer fails to make the return required by this article, or makes his return but fails to remit in whole or in part the proper amount of tax, there shall be added to the amount of tax unpaid, from the date such tax should have been paid, a penalty in the amount of five per cent of the tax for the first month, or fraction thereof, of delinquency and one per cent of the tax for each succeeding month, or fraction thereof, of delinquency; provided, that if such failure is due to reasonable cause, the Director of Finance may waive or remit in whole or in part these penalties.

(c) If the failure to pay is due to fraud or intent to evade this article and the rules and regulations promulgated thereunder, there shall be added on an additional penalty of twenty-five percent (25%) of the amount of the tax exclusive of penalties.

(d) The interest and penalties so added shall be collected at the same time and in the same manner and as a part of the tax. (4-23-07)

**733.27 LIEN OF TAX DUE AND UNPAID.**

Any tax, interest or penalty due and unpaid under this article shall be a debt to the City. It shall be a personal obligation of the taxpayer and shall be in a lien upon the property of the taxpayer; provided, that no such tax lien shall be enforceable against a purchaser (including lien creditor) for valuable consideration without notices, unless, docketed in the office of the county clerk of such county. (4-23-07)

**733.28 ENFORCEMENT OF COLLECTION.**

The City may use any means for the collection of the taxes imposed by this article as are provided by law for the enforcement and collection of similar taxes of the State of West Virginia. (4-23-07)

**733.29 PAYMENT WHEN PERSON SELLS OUT OR QUILTS BUSINESS;  
LIEN LIABILITY OF SUCCESSOR.**

(a) Any person exercising any privilege taxable under this article who shall sell out his business or stock of goods or shall cease doing business, shall file the return prescribed by Section 733.18 and remit the entire tax, interest and penalty that may be chargeable against him because of all business done, within thirty days after selling out his business or stock of goods, or ceasing to do such business.

(b) The successor in business of any such person shall withhold so much of the purchase money as will satisfy the taxes and penalty which may be due until the former owner shall produce a receipt from the Director of Finance evidencing the payment of such taxes, interest and penalty. If the purchaser of a business or stock of goods shall fail to withhold purchase money as above provided, and the taxes and penalty shall remain unpaid after expiration of the thirty day period allowed for payment thereof, he shall be personally liable for the payment of all such tax, interest and penalty, and the same shall be recoverable by the Director of Finance as provided by Section 733.07 and 733.28.

(4-23-07)



**733.30 RECORDING OF TAX LIENS.**

The Director of Finance, for the more effective collection of the tax, interest and penalty may file with the Clerk of the County Court a certified copy of an assessment of taxes under this article for recordation. Upon payment of the taxes delinquent under this article, the lien of which shall have been recorded, the Director of Finance shall certify in duplicate the fact and amount of payment and the balance due, if any, and shall forward the certificates, one to the taxpayer and one to the Clerk of the County Court of the county in which such lien has been recorded. From the date that such certificate is admitted to record, the land of the taxpayer in the City shall be free from any lien for taxes under this article accrued to the date that the certificate was issued.

(4-23-07)

**733.31 COLLECTION BY DISTRAINT; SUIT TO ENFORCE LIEN.**

The Director of Finance may distrain upon any goods, chattels or intangibles represented by negotiable evidences of indebtedness of any taxpayer delinquent under this article for the amount of all taxes and penalties accrued and unpaid hereunder. The lien created by this article on real estate may be enforced by suit in equity and any other means provided by law.

(4-23-07)

**733.32 OFFENSES; PENALTIES.**

It shall be unlawful for any person to refuse to make any return required to be made by this article; or to make any false or fraudulent return or false statement in any return, with intent to defraud the City or to evade the payment of the tax, or any part thereof, imposed by this article, or for any person to aid or abet another in any attempt to evade the payment of the tax, or any part thereof, imposed by this article, or for the president, vice president, secretary or treasurer of any corporation to make or permit to be made for any corporation or association any false return or any false statement in any return required in this article, with the intent to evade the payment of any tax hereunder. Any person violating any of the provisions of this section shall, on conviction thereof, be fined not more than five hundred dollars (\$500.00) or imprisoned not exceeding thirty days, or punished by both fine and imprisonment, at the discretion of the court, within the limitations aforesaid. In addition to the foregoing penalties, any persons who shall knowingly swear to or verify any false or fraudulent return, or any return containing any false or fraudulent statement with the intention aforesaid shall be guilty of the offense of false swearing and, on conviction thereof, shall be punished in the manner provided by law. Any corporation for which a false return, or a return containing a false statement, as aforesaid, shall be made, shall be punished by a fine of not more than five hundred dollars (\$500.00).

(4-23-07)

**733.33 AUTHORITY OF CITY COUNCIL TO REVOKE CITY LICENSES,  
AS ADDITIONAL PENALTY.**

In addition to the penalties provided in Section 733.26, the failure of any taxpayer to make any required return to pay the tax, interest and penalty imposed upon him by this article, either or both, within five days following the prescribed date for the filing of such return or the payment of such tax shall constitute good cause for the City Council to revoke or to refuse to renew, either or both the City license of such taxpayer to engage in the business taxed under this article, as well as any other City business license held by him.

(4-23-07)

**733.34 PENALTIES FOR UNLAWFUL DISCLOSURE OF INFORMATION.**

(a) Any officer, employee, or agent of the City or any former officer, employee, or agent of the City who shall divulge facts or information obtained from returns or tax statements other than for the purpose of administering such tax shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of not more than one thousand dollars (\$1,000) or imprisonment for not more than one year, or both, together with costs of prosecution.

(b) Any officer, employee, or agent of the City or any former officer, employee, or agent of the City who shall make unauthorized disclosure of information received from the State Tax Commissioner shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of not more than one thousand dollars (\$1,000) or imprisonment for not more than one year, or both, together with costs of prosecution.

(c) For the purposes of this Code, "unauthorized disclosure" shall mean the release to any person of any tax information obtained by the City from the State Tax Commissioner unless:

- (1) The person receiving the information is the authorized counsel of the City and shall be using the information only for the purpose of administering Business and Occupation Tax, Sales Tax from single location businesses, or Liquor Sales Tax, or
  - (2) The person who filed the return has authorized, in writing, its release, thereby waiving his right to secrecy.
- (4-23-07)

**733.35 REFUNDS AND CREDITS.**

(a) Any taxpayer claiming to have overpaid any tax, interest or penalty imposed by this article shall file his claim with the Director of Finance within three years after the due date of the return determined by including any written authorized extension of time for filing, in respect of which the tax was imposed or within two years from the date the tax was paid, whichever of such periods expires the latter, or if no return was filed by the taxpayer, within two years from the time the tax was paid, and not thereafter.

(b) If, on such claim and the proofs filed in support thereof, the Director of Finance shall be of the opinion that the tax, interest or penalty, or any part thereof, was overpaid, he shall refund the same to the taxpayer. If the Director of Finance is of the opinion that there exists no overpayment of tax, interest or penalty, or any part thereof, he shall notify the taxpayer in writing.

(c) Unless the taxpayer to whom a notice of denial of claim is directed shall within thirty days after thereof either personally or by certified mail, file with the Director of Finance a petition in writing, verified under oath by said taxpayer or his duly appointed agent having knowledge of the facts, setting forth with definiteness and particularity the items of the denial objected to, together with the reason for such objections, such denial shall become and be deemed conclusive.

(4-23-07)

**ARTICLE 734**  
**Hotel Occupancy Tax**

<p><b>734.01 Imposition.</b></p> <p><b>734.02 Rate.</b></p> <p><b>734.03 Definitions.</b></p> <p><b>734.04 Consumer to pay tax.</b></p> <p><b>734.05 Occupancy billed to government agencies or employees.</b></p> <p><b>734.06 Collection of tax when sale on credit.</b></p>	<p><b>734.07 Failure to collect or report tax; liability of hotel operator.</b></p> <p><b>734.08 Total amount collected to be remitted.</b></p> <p><b>734.09 Tax return and payment.</b></p> <p><b>734.10 Keeping and preserving of records.</b></p> <p><b>734.11 Liability of officers.</b></p> <p><b>734.99 Penalty.</b></p>
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**CROSS REFERENCES**

Authority to levy - see W. Va. Code 7-18-1; 8-13-3

**734.01 IMPOSITION.**

There is hereby levied and shall be collected a privilege tax upon the occupancy of hotel rooms located within the Municipality.  
(Ord. 4-25-05.)

**734.02 RATE.**

The rate of the hotel occupancy tax shall be the maximum percentage permitted under Chapter 8, Article 13, Section 3 of the West Virginia Code (as amended) of the consideration paid for the use or occupancy of a hotel room. (The same being 6%, at the time of the effective date of this section.) (Ord. 4-25-05.)

**734.03 DEFINITIONS.**

For the purpose of this article:

- (a) "Consideration paid" or "consideration" means the amount received in money credits, property or other consideration for or in exchange for the right to occupy a hotel room as herein defined.
- (b) "Consumer" means a person who pays the consideration for the use or occupancy of a hotel room. "Consumer" shall not be construed to mean the government of the United States of America, its agencies or instrumentalities, or the government of the State of West Virginia or political subdivisions thereof.

- (c) "Hotel" means any facility, building or buildings, publicly or privately owned (including a facility located in a state, county or municipal park), in which the public may, for a consideration, obtain sleeping accommodations. The term shall include, but not be limited to, boarding houses, hotels, motels, inns, courts, condominiums, lodges, cabins and tourist homes. "Hotel" shall include state, county and City parks offering accommodations as herein set forth. "Hotel" shall not be construed to mean any hospital, housing unit, or any facility providing fewer than three rooms in private homes, not exceeding a total of ten days in a calendar year, nor any tenant, trailer, or camper campsites; provided that where a university or college housing unit provides sleeping accommodations for the general nonstudent public for a consideration, "hotel" shall, if otherwise applicable, apply to such accommodations for the purposes of this tax.
- (d) "Hotel operator" means the person who is proprietor of a hotel, whether in the capacity of owner, lessee, mortgagee in possession, licensee, trustee in possession, trustee in bankruptcy, receiver, executor or in any other capacity. Where the hotel operator performs his functions through a managing agent of any type or character for the purposes of this article and shall have the same duties and liabilities as his principal. Compliance with the provisions of this article by either the principal or the managing agent, shall, however, be considered to be compliance by both.
- (e) "Hotel room" means any room or suite of rooms or other facility affording sleeping accommodations to the general public and situated within a hotel. "Hotel room" shall not be construed to mean a banquet room, meeting room or any other room not primarily used for, or in conjunction with, sleeping accommodations.
- (f) "Person" means any individual, firm, partnership, joint venture, association, syndicate, social club, fraternal organization, joint stock company, receiver, corporation, guardian, trust, business trust, trustee, committee, estate, executor, administrator, or any other group or combination acting as a unit.
- (g) "State park" means any state-owned facility which is part of this State's park and recreation system established pursuant to this code. For purposes of this article, any recreational facility otherwise qualifying as a "hotel" and situated within a State park shall be deemed to be solely within the county in which the building or buildings comprising said facility are physically situated, notwithstanding the fact that the State park within which said facility is located may lie within the jurisdiction of more than one county.
- (h) "Tax", "taxes" or "this tax" means the hotel occupancy tax authorized by this article.
- (i) "Taxing authority" means the City of Glen Dale.
- (j) "Taxpayer" means any person liable for the tax authorized by this article. (Ord. 4-25-05.)

**734.04 CONSUMER TO PAY TAX.**

(a) The consumer shall pay to the hotel operator the amount of tax imposed by the Municipality hereunder, which tax shall be added to and shall constitute a part of the consideration paid for the use of and occupancy of the hotel room, and which tax shall be collectible as such by the hotel operator who shall account for, and remit to the taxing authority, all taxes paid by consumers. The hotel operator shall separately state the tax authorized by this article on all bills, invoices, accounts, books of account and records relating to consideration paid for occupancy or use of a hotel room. The hotel operator may commingle taxes collected hereunder with the proceeds of the rental of hotel accommodations. The taxing authority's claim shall be enforceable against, and shall be superior to, all other claims against the moneys so commingled excepting only claims of the State for moneys held by the hotel pursuant to the provisions of Article Fifteen, Chapter Eleven, of the West Virginia Code. All taxes collected pursuant to the provisions of this article shall be deemed to be held in trust by the hotel until the same shall have been remitted to the taxing authority as hereinafter provided.

(b) A hotel or hotel operator shall not represent to the public in any manner, directly or indirectly, that it will absorb all or any part of the tax or that the tax is not to be considered an element in the price to be collected from the consumer.  
(Ord. 4-25-05.)

**734.05 OCCUPANCY BILLED TO GOVERNMENT AGENCIES OR EMPLOYEES.**

(a) Hotel room occupancy billed directly to the Federal Government shall be exempt from this tax; provided, that rooms paid for by a Federal Government employee for which reimbursement is made shall be subject to this tax.

(b) Hotel room occupancy billed directly to this State or its political subdivision shall be exempt from this tax; provided, that rooms paid for by an employee of this State for which reimbursement is made shall be subject to this tax.  
(Ord. 4-25-05.)

**734.06 COLLECTION OF TAX WHEN SALE ON CREDIT.**

A hotel operator doing business wholly or partly on a credit basis shall require the consumer to pay the full amount of tax due upon a credit sale at the time such sale is made or within thirty days thereafter. (Ord. 4-25-05.)

**734.07 FAILURE TO COLLECT OR REPORT TAX; LIABILITY OF HOTEL OPERATOR.**

If any hotel operator fails to collect the tax herein and levied or shall fail to properly remit such tax to the taxing authority, he shall be personally held liable for such amount as he failed to collect or remit; provided, that such hotel operator shall not be held liable for failure to collect such tax if the hotel operator can by good and substantial evidence prove the refusal of the purchaser to pay this tax despite the diligent effort in good faith of the hotel operator to collect the tax. (Ord. 4-25-05.)

**734.08 TOTAL AMOUNT COLLECTED TO BE REMITTED.**

No profit shall accrue to any person as a result of the collection of the tax authorized under this article. Notwithstanding that the total amount of such taxes collected by a hotel operator may be in excess of the amount for which a consumer would be liable by the application of the levy provided in this article for the occupancy of a hotel room or rooms, the total amount of all taxes collected by any hotel operator shall be remitted to the taxing authority as hereinafter provided.  
(Ord. 4-25-05.)

**734.09 TAX RETURN AND PAYMENT.**

The tax authorized by this article shall be due and payable in monthly installments on or before the fifteenth day of the calendar month next succeeding the month in which the tax accrued, provided, that for credit sales in which the tax authorized by this article is not collected by the hotel operator at the time of such sales, such tax shall not, for purposes of this article, be regarded as having accrued until the date on which it is either received by the hotel operator or upon the expiration of the thirty day payment period set forth in Section 734.06, whichever shall first occur. The hotel operator shall, on or before the fifteenth day of each month, prepare and deliver to the City, a return for the preceding month, in the form prescribed by the City. Such form shall include all information necessary for the computation, collection and subsequent distribution of the tax as the taxing authority may require. A remittance for the amount of tax due shall accompany each return. Each return shall be signed by the hotel operator or his duly authorized agent. (Ord. 4-25-05.)

**734.10 KEEPING AND PRESERVING OF RECORDS.**

Each hotel operator shall keep complete and accurate records of taxable sales and of charges, together with a record of the tax collected thereon, and shall keep all invoices and other pertinent documents in such form as the taxing authority may require. Such records and other documents shall be preserved for a period of not less than three years, unless the taxing authority shall consent in writing to their destruction within that period. (Ord. 4-25-05.)

**734.11 LIABILITY OF OFFICERS.**

If the taxpayer is an association or corporation, the officers thereof actually participating in the management or operation of the association or corporation shall be personally liable, jointly and severally, for any default on the part of the association or corporation; and payment of tax, fines, additions to tax or penalties which may be imposed by State law, municipal ordinance, order of the county commission or other authority may be enforced against such officers as against the association or corporation which they represent. (Ord. 4-25-05.)

**734.99 PENALTY.**

(a) It shall be unlawful for any person to willfully refuse to collect or to pay the tax or to willfully refuse to make the return required to be made by this article; or to willfully make any false or fraudulent return or false statement in any return with the intent to defraud any taxing authority, or to willfully evade the payment of the tax, or any part thereof; or for any person to willfully aid or abet another in any attempt to evade the payment of the tax, or any part thereof; for any officer, partner or principal of any corporation or association to willfully make or willfully permit to be made for such corporation or association any false return, or any false statement in any return authorized by this article, with the intent to evade the payment of this tax.

(b) Any person willfully violating any of the provisions of this article shall for the first offense be fined not more than five hundred dollars (\$500.00). For each offense after the first offense, such person shall be prosecuted under State law.

(c) Every prosecution for any offense arising under this article shall be commenced within three years after the offense was committed, notwithstanding any provision of this code to the contrary. (Ord. 4-25-05.)

**ARTICLE 739**  
**Public Utility Charges**

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| <p><b>739.01</b> Definitions.</p> <p><b>739.02</b> Imposition and levying of tax; amount of tax.</p> <p><b>739.03</b> Collection; time of payment; accounting; effective date of article; proration.</p> <p><b>739.04</b> Records; inspection thereof.</p> | <p><b>739.05</b> Exemptions.</p> <p><b>739.06</b> Nonliability of utility; duty of Municipality; refunds.</p> <p><b>739.07</b> Enforcement provisions; penalties.</p> <p><b>739.08</b> Notice to utilities.</p> <p><b>739.09</b> Severability.</p> |
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**CROSS REFERENCES**

Public utilities tax - see W. Va. Code 8-13-5a

Business and occupation tax on utilities - see BUS. & TAX. 733.08

**739.01 DEFINITIONS.**

The following words and phrases when used in this article shall for the purposes of this article have the following respective meanings:

- (a) "Person" includes individuals, firms, partnerships, associations, corporations, and combinations thereof, of whatever form or character.
- (b) "Public utility service" means all services and tangible personal property purchased within this Municipality from a seller, as hereinafter in this section defined, namely, telephone service; electric service; gas service, including bottled or liquid gas, if the seller thereof is classified as a public utility subject to the jurisdiction of the Public Service Commission of West Virginia; water service and sanitary sewer service; if purchased, used or consumed within the corporate limits of this Municipality.
- (c) "Purchaser" includes every person who purchases, uses or consumes a public utility service.
- (d) "Seller" includes every person, whether a public service corporation, a municipality or private corporation, classified as a public utility and subject to the jurisdiction of the Public Service Commission of West Virginia, who sells, furnishes or supplies a public utility service.
- (e) "User" means the owner or tenant of private residential property or the owner or tenant of property used for commercial or industrial purposes, and every combination thereof, of every kind or description.  
(1987 Code §29-4-1.)

**739.02 IMPOSITION AND LEVYING OF TAX; AMOUNT OF TAX.**

There is hereby imposed and levied upon each and every purchaser of a public utility service an excise tax upon the privilege of purchasing, using or consuming, within the corporate limits of this Municipality, such public utility service. Such tax shall be in the amount of two percent (2%) of the charge (exclusive of any federal or state tax thereon imposed upon the purchaser) made by the seller against the purchaser with respect to each public utility service, which tax in every case shall be collected by the seller and paid by the purchaser upon the amount of each periodic statement rendered such purchaser by the seller, and shall be paid by the purchaser to the seller at the time the purchase price or such charge shall become due and payable under the agreement between the purchaser and the seller. The tax imposed and levied by this article is in addition to all other taxes imposed and levied by this Municipality. (1987 Code §29-4-2.)

**739.03 COLLECTION; TIME OF PAYMENT; ACCOUNTING; EFFECTIVE DATE OF ARTICLE; PRORATION.**

It shall be the duty of every seller in acting as the tax collecting medium or agency for this Municipality to collect from each purchaser for the use of this Municipality the tax hereby imposed and levied at the time of collecting the purchase price charged for its public utility service, and the amount of tax actually collected during each calendar month shall be reported by each seller to this Municipality and each seller shall remit the amount of tax shown by said report to have been collected to this Municipality on or before the last day of the second calendar month following the month in which collected, together with the name and address of the purchaser who has failed or refused to pay tax imposed and levied. The tax imposed and levied by this article shall apply to periodic statements rendered after September 1, 1973, for public utility service rendered subsequent to September 1, 1973, and when any such periodic statement covers public utility service rendered both before and after said date, only that portion of the charge for public utility service rendered after said date shall be subject to such tax, and the portion subject to such tax shall be such portion of the total charge as the number of days after August 31, 1973, within the period covered by such periodic statement, bear to the total number of days covered by such periodic statement. The required reports shall be in the form prescribed by the official of this Municipality charged with the responsibility of collecting taxes due this Municipality. (1987 Code §29-4-3.)

**739.04 RECORDS; INSPECTION THEREOF.**

Each and every seller shall keep and maintain complete records showing all purchases of public utility service within the corporate limits of the City of Glen Dale, West Virginia, which records shall show the charge made against each purchaser, the dates such public utility service was furnished, the date of payment therefor, and the amount of tax imposed, hereunder, and such records shall be kept open for inspection by the duly authorized agents of the City of Glen Dale, shall have the right, power and authority to make at the expense of the City of Glen Dale, such transcripts thereof during such times as they may desire. (1987 Code §29-4-4.)

**739.05 EXEMPTIONS.**

The tax hereby imposed and levied shall not apply to the following transactions, which transactions are hereby exempted from such tax:

- (a) Purchases of public utility service for resale;
- (b) Purchases of public utility service by the United States of America, the State of West Virginia, and the political subdivisions, municipalities, boards, commissions, authorities and public corporations thereof;



- (c) Purchases of tangible personal property such as appliances or the like, as distinguished from the public service supplies;
- (d) Charges for telephone services which are paid by the insertion of coins into coin-operated telephones, and specific charges or tolls for telephone calls to points outside the corporate limits of this Municipality; and
- (e) Nonrecurring or one-time charges incidental to the furnishing of public utility service. (1987 Code §29-4-5.)

**739.06 NONLIABILITY OF UTILITY; DUTY OF MUNICIPALITY;  
REFUNDS.**

There shall be no liability upon the seller for erroneously collecting the tax hereby imposed and levied or for erroneously failing to bill for such tax as a result of a good faith mistake on the part of the seller. When any purchaser contends that such tax is not owed by such purchaser on the grounds that the public utility service was not purchased, used or consumed within the corporate limits of this Municipality, the seller shall refer the question to the official of the City of Glen Dale, West Virginia, charged with the responsibility of collecting taxes due to the City of Glen Dale, West Virginia, and such seller shall thereafter collect or refrain from collecting such tax from such purchaser for such public utility service as instructed in writing to do by such officials of the City of Glen Dale, West Virginia. Any and all claims for refunds of any such tax shall be presented to the City of Glen Dale, West Virginia, and not to the seller.

The official of the City of Glen Dale, West Virginia, charged with the responsibility of collecting taxes due the City of Glen Dale, West Virginia, shall have the authority to promulgate and enforce reasonable rules and regulations necessary for the administration and enforcement of this article.  
(1987 Code §29-4-6.)

**739.07 ENFORCEMENT PROVISIONS; PENALTIES.**

Any amount of tax due and unpaid under this article shall be a debt due the City of Glen Dale, West Virginia. It shall be a personal obligation of the purchaser which shall be enforceable as provided in Section 15, Article 13, Chapter 8 of the Code of West Virginia, 1931, as amended, or in any other manner now or hereafter provided by law for compelling the payment of taxes due municipalities.

Any purchaser failing or refusing to pay the tax hereby imposed and levied any and seller or purchaser violating any of the provisions hereof or any lawful rule and regulation promulgated hereunder shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than one hundred dollars (\$100.00). The failure or refusal to pay the tax for public utility services purchased, used or consumed during different periodic statement periods shall constitute a separate and distinct offense.  
(1987 Code §29-4-7.)

**739.08 NOTICE TO UTILITIES.**

The tax hereby imposed and levied shall not be effective until this Municipality gives sixty days written notice by certified mail of the effective date of this article to any public utility doing business within this Municipality which is required to collect the tax imposed and levied hereby.  
(1987 Code §29-4-8.)

**739.09 SEVERABILITY.**

If any provision of this article or the application thereof to any person or circumstance is held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect other provisions or applications of this article and to this end the provisions of this article are hereby declared to be severable.

(1987 Code §29-4-9.)

**ARTICLE 745**  
**Sale of Wines**

<p><b>745.01 Definitions.</b></p> <p><b>745.02 License required.</b></p> <p><b>745.03 Cost of licenses.</b></p> <p><b>745.04 License period.</b></p>	<p><b>745.05 Application for license.</b></p> <p><b>745.06 License suspension and revocation.</b></p> <p><b>745.07 Reporting to State officials.</b></p>
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**CROSS REFERENCES**

Authority to levy - see W. Va. Code 8-13-4  
Liquor control - see GEN. OFF. Art. 521  
Wine sales - see W. Va. Code Art. 60-8

**745.01 DEFINITIONS.**

For the purpose of this article the words "persons", "retailers", "distributors", and "wine", shall have the meaning as they now have or as they or any of them may hereafter be defined in the West Virginia Code. (1987 Code §17A-1.)

**745.02 LICENSE REQUIRED.**

By virtue of this article, there is hereby imposed an annual license tax upon distributors and retailers of wine within the corporate limits of the City of Glen Dale, and to such end, after the effective date of this article, no person may engage in business in the capacity of distributor or retailer of wine as provided by Chapter 60, Article 8 of the West Virginia Code of 1931, as amended, within the corporate limits of the City, without first obtaining a license from the City, nor shall a person continue to engage in any such activity after his license has expired, been suspended or revoked. No person may be licensed in more than one of such capacities at the same time. (1987 Code §17A-2.)

**745.03 COST OF LICENSES.**

There is hereby levied and imposed an annual license tax upon all distributors or retailers under this article as follows:

- (a) Two thousand five hundred dollars (\$2,500) per year for a distributor's license.
  - (b) One hundred fifty dollars (\$150.00) per year for a retailer's license.
- (1987 Code §17A-3.)

**745.04 LICENSE PERIOD.**

The license period shall begin on the first day of July of each year commencing with July 1, 1981, and ending on the thirtieth day of June of the following year, and if the initial license is granted for less than a year, the fee shall be computed in proportion to the number of quarters remaining the fiscal year, including the quarter in which application is made. A retailer who has more than one place of retail business shall obtain a license for each separate retail establishment. A retailer's license may be issued only to the proprietor or owner of a bona fide grocery store or wine specialty shop. (1987 Code §17A-4.)

**745.05 APPLICATION FOR LICENSE.**

Application for a license hereunder to sell wine as a retailer or distributor shall be made to the City Secretary of the City of Glen Dale in writing within ten (10) days after issuance of a license by the State of West Virginia. The application shall be accompanied by cash, or check payable to the City of Glen Dale covering the full amount of the license for which the application is made. Should the application for license be refused, then a refund shall be made to the applicant. The application for a license shall set forth the name of the person applying, the location of the place and the business where the license is to be used, and other information deemed necessary by the City Secretary. No license issued shall be transferred to another person or location. (1987 Code §17A-5.)

**745.06 LICENSE SUSPENSION AND REVOCATION.**

In the event that any person's state license, under the applicable provisions of the West Virginia Code shall be revoked or suspended, the City Recorder shall suspend or revoke the licensee's City License for the same period of time. (1987 Code §17A-6.)

**745.07 REPORTING TO STATE OFFICIALS.**

A copy of this article imposing the license tax shall be certified by the City Secretary to the West Virginia Alcohol Beverage Commission and to the State Tax Commissioner. (1987 Code §17A-7.)

**ARTICLE 751  
Municipal Service Fee**

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| <p><b>751.01 Imposition and rate;<br/>collection directed.</b></p> <p><b>751.02 Report by City Clerk to<br/>Council.</b></p> | <p><b>751.03 Appeals Board.</b></p> <p><b>751.04 Charge for late payment.</b></p> |
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**CROSS REFERENCES**

Municipal service fees - see W. Va. Code 8-13-13

**751.01 IMPOSITION AND RATE; COLLECTION DIRECTED.**

(a) There is hereby levied and shall be collected a charge against residential users of municipal services and business establishments which use municipal services within the City, for any essential or special municipal service as set forth in Chapter 8, Article 13, Section 13 of the West Virginia Code. The charge for such services shall be at the following rates for each single family residence, per unit, and for each multiple-family dwelling or apartment house, per each residential unit or apartment, whether or not occupied, and for each business establishment.

One year	\$60.00
Three quarters year	\$45.00
One half year	\$30.00
One quarter year	\$15.00
Two months	\$10.00
One month	\$ 5.00

(b) The City Clerk's Office shall be charged with the duty of mailing a statement every three months to each person or business establishment to be charged with this municipal fee hereby imposed for the fee due for the preceding three months, or any portion thereof, as the case may be, but failure to mail any such statement for such charges shall not be grounds for avoiding payment. All such statements shall contain language allowing such person or business establishment the opportunity to pay the fee quarterly, semi-annually or annually. A statement shall be mailed by the City Clerk's Office at least every three months, but, at the discretion of the Clerk, a statement may be mailed each month. If a monthly statement is mailed by the Clerk, it may be mailed each month on a date selected by the Clerk, but the Clerk shall render the monthly billing to such person or business establishment in a uniform manner, so that each monthly bill is mailed at intervals of approximately thirty days after the billing period. This statement may be sent in conjunction or as part of the water billing statement for the City.

(c) Subject to such reasonable regulations as may be promulgated by the City Clerk, the record owner of the property upon which a single family residence is situated shall be presumed to be the user of municipal services rendered for the benefit of such property and the record owner shall be liable to the City for the charges; the tenants or occupants of the residential units of a multifamily dwelling or apartment house shall be presumed to be the users of such municipal services and shall be liable to the City for such charges. Persons doing business as partners in a business establishment within the City shall be jointly and severally liable for the charges. However, in the event that a residential unit of a multi-family dwelling or apartment house is temporarily unoccupied, then and in that event the record owner of the property upon which such multi-family dwelling or apartment house is situated shall be presumed to be the user of the residential services provided to each such unoccupied unit and shall be liable to the City for the charges. (Ord. 9-8-08.)

#### **751.02 REPORT BY CITY CLERK TO COUNCIL.**

The City Clerk shall within sixty days after the end of each fiscal year report to Council a list of all persons and business establishments who are delinquent in the payment of the municipal fee or any portion thereof for the preceding fiscal year and Council shall by resolution direct the City Clerk and other municipal employees to take such action as Council deems advisable and necessary in regard to the payment of such delinquent fees. (1987 Code §29-6-2.)

#### **751.03 APPEALS BOARD.**

(a) There is hereby established a Municipal Fee Appeals Board consisting of five members. All five members shall be residents of the City and they shall be appointed by Council. They shall serve at the will and pleasure to Council. Any such member may concurrently serve upon the Appeals Board as otherwise established by the Code of the City of Glen Dale.

(b) In addition to other considerations, the Appeals Board shall grant an exemption to any single fee user who provides satisfactory proof of gross income of nine thousand six hundred dollars (\$9,600.00) or less, in annual income, or eight hundred dollars (\$800.00) or less, in gross monthly income, and to any head-of-household fee user who provides satisfactory proof of gross income of twelve thousand dollars (\$12,000) or less, of annual income, or one thousand dollars (\$1,000) or less, in gross monthly income. (1987 Code §29-6-3.)

**751.04 CHARGE FOR LATE PAYMENT.**

There shall be assessed an interest charge for late payment of the assessed fee at a rate of ten percent (10%) per year. Said interest charge shall be added on to the next fee statement available after the assessment of the ten percent (10%) per year charge.  
(1987 Code §29-6-4.)





**ARTICLE 755  
Nonintoxicating Beer**

**755.01 Application for and issuance  
of City license.**

**755.02 License fees.**

**755.03 False statements; suspension  
and revocation of license.**

**CROSS REFERENCES**

Nonintoxicating beer - see W. Va. Code Art. 11-16

Municipal license tax - see W. Va. Code 11-16-17

Liquor control - see GEN. OFF. Art. 521

**755.01 APPLICATION FOR AND ISSUANCE OF CITY LICENSE.**

(a) No person shall sell, vend, deal in or dispose of by gift or otherwise, or keep, offer for sale or manufacture any nonintoxicating beer within the City without first having obtained a City license therefor as provided in this article.

(b) For the purposes of this article, licenses shall be classified as follows:

- (1) "Retailer" licenses shall be required of and granted to any person selling, serving, delivering or otherwise dispensing nonintoxicating beer at his established place of business as licensed by the State.
- (2) "Distributor" licenses shall be required of and granted to any person other than a manufacturer or brewer, jobbing or distributing such nonintoxicating beer to a retailer at wholesale.
- (3) "Manufacturer or brewer" licenses shall be required of and granted to any person manufacturing nonintoxicating beer in the City for sale at wholesale.
- (4) "Club" licenses shall be required of and granted to any person who manages or operates any club and shall entitle such club to operate as a retailer.

(c) All licenses granted under the provisions of this article shall be granted subject to the conditions of this article, and subject to the following conditions of this section.

- (1) Age limit. No license shall be granted to any person under eighteen years of age.
- (2) Previous liquor law conviction. No license shall be granted to any person who has been convicted of a felony and who has been convicted of any violation of either the Liquor Control Act of this State or any liquor control law of the United States.
- (3) Previous conviction under this article. No license shall be granted for sale of any premises where a licensee has been convicted for the violation of this article or where any license hereunder has been revoked for cause within one year after such conviction or revocation.

- (4) Inspection of premises. All premises where any license hereunder is granted shall be open to inspection by any police officer or other properly designated officer or employee of the City at any time during which the place so licensed is open to the public for business.
- (5) Gambling. No gambling, nor any gambling device prohibited by law, shall be permitted in any licensed premises.
- (6) Applicant, premises. All licenses granted under this article shall be issued to the applicant only and shall be issued for the premises designated in the application. Such license shall not be transferred to another place without the approval of Council.
- (7) Issue of retailer's license to manufacturer. No license as to retailers shall be granted to any manufacturer or brewer of nonintoxicating beer nor to anyone interested in the control of any such plant, and no equipment or fixtures in any licensed place shall be owned in whole or in part by any such manufacturer.
- (8) Citizenship requirements for retailers. Licenses shall be granted as to retailers only when such persons are citizens of this State and of the United States and have been bona fide residents of the State for the past five years.
- (9) Clubs. No club shall sell nonintoxicating beer except to members and to guests in the company of members.
- (10) State license required. No City license shall be granted to any person who does not hold a valid State license of the same classification as the City license for which he applies.

(d) All applications for licenses under this article shall be addressed to the Recorder and to Council, and the Recorder shall have the authority to issue such licenses in accordance with the provisions of this article. Such license shall be issued subject to the approval of Council at their regular meeting next following receipt of the application.

All applications for licenses hereunder shall set forth, in an affidavit sworn to before an officer authorized to administer oaths, sufficient information to enable the Recorder to determine whether or not the applicant qualifies as a proper person to receive a license under this article. (1987 Code §17-1-9.)

### **755.02 LICENSE FEES.**

For the purposes of this section, a Class A retail dealer shall include all retail dealers in nonintoxicating beer, including social, fraternal and private clubs; and a Class B retail dealer shall include all persons who sell nonintoxicating beer at retail in bottles, cans or other sealed containers for consumption off the premises only.

License fees are hereby imposed as follows:

<u>Type of Business</u>	<u>Fee</u>
Manufacturers or Brewers	\$250.00
Distributors	125.00
Class A retail dealers (cold on premises)	100.00 for each establishment
Class B retail dealers (warm off premises)	15.00 for each establishment
Class C (cold off premises)	50.00
Class D (social nonprofit)	50.00

(1987 Code §17-1-9.)

**755.03 FALSE STATEMENTS; SUSPENSION AND REVOCATION OF LICENSE.**

(a) It shall be unlawful for any person to knowingly make any false statement concerning any material fact in an application for a license under this article or for any renewal of such license or in any hearing or proceeding relating to such application or license.

(b) Nothing in this article shall permit the manufacture, sale or transportation, or keeping, or having in possession for sale, transportation of, taking, receiving or soliciting any order for liquor of a greater alcoholic content than three and two tenths per centum by weight, except for medicinal, pharmaceutical or scientific purposes, and any such act is hereby made unlawful. Any violation of any provision upon any premises licensed hereunder shall constitute grounds for revocation of the license, and such license shall be automatically revoked upon a conviction of the violation of this section.

(c) The suspension or revocation of any person's State license under the provisions of the Code of West Virginia, Chapter 11, Article 16, shall ipso facto operate as a suspension or revocation of any City license issued to such person under the provisions of this article. (1987 Code §17-1-9.)