

TITLE XI: BUSINESS REGULATIONS

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CHAPTER 110: GENERAL BUSINESS REGULATIONS

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§ 110.01 PURPOSE.

The purpose of this chapter shall be to generate revenues to be used for the general purpose revenue fund of the county in order to provide services to its citizens as deemed necessary by the Fiscal Court. (Prior Code, § 110.01) (Ord. passed 4-24-1987; Ord. 2011-2, passed 3-1-2011; Ord. 2013-1, passed 4-16-2013)

§ 110.02 BUSINESS LICENSE FEES IMPOSED ON THOSE ENGAGED IN THE INSURANCE BUSINESS.

(A) There is hereby imposed on each insurance company a business license fee for the privilege of engaging in the business of insurance within the county, (including all incorporated areas) effective July 1, 1987 and on a yearly basis thereafter.

(B) The business license fee imposed upon each insurance company which issues life insurance policies on the lives of persons residing within the county shall be 4% of the first year's premiums actually collected within each calendar quarter by reason of the issuance of such policies.

(C) The business license fee imposed upon each company which issues any insurance policy which is not a life insurance policy shall be 4% of the premiums actually collected within each calendar quarter by reason of the issuance of such policies on risks located within the county on those classes of business

which such company is authorized to transact, less all premiums returned to policyholders; however, any license fee imposed upon premium receipts shall not include premiums received for insuring employers against liability for personal injuries to their employees, or death caused thereby, under the provisions of the Workers' Compensation Act and shall not include premiums received on policies of group health insurance provided for state employees under KRS 18A.225(2).

(D) (1) All business license fees imposed by this section shall be due no later than 30 days after the end of each calendar quarter.

(2) License fees which are not paid on or before the due date shall bear interest at the rate as defined in KRS 131.010(6).

(E) Every insurance company subject to the license fees imposed by this section shall annually, by March 31, furnish the County Clerk with a written breakdown of all collections in the preceding calendar year for the following categories of insurance:

- (1) Casualty;
- (2) Automobile;
- (3) Inland marine;
- (4) Fire and allied perils;
- (5) Health; and
- (6) Life.

(F) The County Clerk is hereby directed to transmit a copy of this chapter and any amendment thereto, to the Commissioner of Insurance, Commonwealth of Kentucky.

(Prior Code, § 110.02) (Ord. passed 4-24-1987; Ord. 2011-2, passed 3-1-2011; Ord. 2013-1, passed 4-16-2013)

§ 110.03 BUSINESS LICENSE FEES IMPOSED ON THOSE ENGAGED IN ANY BUSINESS.

(A) There is hereby imposed on all persons, partnerships, and corporations, other than those mentioned in §§ 110.01 and 110.02, which are engaging in a trade or business within the county a business license fee, the amount of which shall be based upon the number of persons employed thereby as follows:

<i>Number of Employees</i>	<i>Business License Fee</i>
1 employee	\$50
2 to 5 employees	\$100
6 to 25 employees	\$150
26 to 100 employees	\$200
101 employees or more	\$300

(B) For the purpose of this section, the sole owner or proprietor of a business shall be considered an employee. Farmers and farm laborers shall not be considered employees for the purpose of this section. (Prior Code, § 110.03) (Ord. passed 4-24-1987; Ord. 2008-2, passed 5-6-2008; Ord. 2011-2, passed 3-1-2011; Ord. 2013-1, passed 4-16-2013) Penalty, see § 110.99

§ 110.04 APPLICATION AND ADMINISTRATION.

(A) Every person, firm or corporation required to purchase a license under § 110.03 of this chapter shall submit an application for such license to the County Sheriff. The application shall be a written statement upon forms provided by the County Sheriff, and shall be in affidavit form, to be sworn by the applicant before a notary public. The application shall require the disclosure of all information necessary for compliance with the provisions of this chapter, and of any other information which the County Sheriff shall find to be reasonably necessary to the fair administration of this chapter.

(B) The business license fee imposed under § 110.03 hereof shall be due and payable to the County Sheriff on July 1, 2013 for the following year and due on or before July 1 each year thereafter.

(C) The business license fee imposed under § 110.03 may be prorated upon application and issuance of a new license.

(D) The County Sheriff is hereby authorized to retain in his or her budget 30% of any sums collected by him or her pursuant to the provisions of § 110.03 of this chapter, in order to offset the cost of administration thereof.

(E) Postage costs necessary for the administration of this chapter shall be covered by the Fiscal Court. (Prior Code, § 110.04) (Ord. passed 4-24-1987; Ord. 2008-2, passed 5-6-2008; Ord. 2011-2, passed 3-1-2011; Ord. 2013-1, passed 4-16-2013)

§ 110.05 INTERIM BUSINESS LICENSE.

(A) Any person, firm, or corporation doing business in the county on a one-time basis may be allowed to purchase an interim business license as opposed to an annual business license.

(B) The license shall be good for 72 hours. The cost shall be \$15 and payable to the County Sheriff

under the same licensing requirements contained herein.

(C) In no instance may a person, firm, or corporation qualify for the issuance of an interim business license more than two times per year.

(Prior Code, § 110.05) (Ord. 2013-1, passed 4-16-2013) Penalty, see § 110.99

§ 110.06 APPLICATION EXEMPTIONS.

Notwithstanding the foregoing, the provisions of this chapter shall not apply to:

(A) Sales at wholesale to retail merchants by commercial selling agents in the usual course of business;

(B) Wholesale trade shows or conventions;

(C) Sales of goods, wares, or merchandise by sample catalogue or brochure for future delivery;

(D) Participants in fairs and convention center activities when the participants' businesses are conducted primarily for amusement or entertainment;

(E) Any general sale, fair, auction, or bazaar sponsored by any religious, educational, public service, or charitable organization;

(F) Garage/yard sales held on premises devoted to residential use or held in accordance with a recognized state wide tourism event (127 yard sales);

(G) Sales of crafts or items made by hand and sold or offered for sale by the person making such crafts or handmade items;

(H) Sales of locally grown agricultural products;

(I) Sales made by a seller at residential premises pursuant to an invitation issued by the owner or legal occupant of such premises;

(J) Sheriffs, constables, or other public or court officers, or any other person or persons acting under the direction or authority of any court, state or federal, selling goods, wares, or merchandise in the course of their official duties; and/or

(K) Flea market vendors who can demonstrate compliance with KRS 139.550.

(Prior Code, § 110.07) (Ord. 2011-2, passed 3-1-2011; Ord. 2013-1, passed 4-16-2013)

§ 110.99 PENALTY.

Any person, firm, or corporation violating any of the provisions of this chapter by failure to procure proper license herein required shall be deemed guilty of a violation and, upon conviction thereof, shall be fined in an amount not to exceed \$250 for each offense. Each day such violation is committed or permitted to continue shall constitute a separate offense and may be punishable as such. Failure to procure proper license herein on or before July 1 of each year shall result in an administrative penalty of a \$25 late fee, in addition to any other penalties set out herein.

(Prior Code, § 110.99) (Ord. passed 4-24-1987; Ord. 2008-2, passed 5-6-2008; Ord. 2011-2, passed 3-1-2011; Ord. 2013-1, passed 4-16-2013)

CHAPTER 111: ALCOHOLIC BEVERAGES

Section

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§ 111.01 PURPOSE.

It is the purpose of this chapter to promote economic growth, development, and tourism within the county by making provision for the sale of alcoholic beverages by the drink at certain restaurants, dining facilities, hotels, motels, and inns consistent with the provisions of KRS 242.185, now in effect and as may be hereafter amended by the State General Assembly.

(Prior Code, § 111.01) (Ord. 2007-01, passed 3-7-2007)

§ 111.02 PROVISIONS OF STATE LAW ADOPTED.

The provisions of the State Alcoholic Beverage Control laws contained in KRS Chapter 241, KRS Chapter 242, KRS Chapter 243, and KRS Chapter 244 pertaining to licenses and regulations of the State

Alcoholic Beverage Control Board, including definitions contained therein, as well as amendments and supplements thereto, are hereby adopted, except as otherwise lawfully provided herein.

(Prior Code, § 111.02) (Ord. 2007-01, passed 3-7-2007)

§ 111.03 COUNTY ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR.

(A) The County Alcoholic Beverage Control Administrator (the “County ABC Administrator”) shall be appointed by the County Judge/Executive with the consent of a majority of the members of the Fiscal Court, and may be removed by the County Judge/Executive with or without cause. No conflict of interest shall be deemed to arise if the individual appointed as County ABC Administrator is also employed by the county in some other capacity.

(B) The salary for County ABC Administrator, if any, shall be fixed from time to time by the Fiscal Court.

(C) The County ABC Administrator shall have full police powers of a peace office and his or her jurisdiction shall be coextensive with the boundaries of the county.

(D) The County ABC Administrator is authorized to examine and inspect, at any reasonable time, all books and records required to be maintained by licensees under KRS 244.150. The licensee shall submit to the County ABC Administrator a copy of all reports, which the licensee is required or elects to submit to or file with the State Alcoholic Beverages Control Board.

(E) The County ABC Administrator shall have the power and duty to suspend or revoke, for cause, a license granted for the purposes of KRS 242.185. The County ABC Administrator, on his or her own initiative or on complaint of any person, may institute proceedings to suspend or revoke any license issued under this chapter.

(Prior Code, § 111.03) (Ord. 2007-01, passed 3-7-2007)

§ 111.04 LICENSE.

Under this section a license shall only be extended to the owners and/or operators of those establishments which qualify under KRS 242.185.

(A) Restaurants or dining facilities shall be eligible for the license for which provision is made herein if they comply with all of the following requirements: such restaurants or dining facilities shall by records sufficient to establish to the County ABC Administrator that it derives a minimum of 51% of its gross revenues from the sale of food for consumption on the premises and has a minimum seating capacity of 100 persons at tables. The County ABC Administrator shall review all records which the applicant

restaurant or dining facility must submit as a part of its application for a license, and the County ABC Administrator shall determine if said restaurant or dining facility meets the criteria contained herein.

(B) (1) Hotels, motels or inns shall be eligible for the license for which provision is made herein if they comply with all of the following requirements: such hotel, motel, or inn must demonstrate to the County ABC Administrator that it contains not less than 50 sleeping units and has dining facilities for not less than 100 persons at tables.

(2) The County ABC Administrator shall personally inspect the premises and thereafter determine that, in fact, the applicant hotel, motel, or inn has the requisite number of sleeping units and dining facilities.

(C) Nothing contained herein shall be in any way interpreted or construed to allow for the sale of alcoholic beverages by the drink for consumption on the premises in connection with any business in which a part of the commercial transaction consists of selling, at retail, staple groceries, or which is used solely as an entertainment facility and does not meet the criteria of a restaurant or dining facility set out hereinabove.

(Prior Code, § 111.04) (Ord. 2007-01, passed 3-7-2007)

§ 111.05 LICENSE APPLICATION.

(A) Representatives of restaurants, dining facilities, hotels, motels, or inns seeking the license for which provision is made herein shall submit a completed application to the County ABC Administrator. The form provided may be the same form utilized by the State Alcoholic Beverage Control Board.

(B) (1) Applicants for a license under this chapter shall pay a license fee of \$600 per fiscal year (July 1 through June 30). Any license issued after July 1 of any year shall be assessed a fee which is based on the pro rata portion of the remainder of the annual license period.

(2) However, the cost of any license shall not be less than \$300.

(C) The applicant for a county license, for which provision is made herein, shall tender with its application a consent document which shall state:

“The undersigned applicant hereby grants its irrevocable consent to the County ABC Administrator, or his or her duly appointed designee, to come upon and inspect and search the licensed premises at any reasonable time.”

(Prior Code, § 111.05) (Ord. 2007-01, passed 3-7-2007)

§ 111.06 APPROVAL OF APPLICATION.

Within 30 days of the date of the application for an original county license for which provision is made herein, and 15 days of the date of any application for renewal of such license, the County ABC Administrator shall, by mail or personal delivery, notify the applicant, in writing, of either the approval or the disapproval thereof or whether a hearing in regard thereto shall be held.
(Prior Code, § 111.06) (Ord. 2007-01, passed 3-7-2007)

§ 111.07 DENIAL OF APPLICATION.

As is similarly set forth in KRS. 243.450, the County ABC Administrator shall not approve any application for a county license for which provision is made herein if:

(A) The applicant, the application, or the premises described therein do not fully comply with the provisions of this chapter and all laws in regard to alcoholic beverages;

(B) The applicant and any shareholder, officer, agent, servant, or employee has caused, permitted, or engaged in any act for which the revocation or nonissuance of a state, county, or city license is authorized, including, but not limited to, those acts as defined by KRS 243.100, KRS 243.450, KRS 243.500, or KRS 244.120;

(C) The applicant and/or any shareholder, officer, agent, servant, or employee had a state license or county license which was revoked within two years of the date of application, where the premises or any portion thereof described in a state, county, or city license was revoked during such time; or

(D) Any statement or representation in the application is false.
(Prior Code, § 111.07) (Ord. 2007-01, passed 3-7-2007)

§ 111.08 SUSPENSION OR REVOCATION OF LICENSE.

Notwithstanding the other provisions of this chapter, the licensee to whom a license provided for herein is issued shall abide by all federal, state, and local regulations governing the sale of alcoholic beverages by the drink, including but not limited to KRS Chapter 241, KRS Chapter 242, KRS 243, and KRS 244. The failure to do so, in addition to other penalties which may be imposed by federal, state, and local regulations, including those penalties contained herein, may result in the suspension or revocation of the license to sell alcoholic beverages by the drink. If a license provided for herein is suspended or revoked, the licensee shall not be entitled to a refund of any portion of the license fee previously paid. Any notice of suspension or revocation issued by the County ABC Administrator shall be in writing and shall state with specificity the reason for the suspension or revocation and shall inform the licensee of his or her right to a hearing pursuant to § 111.09 of this chapter.
(Prior Code, § 111.08) (Ord. 2007-01, passed 3-7-2007)

§ 111.09 HEARINGS.

Should a request for a hearing be made for the refusal to issue or renew a license or for the suspension or revocation of a license, the County ABC Administrator is to hold said hearing consistent with KRS Chapter 13B and pursuant to the general practice procedures found in the Kentucky Rules of Civil Procedure, and the following shall apply.

(A) *Request to be in writing.* Requests for hearing should be made, in writing, within ten days of the date of the notice of refusal to issue or renew or for suspension or revocation.

(B) *Definitions.* All words are used as defined in the Alcoholic Beverage Control Law of Kentucky (KRS Chapter 241, KRS Chapter 242, KRS Chapter 243, and KRS Chapter 244), unless otherwise specified.

(C) *Appearances.* Any applicant or licensee may appear and be heard in person, or by duly appointed attorney and may produce under oath evidence relative and material to matters before the Board.

(D) *Briefs.* Briefs may be filed at the request of the County ABC Administrator or at the option of the applicant or licensee.

(E) *Rules of evidence.* The rules of evidence governing civil proceedings in courts of the Commonwealth of Kentucky shall govern hearings before the County ABC Administrator; provided however, that the hearing officer may relax such rules in any case where, in his or her judgment, the ends of justice will be better served by so doing.

(F) *Subpoenas.* The County ABC Administrator shall have subpoena power for such hearings and shall, at the request of the applicant made with names and addresses of those desired, issue with subpoenas.

(G) *Transcripts.* Upon request and at the cost of the applicant or licensee the hearing may be transcribed.

(H) *Decisions.* All decisions shall be written and based upon evidence developed at the hearing.

(I) *Appeals from the County ABC Administrator.* All appeals shall be held in accordance with KRS Chapter 241 and KRS Chapter 243.
(Prior Code, § 111.09) (Ord. 2007-01, passed 3-7-2007)

§ 111.10 EXPIRATION DATE OF LICENSE; RENEWAL.

(A) A license issued pursuant to this chapter shall expire on June 30 of the year following the year in which the license was issued.

(B) Application for renewal of such license shall be submitted no later than 30 days before expiration thereof and shall be made pursuant to § 111.06 upon a showing the criteria therefor has been met, the filing and approval of a renewal application and the payment of a renewal fee of \$600.

(C) The renewal of the license issued pursuant to this chapter shall not be construed to be a waiver

or acceptance of any violation which occurred prior to such renewal and shall not prevent subsequent proceedings against the licensee.

(D) No license issued under this chapter shall be transferred or assigned either as to license or location except with the prior approval of the County ABC Administrator and not then until a payment of \$100 shall be made to the county.

(Prior Code, § 111.10) (Ord. 2007-01, passed 3-7-2007)

§ 111.11 REGULATORY LICENSE.

(A) (1) For the purpose of full reimbursement to the county of the cost of any police, regulatory, legal, or administrative expenses related to the sale of alcoholic beverages for which provision is made herein, a regulatory license fee is imposed on the gross receipts from retail sales of alcoholic beverages under each license issued.

(2) The amount of this fee shall be adjusted from time to time by ordinance so that the same shall be reasonably estimated to insure full reimbursement to the county of the police, regulatory, administrative, or legal expenses herein referred to. The regulatory license fee shall be in addition to any other taxes, fees, or licenses permitted by law.

(3) Said license fee shall be 5% of all sales of alcoholic beverages by the drink for consumption on the premises.

(B) The Fiscal Court shall adopt at the beginning of each budget period for each fiscal year such a percentage rate as shall be reasonably estimated to insure full reimbursement to the county for the cost of any additional policing, regulatory, or administrative expenses relating to this chapter

(C) Payment of the regulatory license fee shall accompany tax returns approved for use by the County ABC Administrator, submitted to the County Clerk by the twentieth day of each month for the preceding month's sales. There shall be a monthly credit of \$50, representing the pro rata portion of the initial license cost for which provision is made in this chapter.

(D) Failure to pay the monthly remittance within ten days after the due date shall constitute a violation of this chapter, and in addition, shall constitute grounds for an immediate 30-day suspension of the license for which provision is made herein.

(Prior Code, § 111.11) (Ord. 2007-01, passed 3-7-2007)

§ 111.12 ADDITIONAL RESTRICTIONS ON SALE BY LICENSEE.

At no time shall any licensee sell any alcoholic beverage when the licensee does not have food available for sale, and in no event may any alcoholic beverages be sold between the hours of 1:30 a.m. and 6:30 a.m., Monday through Saturday, nor between 1:30 a.m. and 12:30 p.m. on Sunday.

(Prior Code, § 111.12) (Ord. 2007-01, passed 3-7-2007; Ord. 2009-12, passed 12-1-2009)

§ 111.13 DORMANCY.

(A) It is necessary that a licensee actually conduct the business authorized by the license for which provision is made herein; such is the intent of this section. Any license under which no business is transacted shall be declared dormant and shall become null and void after a period of 90 days. At the expiration of the 90-day period, the license shall be surrendered to the County ABC Administrator.

(B) Realizing that a licensee, like any other business, may have his or her business interrupted by situations not under his or her control, various exceptions to the dormancy rule have been included in this section under divisions (C) and (D).

(C) Any licensee who is unable to continue in business at the premises for which a license is issued due to construction, an act of God, casualty, death, the acquisition of the premises by any federal, state, city, or other governmental agency under power of eminent domain, whether acquisition is voluntary or involuntary, or loss of lease through failure of landlord to renew existing lease shall furnish to the County ABC Administrator a verified statement setting forth the fact that the licensee is unable to continue in business prior to the expiration of the 90 days of inactivity, for any of the reasons set forth herein. The County ABC Administrator may grant an extension of the dormancy with the license continuing to remain in effect during the license period or until same is transferred to another premises, notwithstanding the fact that no business is transacted during said period; provided, however, no such license shall be considered valid unless business is conducted thereunder within 12 months from the date of notice to the County ABC Administrator. Such extension may not extend beyond the renewal day but may be for such times as the County ABC Administrator deems appropriate in exercise of his or her sound discretion.

(D) All renewal licenses must be on file with the County ABC Administrator as provided for in § 111.10, except where the licensee is unable to continue in business at the same premises.
(Prior Code, § 111.13) (Ord. 2007-01, passed 3-7-2007)

§ 111.14 SUNDAY SALES OF DISTILLED SPIRITS, WINE, AND MALT BEVERAGES.

All state licensed State Small Farm Wineries and Distillers in the county may sell distilled spirits and wine by the drink and by the package on Sunday between the hours of 12:30 p.m. and 1:30 a.m. and shall be subject to the same license application requirements and fees otherwise contained in this chapter. All state licensed small farm wineries and distillers may also sell malt beverages by the drink on Sunday between the hours of 12:30 p.m. and 1:30 a.m. and shall also be subject to the same license application requirements and fees otherwise contained in this chapter.
(Prior Code, § 111.14) (Ord. 2009-12, passed 12-1-2009)

§ 111.99 PENALTY.

The sale of alcoholic beverages by the drink for consumption on the premises in the county not in conformity with this chapter shall constitute a violation, punishable by a fine of up to \$500 for each offense, to be prosecuted as all other municipal ordinance violations are prosecuted. Each day of each

violation shall constitute a separate offense.
(Prior Code, § 111.99) (Ord. 2007-01, passed 3-7-2007)

CHAPTER 112: SEXUALLY ORIENTED BUSINESSES

Section

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- 112.02 Definitions
- 112.03 Classification of businesses
- 112.04 General restrictions, requirements, and conditions for sexually oriented businesses
- 112.05 Regulations pertaining to exhibition of sexually explicit films, videos, or live entertainment in viewing rooms
- 112.06 Inspection
- 112.07 Regulations pertaining to live performances
- 112.08 Record keeping requirements

- 112.99 Penalty

§ 112.01 PURPOSE AND FINDINGS.

(A) *Purpose.* It is the purpose of this chapter to regulate sexually oriented businesses to promote the health, safety, and general welfare of the citizens of the county, and to establish reasonable and uniform regulations relating to sexually oriented businesses. The provisions of this chapter have neither the purpose nor the effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor the effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor the effect of this chapter to condone or legitimize the distribution of obscene material.

(B) *Findings.* Based on evidence concerning the adverse secondary effects of adult uses on the community presented in reports made available to the Fiscal Court, and on findings incorporated in the case of *Renton vs. Play Time Theaters, Inc.*, 475 U.S. 41 (1986), *Young vs. American Mini Theaters*, 427 U.S. 50 (1976), and *Barnes vs. Glen Theater, Inc.*, 501 U.S. 560 (1991), and on studies in other communities including, but not limited to, Phoenix, Arizona; Minnesota; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin,

Texas; Seattle, Washington; Oklahoma City, Oklahoma; Cleveland, Ohio; and Beaumont, Texas; as well as on findings from the report of Attorney General's Working Group on the regulation of sexually oriented businesses (June 6, 1989, State of Minnesota), the Fiscal Court finds:

(1) Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the operators of such establishments. Further, there is presently no mechanism to ensure that the owners of those establishments will be responsible for the activities that occur on their premises;

(2) Certain employees of sexually oriented business defined in this chapter as adult theaters and cabarets engage in higher incidents of certain types of illicit sexual behavior than employees of other establishments;

(3) Sexual acts occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows;

(4) Offering and providing space for such activities encourages occurrences thereof and thereby create unhealthy conditions;

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

(6) At least 50 communicable diseases may be spread by activities occurring in sexually oriented businesses;

(7) Since 1981 and to the present, there has been an increasing, cumulative number of reported cases of AIDS caused by the human immunodeficiency virus (HIV) in the United States; and, through December, 2001, there have been 1,284,059 reported cases of AIDS in the United States;

(8) As of December 31, 2003, there have been 4,071 reported cases of AIDS in the Commonwealth of Kentucky;

(9) According to the best scientific evidence, AIDS, and HIV infection, like syphilis and gonorrhea, are principally transmitted by sexual acts;

(10) Sanitary conditions in some sexually oriented businesses are unhealthy, in part because of the unregulated nature of the activities and the failure of the owners and operators of the facilities to self-regulate those activities and maintain those facilities;

(11) Numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where persons view adult oriented films;

(12) The findings noted in divisions (B)(1) through (B)(11) above raise substantial governmental concerns;

(13) Sexually oriented businesses, especially premises with adult booths, have operational characteristics which engender substantial government concerns;

(14) Removal of doors on adult booths and requiring sufficient lighting on premises with adult booths advance a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in adult theaters; and

(15) The general welfare, health, and safety of the citizens of the county will be promoted by the enactment of this chapter.
(Prior Code, § 112.01) (Ord. 2005-15, passed 9-20-2005)

§ 112.02 DEFINITIONS.

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

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

ADULT BOOK STORE, ADULT NOVELTY STORE, or ADULT VIDEO STORE.

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

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

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

(2) A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing “specified sexual activities” or “specified anatomical areas” and still be characterized as ***ADULT BOOK STORE, ADULT NOVELTY STORE,*** or

ADULT VIDEO STORE. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an **ADULT BOOK STORE, ADULT NOVELTY STORE, or ADULT VIDEO STORE**, so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas.”

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

- (1) Persons who appear in a state of nudity or semi-nude; or
- (2) Live performances characterized by the exposure of “specified anatomical areas” or by “specified sexual activities”; or
- (3) Films, motion pictures, video cassettes, slides, or other photographic reproductions, characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas.”

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

- (1) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”; and has a sign visible from the public right-of-way advertising the availability of such adult-type photographic reproductions;
- (2) Offers a sleeping room for rent for a period of less than ten hours; or
- (3) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of less than ten hours.

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

ADULT STAGE SHOW THEATER. A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nude, or live performances characterized by the exposure of “specified anatomical areas” or “specified sexual activities.”

COUNTY. The County of Anderson, Kentucky, including the cities of Danville, Junction City, and Perryville, and any other community whether incorporated or not.

EMPLOYEE. Any person who performs any service on the premises of a sexually oriented business on a full-time, part-time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise and whether or not said person is paid a salary, wage, or other compensation by the operator of said business. **EMPLOYEE** does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.

ENTERTAINER. Any person who provides sexually oriented entertainment in a sexually oriented business, whether or not an employee of the business and whether or not a fee is charged or accepted for such entertainment.

ESCORT. A person who, for consideration, agrees, or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

ESCORT AGENCY. A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

ESTABLISHMENT. Any sexually oriented business, whether existing or the opening of such business; the conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business; and the addition to any sexually oriented business.

MANAGER. Any person who manages, directs, administers, or is in charge of the affairs and/or the conduct of a sexually oriented business.

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

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

REGULARLY FEATURES or REGULARLY SHOWN. A consistent or substantial course of conduct such that the films or performances exhibited constitute a substantial portion of the films or performances offered as a part of the ongoing business of the sexually oriented business.

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

SEXUAL ACTIVITIES. Depiction of human genitals in a state of sexual stimulation, active human masturbation, sexual intercourse or sodomy or holding or erotic touching of human genitals, pubic region, buttocks, or breasts.

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

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

(2) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

SEXUALLY ORIENTED BUSINESS. An adult amusement arcade, adult book store, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult stage theater, escort agency, or sexual encounter center.

(Prior Code, § 112.02) (Ord. 2005-15, passed 9-20-2005)

§ 112.03 CLASSIFICATION OF BUSINESSES.

Sexually oriented businesses are classified as follows:

(A) Adult amusement arcades;

(B) Adult book stores, adult novelty stores, or adult video stores;

(C) Adult cabarets;

(D) Adult motels;

(E) Adult motion picture theaters;

(F) Adult stage theaters;

(G) Escort agencies; and

(H) Sexual encounter centers.

(Prior Code, § 112.03) (Ord. 2005-15, passed 9-20-2005)

§ 112.04 GENERAL RESTRICTIONS, REQUIREMENTS, AND CONDITIONS FOR SEXUALLY ORIENTED BUSINESSES.

All sexually oriented businesses classified under § 112.03 of this chapter shall comply with the following requirements.

(A) Except as otherwise provided by laws which may be more restrictive, no owner or operator of an establishment shall knowingly permit a person under 18 years of age to be employed by or enter the establishment.

(B) An establishment must have an employee on duty at all times the business is open and must be positioned at a station in the premises located in such a manner that the entrance can be monitored at all times. Any person who reasonably appears to be under the age of 18 shall be requested to verify his or her age. All persons under the age of 18 discovered in the establishment shall be immediately escorted from the premises.

(C) No establishment, except for an adult motel, shall remain open at any time between the hours of 1:00 a.m. and 6:00 a.m.
(Prior Code, § 112.04) (Ord. 2005-15, passed 9-20-2005) Penalty, see § 112.99

§ 112.05 REGULATIONS PERTAINING TO EXHIBITION OF SEXUALLY EXPLICIT FILMS, VIDEOS, OR LIVE ENTERTAINMENT IN VIEWING ROOMS.

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

(1) Any wall or partition, which is situated so as to create a viewing area in which any amusement device or viewing screen, is located shall be constructed of not less than one-hour fire-restriction material and shall contain no hole or other perforation.

(2) The interior of the premises shall be configured in such a manner that there shall be an unobstructed view from a manager's or cashier's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. The view required in this section must be by direct line of sight from the manager or cashier's station.

(3) No viewing room or booth shall be obstructed by any doors, curtains, partitions, walls, merchandise, display racks, or other materials. No patron shall be permitted access to any area of the premises which has been designated as an area to which patrons are not permitted.

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(4) No viewing room or booth shall be occupied by more than one person at any time. No owner, operator, or employee shall knowingly permit any viewing room or booth to be occupied by more than one person at any time.

(5) No restroom shall contain any video reproduction devices or equipment.

(6) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less ten foot-candles as measured at floor level.

(7) It shall be the duty of the owner, operator, or employee to ensure that the illumination described above is maintained at all times any patron or customer is present in the premises.

(8) No owner, operator, or employee shall allow openings of any kind to exist between viewing rooms or booths.

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

(10) The owner and/or employees shall, during each business day, cause the walls between the viewing booths to be regularly inspected to determine if any openings or holes exist.

(11) All floor coverings in viewing rooms or booths shall be nonporous, easily cleanable surfaces, with no rugs or carpeting.

(12) There must be at least one employee on duty and situated at the manager's station at all times any patron is present inside the premises.

(B) All sexually oriented businesses in operation in the county on the effective date of this chapter shall comply with the configuration requirements of divisions (A)(1) and (A)(2) above within 120 days after the effective date of this chapter.

(Prior Code, § 112.05) (Ord. 2005-15, passed 9-20-2005) Penalty, see § 112.99

§ 112.06 INSPECTION.

At anytime occupied or open for business, all sexually oriented businesses shall permit representatives of the county, including representatives of the Sheriff's Department, Fire Department, Health Department, or other county departments or agencies, to inspect the premises of a sexually oriented business for the purpose of ensuring compliance with the law.

(Prior Code, § 112.06) (Ord. 2005-15, passed 9-20-2005) Penalty, see § 112.99

§ 112.07 REGULATIONS PERTAINING TO LIVE PERFORMANCES.

(A) All live performances in any sexually oriented business shall be on a designated performance area consisting of a stage or platform at least 18 inches above the immediate floor level and removed at least six feet from any area in which any patrons are permitted.

(B) No person shall appear nude or in a state of nudity while engaged in any live performance on the premises of any sexually oriented business.

(C) No person shall appear semi-nude or in a semi-nude condition while engaged in any live performance on the premises of any sexually oriented business except on the stage or platform described in division (A) above.

(D) No entertainer or employee shall be permitted to have any physical contact with any patron during any performance.

(E) No entertainer or employee shall be visible from any public place outside the premises during any performance.

(Prior Code, § 112.07) (Ord. 2005-15, passed 9-20-2005) Penalty, see § 112.99

§ 112.08 RECORD KEEPING REQUIREMENTS.

Each sexually oriented business shall maintain and retain for a period of two years beyond the last date of employment, the date of birth, last known address, date of termination, and Social Security number of all persons employed by the sexually oriented business.

(Prior Code, § 112.08) (Ord. 2005-15, passed 9-20-2005) Penalty, see § 112.99

§ 112.99 PENALTY.

Any person who violates any provision of this chapter shall be guilty of a misdemeanor and subject to a fine of not less than \$100, nor more than \$500, or be imprisoned in the county jail for not more than 12 months, or both such fine and imprisonment.

(Prior Code, § 112.99) (Ord. 2005-15, passed 9-20-2005)

CHAPTER 113: MOTOR VEHICLES

Section

Wrecker Services

- 113.01 Public safety agencies to maintain rotation list
- 113.02 Provisions required for service to be included on rotation list
- 113.03 Nonliability of county
- 113.04 Preference and nonpreference calls
- 113.05 Emergency situations
- 113.06 Enforcement authority; removal of violator from rotation list

Motor Vehicle Off-Site Sales

- 113.20 Temporary off-site sales generally
- 113.21 License fees
- 113.22 Denial of application
- 113.23 Suspension or revocation of license
- 113.24 Hearings

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WRECKER SERVICES

§ 113.01 PUBLIC SAFETY AGENCIES TO MAINTAIN ROTATION LIST.

(A) All local public safety agencies (city and county) shall maintain a rotation list for the utilization of wrecker services and vehicle storage.

(B) The County Sheriff and the Police Chief of the City of Lawrenceburg shall be the administrative officers for the development of the rotation lists to be utilized by their respective agencies.
(Prior Code, § 113.01) (Ord. 2004-13, passed 10-19-2004)

§ 113.02 PROVISIONS REQUIRED FOR SERVICE TO BE INCLUDED ON ROTATION LIST.

In order for a wrecker service to be included and utilized from the rotation list required by the provisions of this chapter, a wrecker service shall maintain compliance with the following provisions:

(A) Notify the County Sheriff and the Police Chief of the City of Lawrenceburg, in writing, of its desire to be placed on the rotation list;

(B) Fill out an information sheet provided by the County Sheriff or the Police Chief of the City of Lawrenceburg. The information sheet shall be limited to contact information, required insurance coverage, and release from liability information as required by this chapter;

(C) Be in compliance with and maintain compliance with all applicable business license and zoning regulations for the City of Lawrenceburg and the county, for the wrecker service and any storage facility utilized by the wrecker service as determined by the respective zoning enforcement officer;

(D) Agree to provide wrecker services 24 hours per day, seven days per week, and respond to all calls within 15 minutes of being contacted by a local public safety agency;

(E) Have a local telephone number to handle calls on a 24-hour basis. Wrecker services shall limit phone numbers to one primary number;

(F) Not be declared as “delinquent” on property tax by the County Sheriff or the City Tax Collector. Delinquent shall mean “not paid” as of the date the tax bills are sold by the County Sheriff at the Courthouse or by the City Tax Collector as prescribed by state law;

(G) Maintain liability insurance for any vehicle towed or stored as well as liability insurance on its business operations. A copy of the liability insurance certificate shall be filed with the County Sheriff and with the Police Chief of the City of Lawrenceburg as an attachment to the information sheet required by the provisions of this chapter;

(H) Agree to hold harmless the Fiscal Court, the City Council of Lawrenceburg and all public safety entities operating under those two local jurisdictions for any claims of negligence or loss of any type to a vehicle or property in or about a vehicle that may occur while towing or storing a vehicle for any public safety entity operating under the jurisdiction of the Fiscal Court or the City Council of Lawrenceburg. This provision shall be included in the information sheet provided to the wrecker service and must be signed and notarized;

(I) Carry the proper materials and be responsible for cleaning all debris from public roadways and properly disposing of same when called to the scene of an accident. At a minimum, the equipment for cleanup and debris removal shall include the following: ABC fire extinguisher; safety chains; broom; shovel; and proper absorbing materials;

(J) Be responsible for all losses, theft, or damages to vehicles from the time they are towed until the vehicle is released to the owner, a dealership, auto repair, or storage facility;

(K) (1) Have access to a storage facility that meets the following requirements:

- (a) Fenced with six-foot privacy fencing;
- (b) Contains storage area of no less than 4,200 square feet;
- (c) Contains inside storage capability;
- (d) Capable of being locked to prevent unauthorized entry for both inside and outside storage; and
- (e) Complies with all local, state, and federal laws, ordinances, and administrative regulations.

(2) Storage for vehicles that may require holding for processing or other special needs, as requested by a local public safety official, shall be provided both inside and outside. No per day cost will be added to the towing bill when it is being held at the request of a law enforcement agency of the county or the City of Lawrenceburg.

(L) (1) Must maintain an adequate record system for all motor vehicles towed and stored and shall include an adequate process for securing and recording of any personal property if such is removed from a vehicle or other property towed and/or stored. The record system must record at a minimum the following information:

- (a) Make, model, and license number of the vehicle;
- (b) Date and time towed;
- (c) Agency requesting service;
- (d) Location of service call;
- (e) Location where the vehicle was towed and stored;
- (f) Date and time the vehicle was released;
- (g) Name of person the vehicle was released to;
- (h) List of any property removed from the vehicle by wrecker service personnel and its disposition; and

(i) A list of all phone calls and personal inquiries concerning the vehicle while in the possession of the wrecker service or in storage.

(2) Such record of information shall be made available to any authorized personnel from local public safety entities upon demand.

(M) Maintain compliance with all local, state, and federal laws, ordinances, and administrative regulations.

(Prior Code, § 113.02) (Ord. 2004-13, passed 10-19-2004)

§ 113.03 NONLIABILITY OF COUNTY.

Inclusion of wrecker services on the wrecker service call rotation list shall not be construed as an employment or contractual relationship between the City of Lawrenceburg or the county and the said wrecker/storage service. The City of Lawrenceburg and the county assume no liability by virtue of this chapter for damages claimed by vehicle owners, or any and all other persons who may present a claim for damages against the City of Lawrenceburg or the county in connection with the towing, repair, and/or storage of a motor vehicle or other personal property.

(Prior Code, § 113.03) (Ord. 2004-13, passed 10-19-2004)

§ 113.04 PREFERENCE AND NONPREFERENCE CALLS.

(A) *Preference calls.* The owner or lawful operator of a damaged or disabled vehicle shall generally have the right to determine the wrecker service to be summoned and the destination of said vehicle. The law enforcement officer in charge of the accident or disabled vehicle shall honor the owner or operator's preference and take reasonable steps to carry out the notification of the appropriate wrecker service unless, in the opinion of the law enforcement officer, the request is either contrary to accepted police practices or would create a risk to the general public. The law enforcement office shall have the discretion of requiring that a 15-minute response time be maintained by the wrecker service requested by the owner or operator.

(1) If, in any case, the law enforcement officer believes that an alternative to the owner or operator's preference is necessary in order to protect the general public or to promote legitimate law enforcement matters, then the law enforcement officer shall act in accordance with his or her training and skill by selecting an alternative method of removal and/or site for storage.

(2) In any event, the law enforcement officer must advise the telecommunicator providing dispatch services for the officer at the time of the request of all pertinent information for each towed vehicle. The telecommunicator shall record the relevant information concerning the wrecker service and

storage facility utilized in each incident on a “Wrecker Tow Log” that shall be maintained by the dispatch personnel for the County Sheriff’s Department and the City of Lawrenceburg Police Department.

(3) No owner, employee, or agent for any wrecker service summoned to the scene of an accident or disabled vehicle shall participate in, or attempt to influence the decision of the owner/operator as set out in division (A)(1) above.

(4) If the owner or operator has no preference and no special circumstances exist, then the law enforcement officer shall direct the telecommunicator to notify the next wrecker on the call rotation list for their respective department.

(B) *Non-preference calls.* Where the motor vehicle operator is injured, unavailable, or otherwise indicates no preference for the destination of a wrecked or disabled vehicle, then the law enforcement officer shall direct the telecommunicator to notify the next wrecker on the call rotation list for their respective department.

(Prior Code, § 113.04) (Ord. 2004-13, passed 10-19-2004)

§ 113.05 EMERGENCY SITUATIONS.

(A) In the event of an emergency that requires a law enforcement officer to move a legally parked, but unoccupied motor vehicle from a public roadway in the county, the law enforcement officer shall direct the telecommunicator of their respective department to dispatch the next wrecker on the call rotation list.

(B) The wrecker service will be contacted only after the vehicle’s owner or operator cannot be contacted to remove the vehicle, or when the owner or operator cannot remove said vehicle in a timely manner. Under these circumstances, the City of Lawrenceburg or the county shall be liable to the wrecker service for the reasonable and customary tow charge.

(Prior Code, § 113.05) (Ord. 2004-13, passed 10-19-2004)

§ 113.06 ENFORCEMENT AUTHORITY; REMOVAL OF VIOLATOR FROM ROTATION LIST.

(A) The Police Chief for the City of Lawrenceburg and the County Sheriff shall have the authority to implement the provisions set forth in this chapter and to monitor, investigate complaints, issues of noncompliance, and any other matter relative to the provisions of this chapter.

(B) If, after investigation, the County Sheriff or the Police Chief find substantial evidence to believe that a violation of this chapter has occurred, the Police Chief or the County Sheriff may take the following action.

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(1) The wrecker service shall be removed from the list of call rotations until it is substantiated by the County Sheriff or the Police Chief that the provisions of this chapter are being complied with by the wrecker service.

(2) Reasons for removal from the call rotation list may include, but not be limited to, the following:

(a) Slow response (three complaints in one month);

(b) Theft from or tampering with vehicles being towed;

(c) Failure to maintain requirements set forth in this chapter;

(d) Unnecessary damage to vehicles or property;

(e) Unlawful compensation to a law enforcement officer or local official;

(f) Refusal to dispatch;

(g) Failure to turn in updated and annual applications with all required documentation; i.e..insurance coverage, driver lists, charge for services rendered, and the like;

(h) Violation of any provision of the Anderson County/City of Lawrenceburg Joint Planning and Zoning Ordinance;

(i) Delinquent certification on local property taxes; and/or

(j) Failure to have wreckers properly lighted for public safety maintenance.

(3) Termination from the wrecker rotation list shall be made in writing to the wrecker service and shall set forth the specific reasons such termination is in effect and further, the letter shall set forth the remedial measures that must be taken in order to be placed back on the wrecker call rotation list.

(4) (a) Any appeal of a decision of the County Sheriff or Police Chief shall be in writing to the Fiscal Court or to the City Council of the City of Lawrenceburg who shall hold a public hearing within ten days of the receipt of such a written appeal and the City Council's or the Fiscal Court's decision shall be final.

(b) In the event that both the County Sheriff and the Police Chief have taken adverse action against a wrecker service, an appeal must be made to each governing body unless by legal motion of both jurisdictions a single hearing is agreed to by both the City Council and the Fiscal Court.

(Prior Code, § 113.06) (Ord. 2004-13, passed 10-19-2004)

MOTOR VEHICLE OFF-SITE SALES

§ 113.20 TEMPORARY OFF-SITE SALES GENERALLY.

Motor vehicle dealers, as defined in KRS 190.010, may conduct temporary off-site sales or display events provided all licensing or permitting requirements contained herein and those required by state regulation are met.

(A) Any licensed motor vehicle dealer holding a license to do business from a permanent business location in the county shall apply for a license pursuant to § 113.22.

(B) Any application submitted pursuant to this subchapter shall be obtained from the County Zoning/Code Enforcement Office and shall be accompanied by an application fee of \$2,000.

(C) Temporary off-site sales shall:

- (1) Be advertised as temporary in nature;
- (2) Last no more than five consecutive days;
- (3) Include new and/or used cars but no consignment vehicles; and
- (4) Have at least a 30-day separation between all other sales or display events.

(D) Temporary off-site displays shall:

- (1) Be advertised as temporary in nature;
- (2) Last no more than 60 consecutive days;
- (3) Include new and/or used cars but no consignment vehicles;
- (4) Have at least a 30-day separation between all other sales or display events;
- (5) Have no sales representatives or lot attendants on site; and
- (6) Allow no sales, transfer, or test drives at the off-site facility.

(Ord. 2017-5, passed 9-5-2017) Penalty, see § 113.99

§ 113.21 LICENSE FEES.

(A) All licenses required pursuant this section shall be granted or refused within three working days after submission of a complete application to the County Zoning/Code Enforcement Officer and shall expire, unless revoked or suspended, at the end of the permit period.

(B) The applicant will be notified of the granting or rejecting of the license or permit, and, if the application is rejected, the reason or reasons for rejection, and the applicant will be notified of his or her right to a hearing on the matter as contained in § 113.24.

(C) In the event the license application is denied, the applicant shall be entitled to a refund of \$1,900. (Ord. 2017-5, passed 9-5-2017)

§ 113.22 DENIAL OF APPLICATION.

The County Zoning/Code Enforcement Officer shall not approve any application for a county license for which provision is made herein if:

(A) The applicant, the application, or the premises described therein do not fully comply with the provisions of this subchapter and all laws in regard to motor vehicle licensing and sales;

(B) The applicant and any shareholder, officer, agent, servant, or employee has caused, permitted, or engaged in any act for which the revocation or nonissuance of a state, county, or city license is authorized;

(C) The applicant and/or any shareholder, officer, agent, servant, or employee had a state license or county license which was revoked within two years of the date of application, where the premises or any portion thereof described in a state license, county, or city license was revoked during such time; or

(D) Any statement or representation in the application is false.
(Ord. 2017-5, passed 9-5-2017) Penalty, see § 113.99

§ 113.23 SUSPENSION OR REVOCATION OF LICENSE.

(A) (1) Notwithstanding the other provisions of this subchapter, the licensee to whom a license provided for herein is issued shall abide by all federal, state, and local regulations governing the temporary sale or display of motor vehicles, including the county's zoning regulations.

(2) The failure to do so, in addition to other penalties which may be imposed by federal, state, and local regulations, including those penalties contained herein, may result in the suspension or revocation of the license to conduct temporary off-site sales and/or display of motor vehicles.

(3) If a license provided for herein is suspended or revoked, the licensee shall not be entitled to a refund of any portion of the license fee previously paid.

(B) Any notice of suspension or revocation issued by the County Zoning/Code Enforcement Officer shall be in writing, shall state with specificity the reason for the suspension or revocation, and shall inform the licensee of his or her right to a hearing pursuant to § 113.24.
(Ord. 2017-5, passed 9-5-2017) Penalty, see § 113.99

§ 113.24 HEARINGS.

Should a request for a hearing be made for the refusal to issue or renew a license or for the suspension or revocation of a license, the County Zoning/Code Enforcement Officer is to hold said hearing consistent with KRS Chapter 13B and pursuant to the general practice procedures found in the State Rules of Civil Procedure and the following shall apply.

(A) *Hearing requests.* Requests for hearing should be made, in writing, within ten days of the date of the notice of refusal to issue or renew or for suspension or revocation.

(B) *Appearances.* Any applicant or licensee may appear and be heard in person, or by duly appointed attorney, and may produce under oath evidence relative and material to matters before the Zoning/Code Enforcement Officer.

(C) *Rules of evidence.* The rules of evidence governing civil proceedings in courts of the commonwealth shall govern hearings before the County Zoning/Code Enforcement Officer; provided, however, that the hearing officer may relax such rules in any case where, in his or her judgment, the ends of justice will be better served by so doing.

(D) *Subpoenas.* The County Zoning/Code Enforcement Officer shall have subpoena power for such hearings and shall, at the request of the applicant made with names and addresses of those desired, issue with subpoenas.

(E) *Transcripts.* Upon request and at the cost of the applicant or licensee the hearing may be transcribed.

(F) *Decisions.* All decisions shall be written and based upon evidence developed at the hearing.

(G) *Appeals from the County Zoning/Code Enforcement Officer.* The licensee shall be made aware of his or her right to appeal any decision to a court of competent jurisdiction.
(Ord. 2017-5, passed 9-5-2017)

§ 113.99 PENALTY.

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

(B) A violation of §§ 113.20 through 113.24 shall constitute a violation, punishable by a fine of up to \$4,000 for each offense, which shall be prosecuted as all other ordinance violations are prosecuted. Each day of each violation shall constitute a separate offense.
(Ord. 2017-5, passed 9-5-2017)

CHAPTER 114: CABLE TELEVISION

Section

- 114.01 Purpose
- 114.02 Definitions
- 114.03 Franchise required; application proposal and bid
- 114.04 Acceptance of franchise; indemnification; effective date
- 114.05 Duration of franchise; termination; transfer
- 114.06 Authority granted by franchise
- 114.07 Conditions to use streets
- 114.08 Permits, installation, and service
- 114.09 Operational requirements
- 114.10 Service to government buildings
- 114.11 Rights reserved to the county
- 114.12 Subscriber rates and tariffs
- 114.13 Violations

- 114.99 Penalty

§ 114.01 PURPOSE.

For the better protection of the public interest, health, safety, welfare, and convenience, the following rules and regulations are hereby adopted setting forth the conditions, requirements, and limitations under which a person may construct, have constructed for him or her, operate and maintain a community antenna television system and engage in the business of providing a community antenna television service in the county.

(Prior Code, § 114.01) (Ord. 1981-4, passed 7-10-1981)

§ 114.02 DEFINITIONS.

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

CATV. Community antenna television.

COMMUNITY ANTENNA TELEVISION SERVICE or *CATV*. The business of providing an improved television reception service to the public for compensation, by means of a master antenna and

cables. As a part of the service, AM, and FM radio program material received over the air, background music, news, weather, and other information, including public service programming, and civil defense type information, as required, may be furnished to all subscribers without additional charge.

COMMUNITY ANTENNA TELEVISION SYSTEM or CATV SYSTEM. Any facility which:

(1) In whole or in part, receives directly or indirectly over the air, and amplifies or otherwise modifies the signals transmitting programs broadcast by one or more television stations and AM and FM radio stations, and distributes such signals by wire or cable to subscribing members of the public who pay for such services; and/or

(2) Distributes by cable or wire, news, weather, and other information, including public service programming and civil defense type information, as required, as a part of CATV service to all subscribers without charge.

COUNTY. The County of Anderson, Kentucky.

FISCAL COURT. The Fiscal Court of Anderson County, Kentucky.

FRANCHISE. Any authorization granted hereunder in terms of a franchise, privilege, permit, license, or otherwise, to construct, or have constructed, operate, and maintain a CATV system in the county for the purpose of providing a CATV service to the citizens of the county. Any such authorization, in whatever terms granted, and the fees charged thereunder shall supersede and take the place of any license, license fee, or permit authorization which might be otherwise be required for the privilege of transacting and carrying on a CATV business within the county.

GRANTEE. The person, firm, or corporation to whom or which a franchise, as hereinabove defined, is granted by the Fiscal Court under this chapter and the lawful successor, transferee, or assignee of said person, firm, or corporation.

GROSS SUBSCRIBER REVENUES. Only those revenues derived from the supplying of regular subscriber service, and fees for regular cable benefits including the transmission of broadcast signals and access and origination channels, if any. It does not include revenues derived from per-program or per-channel-charges, leased channel revenues, advertising revenues, or any other income derived from the community antenna television system.

PERSON. Any person, firm, partnership, association, corporation, or organization of any kind.

PROPERTY OF GRANTEE. All property owned and installed or used by a grantee in the operation of a CATV system or service in the county under the authority of a franchise granted pursuant to this chapter.

ROAD or STREET. The surface of and the space above and below any publicly owned or maintained property or right-of-way, street, road, highway, freeway, lane, path, alley, court, sidewalk, parkway, or drive, now or hereafter existing as such within the county.

SUBSCRIBER. Any person or entity receiving for the purpose the CATV service of a grantee. (Prior Code, § 114.02) (Ord. 1981-4, passed 7-10-1981)

§ 114.03 FRANCHISE REQUIRED; APPLICATION PROPOSAL AND BID.

(A) It shall be unlawful for any person to engage in or otherwise participate in the construction, operation or maintenance of a CATV system in the county unless such person or the person for whom the work is being done shall have first obtained and shall hold a currently valid franchise granted pursuant to the provisions of this chapter.

(1) It shall also be unlawful for any person to engage in the business of providing a CATV service in the county unless such person shall have first obtained and shall hold a currently valid franchise granted pursuant to the provisions of this chapter.

(2) Provided, however, this chapter shall not apply to any person who only provides master antenna service to property owned or leased by said person.

(B) A person seeking issuance of a franchise hereunder shall file a written application, proposal, and bid, in duplicate, with the County Judge/Executive. The application, proposal, and bid shall contain the following information:

(1) The name and address of the applicant/bidder. If the applicant/bidder is a partnership, the name, and address of each partner. If the applicant/bidder is a corporation, the application and bid shall also state the names and addresses of its directors, officers, parent, and subsidiary companies.

(2) A statement showing the applicant's experience, if any, in establishing a CATV system and in providing a CATV service.

(3) A financial statement prepared by a certified public accountant, or person otherwise satisfactory to the county showing the applicant's financial status and its financial ability to complete the construction and installation of the proposed CATV system and to provide a CATV service. In connection therewith, information with respect to financial projections, including nature and sources of capital or equity financing, shall be submitted along with the application and bid. All financial data submitted in compliance with the requirements of this division (B)(3) shall be confidential and shall not be regarded as public information.

(4) A statement and description of the CATV system proposed to be constructed, installed, maintained, or operated by the applicant/bidder; the manner in which the applicant/bidder proposes to construct, install, maintain, and operate the same; and, particularly the extent and manner in which existing or future poles or other facilities of other public utilities will be used for such system.

(5) A copy of the arrangement, agreement, or contract, if existing, between the applicant/bidder and any public utility providing for the use of facilities of such public utility, such as poles, lines, cables, or conduits.

(6) A statement or schedule of proposed rates and charges to subscribers for installation and services.

(7) Any additional information which the Fiscal Court at any time may deem reasonably necessary to determine whether the requested franchise should be granted.

(C) Upon consideration of any such application, proposal, and bid, the Fiscal Court shall determine the applicant's or bidder's qualifications to construct, operate, and maintain a CATV system and to provide a CATV service in accordance with the provisions of this chapter. If the Fiscal Court determines that the applicant and bidder is not so qualified, it may refuse to grant the requested franchise. If the Fiscal Court determines that the applicant and bidder is so qualified it may, by ordinance, grant a non-exclusive franchise to such applicant and bidder. Provided, however, no provision of this chapter may be deemed or construed as requiring the granting of a franchise when the Fiscal Court determines that to do so would not be in the public interest. Any franchise granted shall include the following condition:

“The CATV system and service herein franchised shall be used and operated solely and exclusively for the purpose expressly authorized by ordinance of Anderson County and no other purpose whatsoever.”

(Prior Code, § 114.03) (Ord. 1981-4, passed 7-10-1981)

§ 114.04 ACCEPTANCE OF FRANCHISE; INDEMNIFICATION; EFFECTIVE DATE.

(A) Within 60 days after the Fiscal Court has taken final action to approve the granting of a franchise, the grantee shall file a written acceptance of the franchise, acknowledged before a notary public, with the County Clerk. Such acceptance shall acknowledge that the grantee agrees to be bound by and to comply with the provisions of this chapter or chapter as amended and the franchise and shall be in such form and content as to be satisfactory to and approved by the County Attorney.

(B) Concurrently with the filing of the written acceptance, the grantee shall file with the County Clerk the bond and insurance policies required by § 114.11 hereof.

(C) The effective date of the franchise shall be the date on which the grantee files the acceptance, bond, and insurance policies as required herein.

(Prior Code, § 114.04) (Ord. 1981-4, passed 7-10-1981)

§ 114.05 DURATION OF FRANCHISE; TERMINATION; TRANSFER.

(A) The franchise shall be non-exclusive, shall be for a term of not less than 12 nor more than 20 years from the effective date thereof, as specified in § 114.04 above.

(B) The franchise shall not be sold, transferred, leased, assigned, or disposed of, in whole or in part, either by forced or involuntary sale, or by voluntary sale, merger, consolidation, or otherwise, without the prior consent of the Fiscal Court expressed by resolution and then only under such conditions as may therein be prescribed. In addition to such conditions, the successor in interest as approved by the Fiscal

Court shall comply with the requirements of § 114.04 of this chapter, or this chapter as amended with respect to filing acceptance, bonds, and insurance and shall show that it is financially responsible. Any such sale, transfer, lease, assignment, or disposal shall be made only by an instrument in writing, a duly executed copy of which shall be filed in the office of the County Clerk within 30 days thereof; provided, however, the provisions of this division (B) shall not apply to a transfer in trust, mortgage, or other hypothecation to secure an indebtedness.

(C) The Fiscal Court may terminate the franchise prior to the date of expiration upon a finding, made after 30 days' notice of any proposed termination and public hearing, that:

(1) The grantee has failed to comply in some material respect with any provision of this chapter, or has, by any act or omission, violated in some material respect any term or condition of any franchise or permit issued hereunder;

(2) The grantee made a material, false statement in the application and bid for the franchise, knowing it to be false; or

(3) The grantee, contrary to the best interest of public convenience and welfare, is not providing subscribers with regular, adequate, and proper service.

(D) (1) In the event that the use of any part of the CATV system is discontinued for any reason for a continuous period of 12 months, or the franchise has been terminated, canceled, or has expired, the grantee shall promptly remove from the streets or public places all such property and poles of the system, other than those which the County Road Supervisor may permit to be abandoned in place, and, as directed by the County Road Supervisor, shall either restore the street or pay the county for restoring the street or other area from which such property has been removed to a condition for public use acceptable to the County Road Supervisor.

(2) Any property remaining in place 60 days after the termination or expiration of the franchise shall be considered permanently abandoned, and may be appropriated by the county or removed by the county at the expense of the grantee.

(Prior Code, § 114.05) (Ord. 1981-4, passed 7-10-1981)

§ 114.06 AUTHORITY GRANTED BY FRANCHISE.

(A) The grantee of any franchise issued pursuant to the provisions of this chapter, subject to conditions and restrictions set out in this chapter or chapter as amended, is authorized to construct, or have constructed, operate, and maintain a CATV system and to engage in the business of providing a CATV service in the county, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, and retain in, over, on, under, upon, across, and along any public street or road, such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be necessary and appurtenant to the CATV system. In addition, the grantee may use, operate, and provide similar facilities or properties lawfully rented or leased from other persons, including, but not limited to, any public utility or other grantee franchised or permitted to do business in the county.

(B) The grantee shall construct and operate the system in a good and workmanlike manner with competent and qualified personnel. It will construct and operate the system with the same or greater degree of skill exercised by other competent operations of similar systems in the industry.

(C) The grantee may make a charge to subscribers for installation or connection to its CATV system and a fixed monthly charge for service in accordance with the schedule of rates and charges filed with and approved by the Fiscal Court.

(D) The grantee shall not engage in the sale, service, repair, rental, or leasing of television receivers, radio receivers, parts, or accessories and shall not require or attempt to influence its subscribers to deal with any particular person in regard thereto.

(Prior Code, § 114.06) (Ord. 1981-4, passed 7-10-1981)

§ 114.07 CONDITIONS TO USE STREETS.

(A) All transmissions and distribution structures, lines, and equipment erected by the grantee within the county shall be so located as to cause minimum interference with the proper use of streets, alleys, and other public ways and places, and to cause minimum interference with the rights and reasonable convenience of property owners who join any of the said streets, alleys, or other public ways and places.

(B) The grantee shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks, and public ways and places of the county as to prevent the branches of such trees from coming in contact with the wires and cables of the grantee, except that at the option of the county, such trimming may be done by it or under its supervision and direction at the expense of the grantee.

(Prior Code, § 114.07) (Ord. 1981-4, passed 7-10-1981)

§ 114.08 PERMITS, INSTALLATION, AND SERVICE.

(A) Within 60 days after acceptance of any franchise, the grantee shall proceed with due diligence to obtain all necessary permits and authorizations which are required in the conduct of its business, including, but not limited to, any utility joint use attachment agreements, licenses, and authorizations required by duly constituted regulatory agencies having jurisdiction over the operation of CATV systems and service.

(B) Within 120 days after obtaining all necessary permits, licenses, and authorizations, the grantee shall commence construction and installation of the CATV system.

(C) Within 18 months after the commencement of construction and installation of the system, the grantee shall proceed to render service to subscribers, and the completion of the system shall be pursued with reasonable diligence thereafter.

(D) Failure on the part of the grantee to commence and diligently pursue each of the foregoing requirements and to complete each of the matters set forth herein, or failure to commence rendering service to subscribers, within 24 after acceptance of the franchise, shall be grounds for termination of such

franchise, under and pursuant to the terms of § 114.05(C); provided, however, the Fiscal Court may extend the time for the commencement and completion of construction and the installation of service for additional periods in the event the grantee, acting in good faith, experiences delays by reason of circumstances beyond its control.

(Prior Code, § 114.08) (Ord. 1981-4, passed 7-10-1981)

§ 114.09 OPERATIONAL REQUIREMENTS.

(A) The grantee shall install and maintain a CATV system which shall be in accordance with the highest and best accepted standards and art of the industry to the end that subscribers shall receive the best possible service. In addition, the grantee shall comply with all requirements of duly constituted regulatory agencies having jurisdiction over CATV or the operator of CATV systems.

(B) The grantee must obtain individual permits for street openings, must have the installation or construction plans approved prior to construction, must secure all necessary permits at his or her expense and must pay all fees charged for closing pavement cuts.

(C) When any portion of the CATV system is to be installed on public utility poles and facilities, a certification that agreements for such joint use have been entered into shall be filed with the County Clerk.

(D) The grantee shall maintain a local office for the purpose of handling subscriber complaints and providing prompt maintenance service.

(Prior Code, § 114.09) (Ord. 1981-4, passed 7-10-1981)

§ 114.10 SERVICE TO GOVERNMENT BUILDINGS.

The grantee shall provide a service to public school locations and teaching stations within the county for educational purposes upon request by the county and at no cost to it or the public school system. The grantee shall provide service to the County Courthouse and the City Hall for the City of Lawrenceburg, and such other non-dwelling government owned buildings as may be required in the franchise agreement, all at no cost to the county. The grantee may, at its election, provide similar services without cost to private schools, including parochial or other religious schools. It is understood that the grantee's service shall only provide entrance of signal to the school facilities or governmental facilities and shall not distribute signal throughout the rooms of said buildings.

(Prior Code, § 114.10) (Ord. 1981-4, passed 7-10-1981)

§ 114.11 RIGHTS RESERVED TO THE COUNTY.

(A) The right is hereby reserved to the county to adopt, and in addition to the provisions contained herein and existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of the police power; provided that such regulations, by ordinance or otherwise, shall be reasonable.

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(B) The county shall have the right to inspect any and all books, records, reports, maps, plans, income tax returns, and other like materials of the grantee at any time during normal business hours.

(C) The county hereby reserves the right of first refusal to purchase the property of the grantee, for a fair and reasonable price, should said grantee desire to sell or transfer same, but nothing herein contained shall be construed as voiding or nullifying the rights of the county to approve or disapprove of any other transferee or assignee of the franchise rights.

(D) The grantee shall indemnify and save harmless the county, its officers and employees, from and against any and all claims, demands, actions, suits, and proceedings by others, and against all liability to others arising out of the exercise or enjoyment of its franchise, including, but not limited to, any liability for damages by reason of or arising out of any failure of the grantee to secure consent from the owners, authorized distributors or licensees of programs to be delivered by the grantee's CATV system, and against any loss, expense, cost, and damage resulting therefrom, including reasonable attorney's fee.

(E) Concurrent with the filing of the written acceptance, as required in § 114.04, the grantee shall file with the County Clerk, and at all times maintain in full force and effect, a good and sufficient liability insurance policy or policies naming the county an additional insured for the purpose of insuring the county against any and all legal liability, court costs, and costs of defense for any action, cause of action, claim, or demand for personal injury, death, property damage, copyright infringement, or other injury done by the grantee as a result of its operation of this CATV system. The amounts of said liability insurance policy or policies shall be determined and stated at the time of granting the franchise.

(F) (1) Concurrent with the filing of the written acceptance as required by § 114.04, the grantee shall file with the County Clerk, and at all times thereafter maintain in full force and effect for a term of such franchise or any renewals thereof, a cash bond, or other good and sufficient bond in the penal sum approved by the Fiscal Court and set out in the franchise, but provided such bond shall not exceed \$35,000 nor be less than \$15,000.

(2) This bond shall be conditioned upon the faithful performance by the grantee of the obligations imposed by the provisions of this chapter in the franchise. This requirement is in addition to and not in lieu of any of the requirements of this section.

(G) The grantee shall pay the cost of publication of any hearing, grants of franchise, reports, or such other documents as may be required.

(Prior Code, § 114.11) (Ord. 1981-4, passed 7-10-1981)

§ 114.12 SUBSCRIBER RATES AND TARIFFS.

The grantee shall charge for its services, to each subscriber, a reasonable fee, rate, or tariff. Upon grantee's change or amendment in the rate structure, grantee must provide a schedule of amended rates to the Fiscal Court and within 45 days from the establishment of said rate change, the Fiscal Court may adjust or reject any rate amendment or change which is not justified in order to provide grantee a reasonable return on investment. Provided, however, that all fees, rates, or tariffs, shall be sufficient to meet all costs of service assuming efficient and economical management and including a fair return or profit.

(Prior Code, § 114.12) (Ord. 1981-4, passed 7-10-1981)

§ 114.13 VIOLATIONS.

(A) It shall be unlawful for any person, firm, or corporation to make any unauthorized connection, whether physically, electrically, acoustically, inductively, or otherwise, with any part of a franchised CATV system within this county for the purpose of taking or receiving television signals or radio signals, pictures, programs, or sound.

(B) It shall be unlawful for any person, firm, or corporation to make any unauthorized connection, whether physically, electrically, acoustically, inductively, or otherwise, with any part of a franchised CATV system within the county for the purpose of enabling himself or herself or others to receive any television signal, radio signal, pictures, programs, or sound without payment to the owner of said systems.

(C) It shall be unlawful for any person, without the consent of the owner, to willfully tamper with, remove or injure any cables, wires, or equipment used for distribution of television signals, radio signals, pictures, programs, or sound.

(Prior Code, § 114.13) (Ord. 1981-4, passed 7-10-1981) Penalty, see § 114.99

§ 114.99 PENALTY.

Any violation of § 114.13 shall be punished by a fine of not less than \$1, nor more than \$250, with each day of unlawful activity constituting a separate offense.

(Prior Code, § 114.99) (Ord. 1981-4, passed 7-10-1981)