

TITLE XI: BUSINESS REGULATIONS

Chapter

110.GENERAL BUSINESS REGULATIONS

111.CABLE TELEVISION

**112.ADULT ENTERTAINMENT LICENSING
REGULATIONS**

CHAPTER 110: GENERAL BUSINESS REGULATIONS

Section

110.01 Definitions

110.02 Duties and powers of Planning and Zoning Administrator regarding licensing

110.99 Penalty

▪ 110.01 DEFINITIONS.

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

BUSINESS. An enterprise, activity, profession or undertaking of any nature conducted for gain or profit, whether conducted by an individual, copartnership, association or any other entity, but shall not include the usual activities of farming, boards of trade, chamber of commerce, trade associations of unions (or other association) performing the services usually performed by trade associations or unions; community chest funds or foundation; corporations or associations organized and operated exclusively for religious, charitable, scientific, literary, educational or civic purposes, for the prevention of cruelty to children or animals; or clubs or fraternal organizations operated exclusively for social, literary, education or fraternal purposes, where no part of the earnings or the income or receipts of such units, groups or associations inures to the benefit of any private shareholders or individuals, or more persons.

COUNTY. Grant County, Kentucky, including the cities of Crittenden, Dry Ridge, Williamstown, Jonesville, Corinth and any other community whether incorporated or not.

LICENSEE. Any person required hereunder to obtain a license.

PERSON. Every natural person, copartnership, fiduciary, association or corporation. Whenever the term **PERSON** is used in any clause prescribing and imposing a penalty in the nature of a fine or imprisonment, the word, as applied to associations, shall mean the partners or members thereof and as applied to corporations, the officers and directors.

TRADE, OCCUPATION or PROFESSION. These terms shall include any and all activities and the rendering of any and all services of all kinds for remuneration, or net profit or gain of any kind when applied to persons so engaged for themselves whether the person be a resident of the county or not. This does not include farming.

(Ord. 28-94-153, passed 12-15-94)

• 110.02 DUTIES AND POWERS OF PLANNING AND ZONING ADMINISTRATOR REGARDING LICENSING.

(A) It shall be the duty of the Planning and Zoning Administrator to collect all license fees and deliver same to the County Treasurer for deposit in the general fund of the county to be used to defray the general expenses of the county government.

(B) The Planning and Zoning Administrator shall have the power and it shall be his/her duty to make and publish such rules and regulations as may be necessary to administer this chapter and to provide such printed forms as may be required for reporting, paying and receipting for all such license fees and for all other requirements in the proper and efficient administration of this chapter.

(C) It shall be a further duty of the Planning and Zoning Administrator, as administrator of this chapter, to promulgate such rules and regulations as will cause each licensee regulated hereunder to operate in such manner as to have the minimal impact possible upon the peace, tranquility, economic and aesthetic well being of all other citizens of the county.

(Ord. 28-94-153, passed 12-15-94)

• 110.99 PENALTY.

Any person who shall engage in any trade, occupation, profession or business, except farming, in violation of the rules and regulations concerning same promulgated by the Planning and Zoning Administrator, as administrator hereof, shall, upon conviction, be deemed guilty of a misdemeanor and subject for each offense to a fine or penalty not to exceed \$500.

(Ord. 28-94-153, passed 12-15-94; Am. Ord. 27-2001-418, passed 10-1-01)

[Chapter 111 begins on Page 7]

CHAPTER 111: CABLE TELEVISION

Section

- 111.01 Definitions
- 111.02 Authority to grant license
- 111.03 Application for license
- 111.04 Acceptance and duration of license
- 111.05 Limitation upon grant
- 111.06 Construction of system
- 111.07 Repair of streets and public ways
- 111.08 Removal or abandonment of license property
- 111.09 Changes required by public improvements
- 111.10 System maintenance
- 111.11 Local office; complaints
- 111.12 Special provisions
- 111.13 Line extensions
- 111.14 License fee
- 111.15 Inspection of property
- 111.16 Liability and indemnification
- 111.17 Termination
- 111.18 Compliance with rules and regulations of FCC
- 111.19 Violations
- 111.20 New developments
- 111.21 Costs of publication
- 111.22 Confidentiality
- 111.23 Subscriber rates
- 111.24 Foreclosure; receivership
- 111.25 Sundry provisions

- 111.99 Penalty

• 111.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. In the event the meaning of any word or phrase not defined herein is uncertain, the definitions contained in FCC Rules and Regulations shall apply.

APPLICANT. Any person that applies for a license under this chapter.

CABLE TELEVISION SYSTEM or **CABLE SYSTEM.** The signal reception, processing and distribution system used by licensee in the construction, operation and maintenance of the cable system in the county.

COUNTY. Grant County, a governmental entity in the State of Kentucky.

COUNTY EXECUTIVE. The Judge/Executive or other designation of the County Executive Officer or any designee thereof.

FCC. The Federal Communications Commission, or a designated representative.

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

GROSS SUBSCRIBER RECEIPTS. The sums paid by subscribers living in the county to licensee for the supplying of regular subscriber services, that is, the fees for regular cable benefits including the distribution of broadcast signals and origination channels, if any. Such term shall not include revenues derived from per-program or per-channel charges, leased channel revenues, advertising revenues, or any other income derived from the cable system. Such term shall also not include any taxes on services furnished by the licensee imposed directly on any subscribers or user by any city, state or other governmental unit.

LICENSE. The non-exclusive right and authority to construct, maintain and operate a cable television system through use of the public street, public utility easements and other public rights-of-way or public places in the county.

LICENSE PROPERTY. All property owned, installed or used under authority of this chapter by licensee.

LICENSEE. Any person or entity to whom a license is granted pursuant to this chapter and any lawful successor or assignee of the original licensee.

PERSON. Any natural person and all domestic and foreign corporations, close corporations, associations, syndicates, joint stock corporations, partnerships of every kind, clubs, businesses, common law trusts, societies and/or any other legal entity.

STREET. The surface, the air space above the surface and the area below the surface of any public street, communications or public utility easement, or other public rights-of-way or public places.

SUBSCRIBER. Any person or entity receiving service from a licensed cable television system in the county.

▪ **111.02 AUTHORITY TO GRANT LICENSE.**

(A) By KRS 67.083, the Fiscal Court is empowered to authorize the issuance of non-exclusive licenses to install, construct, operate and maintain cable television systems in streets, public places within the county as well as regulate these activities.

(B) No provision of this chapter shall be deemed or constructed to require the granting of a license.

▪ **111.03 APPLICATION FOR LICENSE.**

(A) Each applicant for a license to construct, operate or maintain any cable television system in this county shall be filed with the Fiscal Court and shall contain, at a minimum, the following:

(1) The name, address and telephone number of the applicant. If the applicant is a partnership, the home and business address of each partner shall also be set forth. If the applicant is a corporation, the application shall state the names and addresses of its directors, main officers, major stockholders and associates and the names and addresses of parent or subsidiary companies.

(2) A statement setting forth in its entirety any and all agreements and understandings, whether formal or informal, written, oral or implied, existing or proposed to exist between the applicant and any person who proposes to have an ownership interest with respect to the proposed license or to the proposed cable television operation. If a license is granted to a person acting as a representative of another person and such information is not disclosed in the original application, the license shall be deemed void and of no force and effect.

(3) Financial statements, as determined by the Fiscal Court, prepared by a certified public accountant, or person otherwise satisfactory to the Fiscal Court, showing applicant's financial status and financial ability to complete the construction and installation of the proposed cable system and/or continue the operation of the existing cable system.

(4) A statement describing the cable system and specifying the type and capacity of the cable system proposed to be constructed, installed, maintained or operated by the applicant and the proposed or existing location of the cable system.

(5) A description of all previous experience of the applicant in providing cable television system service and in related or similar fields.

(6) Any other details, statements, information or references pertinent to the subject matter of such application which shall be required or requested by the Fiscal Court, or by any provision of any other ordinance of the county.

(B) Prior to the issuance of a license, the Fiscal Court shall provide the holding of a public hearing following reasonable notice to the public, at which every applicant and its proposals shall be examined and the public and all interested parties afforded a reasonable opportunity to be heard. Proposed licensees shall bear any publication costs.

(C) In making any determination hereunder as to any application, the Fiscal Court shall give due consideration to the quality of the service proposed, experience, character, background and the financial responsibility of any applicant and its management and owners, willingness and ability to abide by policy conditions, license limitations and requirements, and any other considerations deemed pertinent to the Fiscal Court for safeguarding the interest of the Fiscal Court and the public. The Fiscal Court, in its discretion, shall determine the award of any license on the basis of these considerations and without competitive bidding.

111.04 ACCEPTANCE AND DURATION OF LICENSE.

(A) Any license granted subsequent to this chapter shall become effective 30 days after passage by the Fiscal Court, provided that licensee within 30 days of passage of the license has filed with the County Clerk a written instrument addressed to the Fiscal Court accepting the license and agreeing to comply with all provisions of this chapter.

(B) The term of the license shall be 15 years commencing on the effective date of the license as provided in division (A) of this section; provided, that upon written notice given by the county or licensee to the other not less than one year prior to the 15th anniversary of the effective date, and after the holding of a public hearing affording due process, the license may be renewed for a reasonable term.

111.05 LIMITATION UPON GRANT.

(A) No privilege or exemption is granted or conferred by the issuance of a license pursuant to this chapter except those specifically prescribed in it.

(B) Any license granted pursuant to this chapter is a privilege personal to the original licensee. It cannot in any event be sold, transferred, leased, assigned or disposed of as a whole or in part, or otherwise, without prior consent of the county expressed by ordinance, and then only under such conditions as may be prescribed in the consenting ordinance; provided, however, that no such consent shall unreasonably be withheld, and further provided, that no such consent shall be required for any transfer in trust, mortgage or other hypothecation, as a whole or in part, to secure an indebtedness in accordance with that standard, and upon so doing shall submit to licensee an itemized statement of the cost thereof. The licensee shall, within 30 days after receipt of the statement, pay to the county the entire amount thereof.

• 111.06 CONSTRUCTION OF SYSTEM.

The system shall be constructed, operated and maintained in a workmanlike manner so as to afford all reasonable safeguards to the public and so as not to interfere with public traffic. All initial construction on the system shall be completed within 180 days of its beginning date. All later construction and repairs or maintenance shall be accomplished using due diligence and all deliberate speed.

• 111.07 REPAIR OF STREETS AND PUBLIC WAYS.

The company shall restore within 30 days to their original condition the streets, roads, alleys, or other public thoroughfares which may be disturbed during any construction or maintenance. Penalty, see ' 111.99

• 111.08 REMOVAL OR ABANDONMENT OF LICENSE PROPERTY.

(A) In the event that the use of any license property is discontinued for any reason for a continuous period of 12 months, license property has been installed in a street or other dedicated public right-of-way without complying with the requirements of this chapter, or the license has been terminated, canceled or has expired, licensee at its expense, shall at the demand of the county remove promptly from the street all license property other than any which the county may permit to be abandoned in place. In the event of any such removal licensee shall promptly restore to a condition the street or other public places in the county from which license property has been removed.

(B) License property to be abandoned in place shall be abandoned in the manner prescribed by the county. Upon permanent abandonment of any license property in place, licensee shall deliver to the Judge/Executive an instrument transferring to the county the ownership of the license property abandoned.

Penalty, see ' 111.99

• 111.09 CHANGES REQUIRED BY PUBLIC IMPROVEMENTS.

Licensee shall, at its expense, protect, support, temporarily disconnect, relocate in the same street, alley, or public place, or remove from any street, alley, or public place, any license property when required by the county by reason of traffic conditions, public safety, street vacation, freeway grade, installation of sewers, drains and tracts or any other type of structures or improvements including, but not limited to, placing such structures and improvements underground by governmental agencies when acting in a governmental or proprietary capacity; provided, however, that licensee shall in all such cases have the privileges and be subject to the obligations to abandon license property in place, as provided in ' 111.08.

Penalty, see ' 111.99

‘ 111.10 SYSTEM MAINTENANCE.

The licensee shall:

(A) Put, keep and maintain all parts of the cable television system in good condition throughout the entire period of the license.

(B) Render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Interruptions, insofar as possible, shall be preceded by notice given to subscribers 24 hours in advance and shall occur during periods of minimum use of the cable system.

(C) Upon request by the Fiscal Court, the licensee shall make a demonstration satisfactory to it that a signal is being delivered to any designated area which is of sufficient strength and quality to meet the standards set forth in the regulations of the FCC.

Penalty, see ‘ 111.99

‘ 111.11 LOCAL OFFICE; COMPLAINTS.

Licensee shall maintain a local business office, or agent, which subscribers may telephone during regular business hours without incurring added message or toll charges, so that complaints regarding cable television operations may be promptly reported to the licensee. Should a subscriber have an unresolved complaint regarding cable television operations, the subscriber shall be entitled to file his complaint with the Judge/Executive who has primary responsibility for the continuing administration of the license and the procedures for resolving complaints, and therefore to meet jointly with a representative of the county and a representative of the licensee within 30 days to fully discuss and resolve such matters. The licensee shall notify each subscriber, at the time of initial subscription, to the service of the licensee, of the procedures for reporting and resolving such complaints.

‘ 111.12 SPECIAL PROVISIONS.

Licensee shall provide the following facilities and services:

(A) When required by the Fiscal Court and providing the cable system passes within 150 feet thereof, licensee shall provide one free outlet to the following facilities:

(1) Public schools and community colleges within the county; and

(2) Fire and police stations and other buildings owned and controlled by the county used for public nonresidential purposes.

(B) Licensee shall provide reasonable arrangements for inter-connections to cable systems operating in the county or in adjoining communities.

(C) The licensee shall have, at all times, up-to-date route maps showing trunk and distribution lines. Licensee shall make all such maps available for review by the appropriate county personnel.

(D) The cable system shall be installed and maintained in accordance with standard good engineering practices and shall conform, when applicable, with the National Electrical Safety Code and the Federal Communications Commission's Rules and Regulations as they apply.

Penalty, see ' 111.99

' 111.13 LINE EXTENSIONS.

(A) *System expansion, new developments; overhead cable construction.*

(1) Licensee shall extend cable television service to any new development in the county at the standard rate if:

(a) The new development to be served has a density of at least 35 residences per strand mile or trunk line cable installed; and

(b) Thirty five percent of the residences within the new development to be served have requested service.

(2) Any new development in the county not meeting any or all of the above requirements may be served at licensee's discretion.

(B) *System expansion; new underground developments.* Licensee may, at the option of licensee, extend energized or unenergized cable, or conduit, to all new residential developments in the county as they are constructed. Costs of trenching, conduit, pedestals and/or vaults and laterals as well as easements therefore required to bring serviced to the development shall be borne by the developer and/or landowner. All installations and construction by developer and/or landowner shall be to the specifications of the licensee. Licensee need not provide cable television services to such a development until 35% of the residential dwelling units to be served have agreed to subscribe or receive cable services.

(C) *System expansion limitation.*

(1) No provision of this chapter shall require licensee to extend in any 12 month period, trunk and/or distribution lines to more than 20% of that portion of the county not having cable at the time of the adoption of this chapter. Requests for system extension in excess of this limitation may be deferred, at licensee's option, to the next 12 month period. Should licensee elect to extend the system in excess of this limitation, credit for such extension shall be made against extension requirements in the next 12 month period.

(2) Upon petition by the licensee, the Fiscal Court may defer or indefinitely suspend any expansion required by this chapter after a showing by licensee that such expansion would cause unreasonable financial hardship to licensee. Such a showing shall be made by the county after a public hearing. The County Clerk shall publish a notice of any such hearing, setting forth a time and place when and where any persons having any interest therein may appear before the Fiscal Court and be heard at least 10 days prior to the hearing in a newspaper of general circulation within the county. The County Clerk shall also cause a copy of such notice to be mailed to licensee at least 10 days prior to the hearing.

(D) *Undergrounding of system.* For any cable system expansion in the county the licensee shall place the cable system underground in localities where both telephone and power lines are underground. For existing facilities, licensee shall replace aerial facilities with underground facilities concurrently and in cooperation with similar programs of the telephone and power utilities. At no time shall the cable system be the only aerial facility. When undergrounding is required, the licensee shall have the option of sharing or not sharing utility trenches.
Penalty, see ' 111.99

' 111.14 LICENSE FEE.

(A) Licensee shall pay to the county a license fee as set by the Fiscal Court and established the same, which license fee shall be levied as a tax upon the licensee in lieu of all other license fees.

(B) The licensee shall file with the county within 45 days after the expiration of each calendar year this license is in force, a financial statement of the estimated gross subscriber receipts of the preceding calendar year. It shall be the duty of the licensee to pay to the county, within 15 days after the time for filing such statement, the sum hereinbefore prescribed or any unpaid balance thereof for the calendar year covered by such statement. At the request of the county, an adjustment based on a final annual financial statement prepared by a certified public accountant shall be submitted by licensee and the amount due or the rebate authorized as a result thereof shall be paid by licensee or county.

(C) Licensee shall furnish the county, upon reasonable request, such data as needed in accordance with generally accepted accounting principles.

(D) The county shall have the right to inspect the licensee's records during normal business hours showing the gross subscriber receipts from which its license payments are computed and the right of audit and the recomputation of any and all amounts paid under this license.

(E) Any willful neglect, omission or refusal of the licensee to file said statement, or to pay said percentage in full, at the time or in the manner hereinbefore provided, which willful neglect, omission or refusal shall continue for more than 30 days following written notice thereof to the licensee from the county shall be grounds for the termination of this license as provided for in ' 111.17 hereof.

• 111.15 INSPECTION OF PROPERTY.

At all reasonable times licensee shall permit examination by any duly authorized representative of the county of all license property, together with any appurtenant property of licensee situated within or without the county.

Penalty, see ' 111.99

• 111.16 LIABILITY AND INDEMNIFICATION.

(A) The licensee shall pay all damages and penalties which the county may legally be required to pay as a result of passage of this chapter.

(B) The licensee shall pay all expenses incurred by the county in defending itself with regard to all damages and penalties mentioned above, provided that the Fiscal Court promptly notifies licensee of the pendency of such damages, claims, actions, or causes of action without limitation. The expenses shall include all out-of-pocket expenses, such as attorney's fees.

• 111.17 TERMINATION.

(A) The county may terminate any license granted subsequent to this chapter in the event of the willful failure, refusal or neglect by licensee to do or comply with any material requirement or limitation contained in this chapter.

(B) The county may make written demand that the licensee do or comply with any such reasonable requirement, limitation, term, condition, rule or regulation. If the willful failure, refusal or neglect of the licensee continues for a period of 30 days following such written demand, a request for termination of the license may be placed upon the Fiscal Court meeting agenda. The county shall cause to be served upon such licensee, at least 10 days prior to the date of such Fiscal Court meeting, a written notice of intent to request such termination, and the time and place of the meeting.

(C) The Fiscal Court shall consider the request and shall hear any persons interested therein, and shall determine whether or not any willful failure, refusal or neglect by the licensee was with just cause.

(D) If such willful failure, refusal or neglect by a licensee was with just cause, the Fiscal Court shall direct the licensee to comply within such time and manner and upon such terms and conditions as are reasonable.

(E) If the Fiscal Court shall determine such willful failure, refusal or neglect by a licensee was without just cause, then the Fiscal Court may pass its ordinance declaring that the license of such licensee shall be terminated and forfeited unless there be compliance by the licensee within such reasonable period as the Fiscal Court may fix.

(F) The termination and forfeiture of any license shall in no way affect any of the rights of the county under the license or any provision of law.

' 111.18 COMPLIANCE WITH RULES AND REGULATIONS OF FCC.

Any of the provisions or terms of this chapter shall be amended by the Fiscal Court and made consistent with any new or amended rule or regulation of the FCC if the new or amended rule or regulation of the FCC renders such provisions or terms prohibited or inconsistent. These amendments shall be made within one year of the effective day of the FCC rule, amendment, or modification. Where amendment to FCC rules or other regulatory standards requires modification of any license granted pursuant to this chapter, the modifications necessary to affect compliance with FCC standards shall be made within one year of the effective date of the FCC rule change or at the time of renewal of the license, whichever occurs first.

Penalty, see ' 111.99

' 111.19 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 licensed cable system within the county, for the purpose of enabling himself or others to receive any television signals, radio signal, picture, program, or sound, without payment to the owner of said cable system.

(B) It shall be unlawful for any person, without the consent of the owner, to willfully tamper with, remove or injure any cable wires or equipment used for distribution of television signals, radio signals, pictures, programs, or sounds of a licensed cable system.

Penalty, see ' 111.99

' 111.20 NEW DEVELOPMENTS.

It shall be the policy of the county liberally to amend this chapter, upon application of the licensee, when necessary to enable the licensee to take advantage of any developments in the field of distribution of communications signals which will afford it an opportunity more effectively, efficiently, or economically to serve its subscribers.

' 111.21 COSTS OF PUBLICATION.

The licensee shall assume the cost of publication of this chapter, as such publication is required by law and such is payable upon the licensee's filing of acceptance of this license.

111.22 CONFIDENTIALITY.

All information of a financial or personal nature provided to the Fiscal Court for the purposes of this chapter under 111.03 or otherwise shall be used only for the purposes prescribed by this chapter and further shall not be published or provided orally or in writing to any person, entity or agency, except the FCC.

111.23 SUBSCRIBER RATES.

(A) All rates and charges for services which the county is authorized to regulate shall be approved by the Fiscal Court before becoming effective and shall be so stated in the licensing ordinance.

(B) Said rate structure shall be on file with the County Clerk and remain a public record thereon. Increases in this rate structure may be made only with the approval of the Fiscal Court after an appropriate public hearing affording due process. Fiscal Court approval of subscriber rate changes shall not be unreasonably withheld, and failure of the Fiscal Court to issue a decision within 30 days of the public hearing shall be deemed an approval of said increase. Notwithstanding anything herein to the contrary, at any time service is made available to residents of the county, monthly service charges set forth herein may be adjusted to reflect any increases in the Department of Commerce AConsumer's Price Index.@

(C) Licensee may add to the basic monthly service charge any copyright fees required of licensee and/or charges imposed upon the said service by any governing body having authority to do so.

111.24 FORECLOSURE; RECEIVERSHIP.

Upon the foreclosure or other judicial sale of all or a substantial part of the CATV System, or upon the termination of any lease covering all or a substantial part of the CATV System, the grantee shall notify the Judge/Executive of such fact.

111.25 SUNDRY PROVISIONS.

(A) The grantee will not refuse to hire or employ, nor bar or discharge from employment, nor discriminate against any person in compensation or in terms, conditions, or privileges or employment because of race, creed, religion, national origin, sex, or age.

(B) Every direction, notice, or order to be served upon the grantee shall be sent to its office, which shall be located within five airline miles of the county. Every notice to be served upon the grantor shall be delivered, with registered letter by registry receipt, to the Judge/Executive. The delivery or mailing of such notice, direction or order shall be equivalent to direct personal notice, direction or order, and shall be deemed to have been given at the time of delivery.

(C) All the provisions of this chapter shall apply to the grantee, its successors and assigns.

(D) The rights and remedies reserved to the parties by this chapter are cumulative and shall be in addition to and not in derogation of any other rights or remedies which the parties may have with respect to the subject matter of this chapter, and a waiver thereof at any time shall not affect rights, remedies and operations affected at any other time.

(E) No person may make an unauthorized connection with any part of the franchised CATV System within the county, for the purpose of receiving television signals, radio signals, pictures, programs, or sound without the authorization or payment to the grantee, or for the purpose of interfering with or damaging any part of said system.

(F) Upon termination of service to any subscriber, the grantee shall promptly remove all of its facilities and equipment from the premises of such subscriber upon his request and at the expense of the grantee.

(G) The grantee agrees to provide, at a price no greater than the cost to the grantee, to each subscriber who desires one, a suitable switch to be installed in the system in such a manner that the subscriber can switch to his own antenna whenever he wants.

Penalty, see ' 111.99

' 111.99 PENALTY.

It shall be a misdemeanor punishable by a fine of not to exceed \$300, or by imprisonment for not to exceed three months, or both, for any person to violate any of the provisions of ' 111.19. All other violations shall be punishable according to ' 10.99 of this code.

CHAPTER 112: ADULT ENTERTAINMENT LICENSING REGULATIONS

Section

- 112.01 Short title
- 112.02 Definitions
- 112.03 Adult Use Commissioner and Adult Use Commission
- 112.04 Adult establishment licenses generally
- 112.05 Form and submittal of license application
- 112.06 Processing of license application
- 112.07 Standards for issuance or denial of license
- 112.08 Inspections by the county
- 112.09 Change in information
- 112.10 Regulations applicable to all adult entertainment establishments
- 112.11 Special regulations for adult booths
- 112.12 Special regulations for adult cabarets
- 112.13 Special regulation for adult stores
- 112.14 Special regulations for adult theaters
- 112.15 Licensee responsibility for employees
- 112.16 License revocation or suspension
- 112.17 Administrative record
- 112.18 Employee registration and record keeping by licensee
- 112.19 Nuisance declared
- 112.20 Computation of time

- 112.99 Penalty

▪ **112.01 SHORT TITLE.**

This chapter shall be known as, and may be referred to as, the Grant County Adult Use Code.
(Ord. 21-2000-358, passed 6-5-00)

▪ **112.02 DEFINITIONS.**

For the purposes of this chapter, the following terms, phrases, and words shall have the meanings given herein.

ADULT BOOTH. Any area of an adult entertainment establishment set off from the remainder of such establishments by one or more walls or other dividers or partitions and used to show, play, or otherwise demonstrate any adult materials or to view any live performance that is distinguished or characterized by an emphasis on the exposure, depiction or description of specified anatomical areas or the conduct or simulation of specified sexual activities.

ADULT ENTERTAINMENT ESTABLISHMENT. Any of the following commercial establishments, as defined herein:

(1) **ADULT CABARET.** Any commercial establishment that as a substantial or significant portion of its business features or provides any of the following:

(a) Persons who appear semi-nude.

(b) Live performances that are distinguished or characterized by an emphasis on the exposure, depiction, or description of specified anatomical areas or the conduct or simulation of specified sexual activities.

(c) Films, motion pictures, video or audio cassettes, slides, computer displays, or other visual representations or recordings of any kind that are distinguished or characterized by an emphasis on the exposure, depiction, or description of specified anatomical areas, or the conduct or simulation of specified sexual activities.

(2) **ADULT STORE.** Any commercial establishment:

(a) That contains one or more adult booths;

(b) That as a substantial or significant portion of its business offers for sale, rental, or viewing any adult materials; or

(c) That has a segment or section devoted to the sale or display of adult materials.

(3) **ADULT THEATER.** Any commercial establishment that as a substantial or significant portion of its business features or provides:

(a) Films, motion pictures, video or audio cassettes, slides or other visual representations or recordings that are distinguished or characterized by an emphasis on the exposure, depiction, or description of specified anatomical areas, or the conduct or simulation of specified sexual activities; or

(b) Live performances that are distinguished or characterized by an emphasis on the exposure, depiction, or description of specified anatomical areas or the conduct or simulation of specified sexual activities.

ADULT ESTABLISHMENT EMPLOYEE. Any individual, including entertainers, who work in or at, or render any services directly related to the operation of, an adult entertainment establishment; provided, however, that this definition shall not include persons delivering goods, materials (other than adult materials), food or beverages, or performing maintenance or repairs, to the licensed premises.

ADULT ESTABLISHMENT LICENSE. A license issued for an adult entertainment establishment pursuant to the provisions of this chapter.

ADULT ESTABLISHMENT PATRON. Any individual, other than an adult entertainment employee, present in or at any time when such adult entertainment establishment is open for business.

ADULT MATERIAL. Any of the following, whether new or used:

(1) (a) Books, magazines, periodicals, or other printed matter, or digitally-stored materials;
or

(b) Films, motion pictures, video or audio cassettes, slides, computer displays, or other visual representations or recordings of any kind, that are distinguished or characterized by an emphasis on the exposure, depiction, or description of specified anatomical areas, or the conduct or simulation of specified sexual activities.

(2) Instruments, novelties, devices, or paraphernalia that are designed for use in connection with specified sexual activities, or that depict or describe specified anatomical areas.

ADULT USE COMMISSION. A commission appointed by the Adult Use Commissioner pursuant to ' 112.03 of this chapter.

ADULT USE COMMISSIONER. The Judge/Executive of the County of Grant, pursuant to ' 112.03 of this chapter.

COMMERCIAL ESTABLISHMENT. Any place where admission, services, performances, or products are provided for or upon payment of any form of consideration.

COUNTY ZONING ORDINANCE. The ordinance known and referred to as the Grant County Zoning Ordinance, as it may be amended from time to time.

DAYS. Calendar days, unless otherwise specifically set forth in this chapter.

LICENSED PREMISES. The place or location described in an adult establishment license where an adult entertainment establishment is authorized to operate. No sidewalks, streets, parking areas, public rights-of-way, or grounds adjacent to any such place or location shall be included within the licensed premises.

LICENSES. Any person or entity that has been issued an adult establishment license pursuant to the provisions of this chapter.

MINOR. Any person less than 18 years of age.

NUDE or STATE OF NUDITY. A state of dress or undress that exposes to view:

(1) Less than completely and opaquely covered human genitals; pubic region; anus; or female breast below a point immediately above the top of the areolae, but not including any portion of the cleavage of the female breast exhibited by a dress, blouse, shirt, leotard, bathing suit or other wearing apparel, provided the areolae is not exposed; or

(2) Human male genitals in a discernibly turgid state, even if completely covered, or any device or covering that when worn, simulates human male genitals in a discernibly turgid state.

REVIEWING DEPARTMENTS. Office of the Grant County Sheriff, the Grant County Health Department, the Grant County Building Inspectors Office and the Grant County Planning and Zoning Office.

SEMI-NUDE. A state of dress or undress in which clothing covers no more genitals pubic region, and the areolae of the female breast, as well as portions of the body covered by supporting straps or devices or by other minor accessory apparel such as hats, gloves, and socks.

SPECIFIED ANATOMICAL AREAS. Any of the following:

(1) Less than completely and opaquely covered human genitals; pubic region; buttocks; anus; or female breast below a point of immediately above the top of the areolae, but not including any portion of the cleavage of the female breast exhibited by a dress, blouse, shirt, leotard, bathing suit or other wearing apparel, provided the areolae is not exposed.

(2) Human male genitals in a discernibly turgid state, even if completely covered, or any device or covering that when worn, simulates human male genitals in a discernibly turgid state.

SPECIFIED CRIMINAL ACT. Any unlawful lewd, indecent, or immoral conduct, including specifically, but without limitation, any of the lewd, indecent, or immoral criminal acts specified in any of the following statutes:

- (1) Section 510 of the Kentucky Penal Code (sexual offenses).
- (2) Section 529 of the Kentucky Penal Code (prostitution offenses).
- (3) KRS 534.064 (unlawful transaction with a minor in the first degree).
- (4) KRS 534.065 (unlawful transaction with a minor in the second degree).
- (5) KRS 530.070 (unlawful transaction with a minor in the third degree).
- (6) KRS 531.310 (use of a minor in a sexual performance).

- (7) KRS 531.320 (promoting sexual performance by a minor).
- (8) KRS 531.370 (using minors to distribute material portraying a sexual performance by a minor).
- (9) The Kentucky Controlled Substances Act KRS Chapter 218A et seq.

SPECIFIED SEXUAL ACTIVITIES. Any of the following:

- (1) Fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts.
- (2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy.
- (3) Masturbation, actual or simulated.
- (4) Human genitals in a state of sexual stimulation, arousal, or tumescence.
- (5) Excretory functions as part of or in connection with any of the activities set forth in subdivisions (1), (2), (3), or (4) of this definition.

STRADDLE DANCE. The use by any person, including specifically, but without limitation, any adult establishment employee, of any part of his or her body to touch the genitals, pubic region, buttock, anus, or female breasts of any person by any adult establishment patron. Conduct shall be a ***STRADDLE DANCE*** regardless of whether the "touch" or "touching" occurs while the person is displaying or exposing any specified anatomical area. Conduct shall also be a ***STRADDLE DANCE*** regardless of whether the "touch" or "touching" is direct or through a medium. Conduct commonly referred to by the slang terms "lap dance," "table dance," and "face dance" shall be included within this definition of ***STRADDLE DANCE***.
(Ord. 21-2000-358, passed 6-5-00)

▪ **112.03 ADULT USE COMMISSIONER AND ADULT USE COMMISSION.**

(A) *Adult Use Commissioner.* The County Judge/Executive is hereby designated as the Adult Use Commissioner pursuant to the terms and conditions of this chapter. The Adult Use Commissioner shall have the following powers and duties:

- (1) To administer and rule upon the applications for, and the issuance, renewal, suspension, and revocation of, adult establishment licenses as set forth in this chapter.
- (2) To conduct or provide for such inspections of adult entertainment establishments as shall be necessary to determine and insure compliance with the provisions of this chapter and other applicable provisions of law.

Grant County - Business Regulations

(3) To periodically review the provisions of this chapter and the conduct and operation of adult entertainment establishments and adult establishment licensees, and to make such related reports and recommendations to the County Board as the Adult Use Commissioner shall deem necessary.

(4) To appoint County Board Members to serve on the Adult Use Commission as set forth in division (B) of this section.

(5) To direct the Adult Use Commission to conduct such hearings, studies, and reports on adult entertainment establishments, and the regulations relating thereto, as the Adult Use Commissioner shall deem necessary.

(6) To take such further actions as the Adult Use Commissioner shall deem necessary to carry out the purposes and intent of this chapter and to exercise such additional powers in furtherance thereof as are implied or incident to those powers and duties expressly set forth in this chapter.

(B) *Adult Use Commission.*

(1) *Creation.* A Commission entitled "Adult Use Commission" is hereby created and established for the purposes set forth in this chapter.

(2) *Composition.* The Adult Use Commissioner may appoint one or more current members of the Fiscal Court of the County of Grant to serve at the will of the Adult Use Commissioner and to advise the Adult Use Commissioner on matters relating to the implementation and enforcement of the regulations set forth in this chapter and to the exercise of the Adult Use Commissioner's powers and duties under this chapter. The person or persons appointed by the Adult Use Commissioner, along with the Adult Use Commissioner, shall comprise the Adult Use Commission.

(3) *Filing of appointments.* The Adult Use Commission shall file a written appointment of each of the members of the Adult Use Commission in the Office of the County Clerk of Grant County within five days after each such appointment.

(4) *Duties.* The Adult Use Commission shall have the following powers and duties:

(a) At the direction of the Adult Use Commissioner, to recommend to the Adult Use Commissioner such further regulations regarding adult entertainment establishments and adult establishment licenses as the members of the Commission may deem necessary to protect the public health, safety, and welfare or to otherwise carry out the purposes and objectives of the regulations established pursuant to this chapter.

(b) To conduct and prepare hearings, studies, and reports upon matters referred to the Commission by the Adult Use Commissioner and to make such reports and recommendations relating thereto as are requested by the Adult Use Commissioner.

(c) To conduct such hearings on the revocation or suspension of an adult establishment license as required pursuant to ' 112.16 of this chapter.
(Ord. 21-2000-358, passed 6-5-00)

' 112.04 ADULT ESTABLISHMENT LICENSES GENERALLY.

(A) *Adult establishment license required.* An adult establishment license shall be required to establish, operate, or maintain an adult entertainment establishment within Grant County.

(B) *Operation without license prohibited.* Except as provided in division (F) of this section with regard to adult entertainment establishments existing prior to the effective date of the chapter, it shall be unlawful for any person not having a current and valid adult establishment license to establish, operate, or maintain an adult entertainment establishment within Grant County at any time after the effective date of this chapter.

(C) *Operation in violation of license prohibited.* It shall be unlawful for any licensee to establish, operate, or maintain an adult entertainment establishment within the county except in the manner authorized by, and in compliance with, the provisions of this chapter and the licensee's adult establishment license.

(D) *Content and display of license.* Every adult entertainment license shall be provided by the county and shall, at a minimum, prominently state on its face the name of the licensee, the expiration date, and the address of the adult entertainment establishment. Every licensee shall cause the licensee's adult entertainment establishment to be framed, covered by glass, and hung at all times in plain view in a conspicuous place on the licensed premises so that it can be easily seen and read at any time by any person entering the licensed premises.

(E) *License term.* Except as hereinafter provided, adult establishment licenses shall be operative and valid, unless first terminated, suspended, or revoked, for a term of one year commencing on January 1 of the year following the year of issuance and terminating on December 31 of that same year. Adult establishment licenses issued after January 1 of any year for operation to commerce in that year shall be operative and valid, unless first terminated, suspended, or revoked, for a term commencing on the date of issuance and terminating on December 31 of that same year.

(F) *Existing establishments.* All adult entertainment establishments existing prior to the effective date of this chapter, shall submit an application for an adult establishment license no later than June 30, 2000. Any such existing adult entertainment establishment that has not secured an adult establishment license pursuant to this chapter on or before December 31, 2000, shall cease operations on that date.

(G) *Renewal.* An adult establishment license may be renewed only by making application as required for an initial license pursuant to ' 112.05 of this chapter. Application for renewal shall be made at least 30 days before the expiration of the then-current license term. The expiration of the license shall not be affected or extended by a renewal application that is made less than 30 days before expiration.

(Ord. 21-2000-358, passed 6-5-00) Penalty, see ' 112.99

112.05 FORM AND SUBMITTAL OF LICENSE APPLICATION.

(A) *Required form.* An application for an adult establishment license, or the renewal thereof, shall be made in writing to the Adult Use Commissioner on a form prescribed by the Adult Use Commissioner and shall be signed by the applicant, if the applicant is an individual; by at least one of the persons entitled to share in the profits of the organization and having unlimited personal liability for the obligations of the organization and the right to bind all other such persons, if the applicant is a partnership (general or limited), joint venture, or any other type of organization; by a duly authorized agent, if the applicant is a corporation; or by the trustee, if the applicant is a land trust. The applicant shall be verified by oath or affidavit as to all statements made on or in connection with the application and any attachments thereto. Each applicant shall specifically identify the applicant and the licensed premises for which an adult establishment license is sought. Each initial or renewal application shall be accompanied by seven identical copies.

(B) *Administrative processing fee and bond.*

(1) *Administrative processing fee.* Every applicant for an adult establishment license or for the renewal of an existing adult establishment license shall pay an administrative processing fee in the amount of \$750 by certified check to the county at the time of filing such application. The administrative processing fee shall in all cases be nonrefundable and shall be deposited in the general fund of the county.

(2) *Bond.* Each adult establishment license, and any renewals thereof, shall be conditioned on the acquisition and maintenance in good standing by the applicant and licensee of a surety bond in favor of the county in the amount of \$5,000 to the county. Before any adult establishment license may be issued, the applicant shall furnish such bond, and before any adult establishment is renewed or reinstated following revocation or suspension, the licensee shall submit evidence that the bond, in the amount required pursuant hereto, remains in full force and effect. The bond, or part thereof, for an adult entertainment establishment shall be forfeited automatically pursuant to ' 112.16 of this chapter in order to reimburse the county for the county's costs in association with the proceedings related to any suspension or revocation of the license.

(C) *Required information and documents.* Each application shall include the following information and documents:

(1) (a) *Individuals.* The applicant's legal name, all of the applicant's aliases, the applicant's business address and social security number, written proof that the applicant is at least 18 years of age, the citizenship and place of birth of the applicant and, if a naturalized citizen, the time and place of his or her naturalization.

(b) *Corporations.* The applicant corporation's complete name and official business address; the legal name of all aliases, and the ages, business addresses, and social security numbers of all of the directors, officers and managers of the corporation and of every person owning or controlling more than five percent of the voting shares of the corporation; the corporation's date and place of incorporation

and the objects for which it was formed; proof that the corporation is a corporation in good standing and authorized to conduct business in the State of Kentucky; and the name of the registered corporate agent and the address of the registered office for service of process.

(c) *Partnerships (general or limited), joint ventures, or any other type of organization where two or more persons share in the profits and liabilities of the organization.* The applicant organization's complete name and official business address; the legal name, all aliases, and the ages, business addresses, and social security numbers of each partner or any other person entitled to share in the profits of the organization, whether or not any such person is obligated to share in the liabilities of the organization.

(d) *Land trusts.* The applicant land trust's complete name; the legal name; all aliases, and the business address of the trustee of the land trust; the name, all aliases, and the ages, business addresses, and social security numbers of each beneficiary of the land trust and the specific interest of each beneficiary in the land trust; and the interest, if any, that the land trust holds in the licensed premises.

(2) If a corporation or partnership is an interest holder that must be disclosed pursuant to subdivision (C)(1)(b) or (C)(1)(c) above, then such interest holders shall disclose the information required in said subdivisions with respect to interest holders.

(3) The general character and nature of the business of the applicant.

(4) The length of time that the applicant has been in business of the character specified in response to subdivision (C)(3) above.

(5) The location, including street addresses and legal description, and telephone number, of the premises for which the adult establishment license is sought.

(6) The specific name of the business that is to be operated under the adult establishment license.

(7) The identity of each owner of the licensed premises. With respect to each owner, the information that would have been required pursuant to subdivisions (C)(1) and (2) if the owner was the applicant shall be provided pursuant to this subdivision (7) above.

(8) A diagram showing the internal and external configuration of the licensed premises, including all doors, windows, entrances, exits, the fixed structural internal features of the licensed premises, plus the interior rooms, walls, partitions, stages, performance areas, and restrooms. A professionally prepared diagram in the nature of an engineer's or architect's blue print shall not be required; provided, however that each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions to an accuracy of plus or minus six inches and sufficient to show clearly the various interior dimensions of all areas of the licensed premises and to demonstrate compliance with the provisions of this chapter. The requirements of this

subdivision shall not apply for renewal applications if the applicant adopts a diagram that was previously submitted for the license sought to be renewed and if the licensee certifies that the licensed premises has not been altered since the immediately preceding issuance of the license and that the previous diagram continues to accurately depict the exterior and interior layouts of the licensed premises. The approval or use of the diagram required pursuant to this subdivision shall not be deemed to be, and shall not be interpreted or construed to constitute, any other county approval otherwise required pursuant to applicable county ordinances and regulations.

(9) The names of each government body from which, within five years immediately prior to the date of the present application, the applicant, or any other of the individuals identified in the application pursuant to subdivisions (C)(1) or (2) above, has received a license or other authorization to conduct or operate a business substantially the same as an adult entertainment establishment, and the names and addresses of each business; requiring a federal, state, or local liquor license; and requiring a federal, state, or local gaming license.

(10)The specific type or types of adult entertainment establishment(s) that the applicant proposes to operate in the licensed premises.

(11)A copy of each adult establishment license, liquor license, and gaming license currently held by the applicant, or any of the individuals identified in the application pursuant to subdivisions (C)(1) or (2) above.

(12)Whether the applicant, or any of the individuals identified in the application pursuant to subdivisions (C)(1) and (2) above, has been within five years immediately preceding the date of the application, convicted of any specified criminal act or any misdemeanor or felony violation or offense in the county or in any other jurisdiction, other than parking violations and minor traffic infractions. As to each conviction, the applicant or other individual shall provide the conviction date, the case number, the nature of the misdemeanor or felony violation(s) or offense(s), and the name and location of the court.

(13)Whether the applicant, or any of the individuals identified in the application pursuant to subdivisions (C)(1) or (2) above, has had a license or other authorization to conduct or operate a business substantially the same as an adult entertainment establishment, or any business requiring either a liquor or gaming license, revoked or suspended, and, if so, the date and the grounds for each such revocation or suspension, and the name and location of the establishment at issue.

(14)The name of the individual or individuals who shall be the day-to-day, on-site managers of the proposed adult entertainment establishment. If the manager is other than the applicant, the applicant shall provide, for each manager, all of the information required pursuant to subdivision (C)(1)(a) above and subdivisions (C)(9), (11), (12) and (13) of this section.

(D) *Incomplete applications returned.* Any application for an adult establishment license that does not include all of the information and documents required pursuant to division (C) of this section as well as the administrative processing fee and bond required pursuant to division (B) of this section, shall be

deemed to be incomplete and shall not be acted on or processed by the county. The Adult Use Commissioner shall, within five days of such submittal, return the incomplete application to the applicant along with a written explanation of the reasons why the application is incomplete. (Ord. 21-2000-358, passed 6-5-00) Penalty, see ' 112.99

' 112.06 PROCESSING OF LICENSE APPLICATION.

(A) *Reviewing departments.* Within three days after receipt of a complete application for an adult establishment license that includes all of the information and documents required pursuant to ' 112.05(C) of this chapter as well as the administrative processing fee and bond required pursuant to ' 112.05(B) of this chapter, the Adult Use Commissioner shall transmit a copy of the application to the Reviewing Departments.

(B) *Reviewing Department reports.* Each of the Reviewing Departments shall, within 25 days after transmittal of the application thereto: review the application; conduct such inspections of the proposed licensed premises and background investigations of the applicant and any of the individuals identified in the application pursuant to ' 112.05(C)(1) and (2) of this chapter, regarding matters within their respective jurisdictions, as shall be reasonably necessary to verify the information set forth in the application and to determine whether the proposed adult entertainment establishment and the licensed premises comply with the requirements of this chapter and other applicable laws, codes, ordinances, rules, and regulations; and prepare and submit to the Adult Use Commissioner with a written report regarding the results and findings of such reviews, inspections, and investigations.

(C) *Adult Use Commissioner review.* The Adult Use Commissioner shall also conduct such inspections and investigations as the Adult Use Commissioner shall deem reasonably necessary to verify the information set forth in the application and to determine whether the proposed adult entertainment establishment and licensed premises comply with the requirements of this chapter and other applicable laws, codes, ordinances, rules and regulations.

(D) *Reliance on diagram.* In the event that the licensed premises has not been constructed or reconstructed to accommodate the proposed adult entertainment establishment, the Adult Use Commissioner and the Reviewing Departments shall base their respective written reports, investigations, and inspections to the extent necessary, on the diagram submitted pursuant to ' 112.05(C)(7) of this chapter. Any adult entertainment license issued prior to the construction or reconstruction necessary to accommodate the proposed adult entertainment establishment shall contain a condition that the adult entertainment establishment shall not be open for business until the licensed premises has been inspected and determined to be in substantial compliance with the diagram submitted with the application.

(E) *Applicant cooperation required.* An applicant for an adult establishment license shall cooperate fully in the inspections and the investigations conducted by the Adult Use Commissioner and the Reviewing Departments. The applicant's failure or refusal to give any information reasonably relevant to the investigation of the application; to allow the licensed premises to be inspected; to appear at any reasonable time and place for examination under oath regarding the application; or otherwise fail or

refuse to cooperate with any investigation or inspection required by this chapter, shall constitute an admission by the applicant that the applicant is ineligible for an adult establishment license and shall be grounds for the denial of the license by the Adult Use Commissioner.

(F) *Time for issuance or denial.* The Adult Use Commissioner shall, within 30 days after submittal of a properly completed application, either issue an adult establishment license pursuant to the provisions of ' 112.07(A) of this chapter or deny issuance of the adult establishment license pursuant to the provisions of ' 112.07(B) of this chapter. The Adult Use Commissioner shall issue or deny the license within said 30-day period regardless of whether or not the Adult Use Commissioner has received all of the Reviewing Department reports.

(Ord. 21-2000-358, passed 6-5-00)

' 112.07 STANDARDS FOR ISSUANCE OR DENIAL OF LICENSE.

(A) *Issuance.* The Adult Use Commissioner shall issue an adult establishment license to an applicant if, but only if, the Adult Use Commissioner finds and determines all of the following, based on reports, investigations, and inspections conducted by the Adult Use Commissioner and the Reviewing Departments and on any other credible information on which it is reasonable for the Adult Use Commissioner to rely:

(1) All information and documents required by ' 112.05 of this chapter for issuance of an adult establishment license have been properly provided and the material statements made in the application are true and correct.

(2) All persons identified in the application pursuant to ' 112.05(C)(1) or (2) of this chapter are at least 18 years of age and not under any legal disability.

(3) No person identified in the application pursuant to ' 112.05(C)(1) or (2) of this chapter have been convicted of, or pleaded nolo contendere to, any specified criminal act within five years immediately preceding the date of the application.

(4) No person identified in the application pursuant to ' 112.05(C)(1) or (C)(2) of this chapter have been convicted of, or pleaded nolo contendere to, any violation of a provision of this chapter within five years immediately preceding the date of the application.

(5) No person identified in the application pursuant to ' 112.05(C)(1) or (C)(2) of this chapter is overdue on payment to the county of taxes, fees, fines or penalties assessed against, or imposed on, any such individual in connection to any adult entertainment establishment.

(6) No person identified in the application to ' 112.05(C)(1) or (C)(2) of this chapter is residing with, or married to, a person who has been denied an adult establishment license within 12 months immediately preceding the date of the application, whose adult establishment license has been revoked within 12 months immediately preceding the date of the application, or whose adult

establishment license is under suspension at the time of application; provided, however, that this prohibition shall not disqualify an application if the Adult Use Commissioner finds that the applicant was not chosen or used for purposes of subterfuge or to otherwise avoid the fact that the person with whom the persons identified in the application pursuant to ' 112.05(C)(1) or (C)(2) of this chapter is residing with, or married to, would not be eligible for an adult establishment license pursuant to this chapter.

(7) The adult entertainment establishment and the licensed premises, and the proposed operation of the adult entertainment establishment, comply with all then-applicable building, health, and life safety codes and regulations and have received all necessary zoning approvals required pursuant to the then-applicable provisions of the County Zoning Ordinance, including specifically, but without limitation, the zoning certificate required for the adult entertainment establishment at issue.

(8) The applicant has confirmed in writing and under oath as part of the application that the applicant has read this chapter and all provisions of the County Zoning Ordinance applicable to adult entertainment establishments, that the applicant is familiar with their terms and conditions, and that the licensed premises and the proposed adult entertainment establishment and its proposed operation are and shall be in compliance therewith.

(B) *Denial.* If the Adult Use Commissioner determines that the applicant has not met any one or more of the conditions set forth in division (A) of this section, then the Adult Use Commissioner shall deny issuance of the adult establishment license and shall give the applicant a written notification and explanation of such denial. The Adult Use Commissioner's notice of denial shall be delivered in person or by certified U.S. mail, postage prepaid, return receipt requested, addressed to the applicant's business address as set forth in the application. The adult establishment license shall be deemed denied on the day that the notice of denial is delivered or is placed in the U.S. mail as provided in this division.

(C) *License deemed to be issued.* If the Adult Use Commissioner does not issue or deny the adult establishment license within 30 days after the properly completed application is submitted, then the adult establishment license applied for shall be deemed to have been issued.
(Ord. 21-2000-358, passed 6-5-00)

' 112.08 INSPECTIONS BY THE COUNTY.

(A) *Authority.* The Adult Use Commissioner and other county representatives and departments with jurisdiction shall periodically inspect all adult entertainment establishments as shall be necessary to determine compliance with the provisions of this chapter and all other applicable law.

(B) *Licensee cooperation.* A licensee shall permit representatives of the county to inspect the licensed premises and the adult entertainment establishment for the purpose of determining compliance with the provisions of this chapter and all other applicable law at any time during which the licensed premises is occupied or the adult entertainment establishment is open for business.

(C) *Interference or refusal illegal.* It shall be unlawful for the licensee, any adult establishment employee, or any other person to prohibit, interfere with, or refuse to allow, any lawful inspection conducted by the county pursuant to this chapter or any other authority.

(D) *Revocation.* Any such prohibition, interference, or refusal shall be grounds for suspension or revocation of the adult establishment license pursuant to ' 112.17 of this chapter.
(Ord. 21-2000-358, passed 6-5-00) Penalty, see ' 112.99

' 112.09 CHANGE IN INFORMATION.

During the pendency of any application for, or during the term of, any adult establishment license, the applicant or licensee shall promptly notify the Adult Use Commissioner in writing of any change in any material information given by the applicant or licensee in the application for such license, including specifically, but without limitation, any change in managers of the adult entertainment establishment or in the individuals identified in the application pursuant to ' 112.05(C)(1) or (C)(2) of this chapter; or if any of the events specified in ' 112.16(A) of this chapter occur.
(Ord. 21-2000-358, passed 6-5-00)

' 112.10 REGULATIONS APPLICABLE TO ALL ADULT ENTERTAINMENT ESTABLISHMENTS.

(A) *General compliance.* All licensed premises and adult entertainment establishments shall comply with the provisions of this chapter; all other applicable county ordinances, resolutions, rules, and regulations; and all other applicable federal, state, and local laws.

(B) *Hours of operation.* No adult entertainment establishment shall be open for business at any time between the hours of 12:00 a.m. and 12:00 noon on any weekday or Saturday. No adult entertainment establishment shall be open for business at any time on any Sunday or on any legal State of Kentucky or federal holiday.

(C) *Provisions regarding minors.*

(1) No adult establishment employee shall be a minor.

(2) No minor shall be admitted to any licensed premises or adult entertainment establishment.

(3) No minor shall be allowed or permitted to remain at any licensed premises or adult entertainment establishment.

(4) No minor shall be allowed or permitted to purchase or receive, whether for consideration or not, any adult material or other goods or services at or from any licensed premises or adult entertainment establishment.

(D) *Animals*. No animals, except only for seeing-eye dogs required to assist the blind, shall be permitted at any time at or in any adult entertainment establishment or licensed premises.

(E) *Restrooms*. All restrooms in adult entertainment establishments shall be equipped with standard toilets, sinks, and other traditional lavatory facilities. No adult materials or live performances shall be provided or allowed at any time in the restrooms of an adult entertainment establishment. Separate male and female restrooms shall be provided for and used by adult establishment employees and adult establishment patrons.

(F) *Restricted access*. No adult establishment patron shall be permitted at any time to enter into any of the non-public portions of any adult entertainment establishment, including specifically, but without limitation, any storage areas or dressing or other rooms provided for the benefit of adult establishment employees. This division shall not apply to persons delivering goods and materials, food and beverages, or performing maintenance or repairs to the licensed premises; provided, however, that any such persons shall remain in such non-public areas only for the purposes and to the extent and time necessary to perform their job duties.

(G) *Specific prohibited acts*.

(1) No adult establishment employee or any other person at any adult entertainment establishment shall appear, be present, or perform while nude.

(2) No adult establishment employee at any adult entertainment establishment shall perform or conduct any specified sexual activity with or for any adult establishment patron. No adult establishment patron at any adult entertainment establishment shall perform or conduct any specified sexual activity with or for any adult establishment employee or any other adult establishment patron.

(3) Straddle dances shall be prohibited at all adult entertainment establishments.

(H) *Exterior display*. No adult entertainment establishment shall be maintained or operated in any manner that causes, creates, or allows public viewing of any adult material, or any entertainment depicting, describing, or relating to specified sexual activities or specified anatomical areas, from any sidewalk, public or private right-of-way, or any property other than the lot on which the licensed premises is located. No portion of the exterior of an adult entertainment establishment shall utilize or contain any flashing lights, search lights, or spotlights, or any other similar lighting systems, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent specifically set forth in division (I) of this section with regard to signs. This division shall apply to any advertisement, display, promotional material, decoration, or sign; to any performance or show; and to any window, door or other opening.

(I) *Signage limitations*. All signs for adult entertainment establishments shall be flat wall signs. The maximum allowable sign area shall be one square foot of sign area per foot of lot frontage on a street, but in no event exceeding 32 square feet. The maximum number of signs shall be one per lot frontage. Signs otherwise permitted pursuant to this chapter shall contain only the name of the adult

entertainment establishment conducted on the licensed premises. Temporary signage shall not be permitted in connection with any adult entertainment establishment.

(J) *Noise*. No loudspeakers or sound equipment audible beyond the licensed premises shall be used at any time.

(K) *Gambling and related devices prohibited*. No adult entertainment establishment shall contain any video, pinball, slot, bagatelle, pigeon-hole, pool, or any other games, machines, tables, or implements.

(L) *Manager's station*. Each adult entertainment establishment shall have one or more manager's stations. The interior of each adult entertainment establishment shall be configured in such a manner that there is a direct and substantially unobstructed view from at least one manager's station to every part of each area, except restrooms, of the establishment to which any adult establishment patron is permitted access for any purpose.

(M) *Alcohol prohibition*. No alcoholic liquor of any kind shall be sold, used, consumed, or possessed at any time on any licensed premises or at any adult entertainment establishment.
(Ord. 21-2000-358, passed 6-5-00) Penalty, see ' 112.99

' 112.11 SPECIAL REGULATIONS FOR ADULT BOOTHS.

(A) *Prohibited except in adult stores*. Adult booths shall be prohibited in all adult entertainment establishments except adult stores.

(B) *Occupancy and prohibited acts*. Only one individual shall occupy an adult booth at any one time. No individual occupying an adult booth shall engage in any specified sexual activities. No individual shall damage or deface any portion of an adult booth.

(C) *Open booth requirement*. In addition to satisfying the requirement of ' 112.10(L) of this chapter, all adult stores containing adult booths shall be physically arranged in such a manner that the entire interior portion of each adult booth shall be visible from the common area of the adult store. To satisfy this requirement, there shall be a permanently open and unobstructed entranceway for each adult booth and for the entranceway from the area of the adult store that provides other adult materials to the area of the adult store containing the adult booths. Each of these entranceways shall not be capable of being closed or obstructed, entirely or partially, by any door, curtain, partition, drapes, or any other obstruction whatsoever that would be capable of wholly or partially obscuring any person situated in an adult booth. It shall be unlawful to install adult booths within an adult entertainment establishment for the purpose of providing secluded viewing of adult materials or live performances.

(D) *Aisle required*. There shall be one continuous lighted main aisle along side the adult booths provided in any adult store. Each person situated in a booth shall be visible at all times from the aisle.

(E) *Holes prohibited.* Except for the open booth entranceway, the walls and partitions of each adult booth shall be constructed and maintained of solid walls or partitions without any holes or openings whatsoever.

(F) *Signage.* A sign shall be posted in a conspicuous place at or near the entranceway to each adult booth that states that only one person is allowed in an adult booth at any one time, that it is unlawful to engage in any specified sexual activities while in an adult booth, and that it is unlawful to damage or deface any portion of an adult booth.

(Ord. 21-2000-358, passed 6-5-00) Penalty, see ' 112.99

' 112.12 SPECIAL REGULATIONS FOR ADULT CABARETS.

(A) *Performance area.* The performance area of an adult cabaret shall be limited to one or more stages or platforms permanently anchored to the floor (a **CABARET STAGE**). Each cabaret stage shall be at least 18 inches in elevation above the level of the patron seating areas. Each cabaret stage shall be separated by a distance of at least eight feet from all areas of the premises to which adult entertainment patrons have access. A continuous barrier at least three feet in height and located at least eight feet from all points of each cabaret stage shall separate each cabaret stage from all patron seating areas. The barrier shall consist of horizontal or vertical members spaced no more than nine inches apart and nine inches from the floor or the walls to which it is attached.

(B) *Lighting.* Sufficient lighting shall be provided and equally distributed throughout the public areas of the adult cabaret so that all objects are plainly visible at all times. A minimum lighting level of not less than 30 lux horizontal, measured at 30 inches from the floor and on 10-foot centers shall be maintained at all times for all areas of the adult cabaret where adult establishment patrons are admitted.

(C) *Tipping.* No tip or gratuity from any adult establishment patron may be offered or accepted for any performance by any adult establishment employee on any adult cabaret stage at any time prior to the completion of any such performance. No adult establishment patron shall offer, and no adult establishment employee having performed on any cabaret stage shall accept, any form of tip or gratuity offered directly to the employee by the adult establishment patron. Rather, following completion of a performance, all tips and gratuities to adult establishment employees performing on any cabaret stage shall be placed in a receptacle provided for receipt of such tips and gratuities by the adult entertainment establishment.

(D) *Notice of select rules.* A sign at least two feet by two feet, with letters at least one inch high shall be conspicuously displayed on or adjacent to every cabaret stage stating the following:

THIS ADULT CABARET IS REGULATED BY THE COUNTY OF GRANT.
ENTERTAINERS ARE:

1. NOT PERMITTED TO ENGAGE IN ANY TYPE OF SEXUAL CONDUCT.
2. NOT PERMITTED TO APPEAR IN A STATE OF NUDITY.

3. NOT PERMITTED TO ACCEPT TIPS OR GRATUITIES FOR ANY PERFORMANCE UNTIL AFTER COMPLETION OF PERFORMANCE.
4. NOT PERMITTED TO ACCEPT ANY TIPS DIRECTLY FROM PATRONS EVEN AFTER COMPLETION OF THE PERFORMANCE. ANY SUCH TIPS MUST BE PLACED INTO THE RECEPTACLE PROVIDED BY MANAGEMENT.

(Ord. 21-2000-358, passed 6-5-00) Penalty, see ' 112.99

▪ **112.13 SPECIAL REGULATION FOR ADULT STORES.**

Window areas for adult stores shall not be covered or obstructed in any way. No signs or other obstructions shall be placed in the windows.

(Ord. 21-2000-358, passed 6-5-00) Penalty, see ' 112.99

▪ **112.14 SPECIAL REGULATIONS FOR ADULT THEATERS.**

(A) *Seating.* Each adult theater shall provide seating only in individual chairs with arms and not on couches, benches, or any other multiple person seating structures. The number of seats shall equal the maximum number of persons who may occupy the adult theater.

(B) *Aisle.* Each adult theater shall have a continuous main aisle alongside the seating area in order that each person seated in the adult theater shall be visible from the aisle at all times.

(C) *Sign.* Each adult theater shall have a sign posted in a conspicuous place at or near each entranceway to the auditorium or similar area that lists the maximum number of persons who may occupy the auditorium area, which number shall not exceed the number of seats in the auditorium area.
(Ord. 21-2000-358, passed 6-5-00) Penalty, see ' 112.99

▪ **112.15 LICENSEE RESPONSIBILITY FOR EMPLOYEES.**

Every act or omission by an adult establishment employee constituting a violation of the provisions of this chapter shall be deemed to be the act or omission of the licensee if such act or omission occurs either with the authorization, knowledge, or approval of the licensee, or as a result of the licensee's negligent failure to supervise the adult establishment employee. The licensee shall be punishable for any such act or omission in the same manner as if the licensee committed the act or caused the omission. Accordingly, any such act or omission of any such employee constituting a violation of the provisions of this chapter shall be deemed for purposes of determining whether the licensee's adult entertainment establishment license shall be revoked, suspended, or renewed to be the act or omission of the licensee.

(Ord. 21-2000-358, passed 6-5-00) Penalty, see ' 112.99

• **112.16 LICENSE REVOCATION OR SUSPENSION.**

(A) *Grounds.* Pursuant to the procedures set forth in division (B) of this section, the Adult Use Commissioner may suspend for not more than 30 days, or revoke, any adult establishment license if the Adult Use Commissioner, based on credible and reasonably reliable information and evidence, determines that any one or more of the following has occurred.

(1) The licensee has violated any of the provisions or requirements of this chapter or the adult establishment license issued pursuant hereto, or the provisions of the County Zoning Ordinance applicable to the licensed premises or the adult entertainment establishment.

(2) The licensee knowingly or negligently furnished false or misleading information or withheld information on any application or other document submitted to the county for the issuance or renewal of any adult establishment license or knowingly or negligently caused or suffered any other person to furnish or withhold any such information on the licensee's behalf.

(3) The licensee has committed a felony or specified criminal act on the licensed premises.

(4) The licensee authorizes, approves, or, as a result of the licensee's negligent failure to supervise the licensed premises or the adult entertainment establishment, allows, an adult establishment employee, an adult establishment patron, or any other person to violate any of the provisions or requirements of this chapter or of the provisions or requirements of the adult establishment license issued pursuant hereto, or commit any felony or specified criminal act on the licensed premises.

(5) The licensee, or any other person identified pursuant to ' 112.05(C)(1) or (C)(2) of this chapter becomes disqualified for the issuance of an adult establishment license at any time during the term of the license at issue.

(B) *Procedure.* An adult entertainment establishment license may be suspended for not more than 30 days or revoked pursuant to the terms and conditions set forth in this division (B).

(1) *Notice.* Upon determining that one or more of the grounds for suspension or revocation under division (A) of this section may exist, the Adult Use Commissioner shall serve a written notice on the licensee in person or by certified U.S. Mail, postage prepaid, return receipt requested, addressed to the licensee's address as set forth in the licensee's application. The written notice shall, at a minimum, state that the Adult Use Commissioner has determined that the adult establishment license may be subject to suspension or revocation pursuant to division (A) of this section; identify the specific grounds for the Adult Use Commissioner's determination; and set a date for a hearing regarding the Adult Use Commissioner's determination as to the possibility of suspension or revocation of the adult establishment license. The date of the hearing shall be no less than five days after service of the Adult Use Commissioner's notice, unless an earlier or later date is agreed to by the licensee and the Adult Use Commissioner.

(2) *Hearing.* The hearing shall be conducted by the Adult Use Commissioner, or at the Adult Use Commissioner's direction, by the Adult Use Commission. At the hearing, the licensee may present and submit evidence and witnesses to refute the grounds cited by the Adult Use Commissioner for suspending or revoking the license and the county and any other persons may submit evidence to sustain such grounds. The administrative record compiled on the adult entertainment establishment pursuant to ' 112.17 of this chapter shall be made part of the hearing record. Within three days after the close of the hearing, render a decision in writing, setting forth the reasons for the decision. The action taken by the Adult Use Commissioner shall be final and shall be subject to judicial review.

(3) *Notice of suspension or revocation.* The Adult Use Commissioner's written decision shall be posted at the offices of the Adult Use Commissioner and shall be served on the licensee in person or by certified U.S. mail, postage prepaid, return receipt requested, addressed to the licensee's application. The suspension or revocation, as the case may be, shall take effect immediately upon service of the Adult Use Commissioner's written decision.

(4) *Surrender of license and bond.* Upon the suspension or revocation of an adult establishment license pursuant to this chapter, the Adult Use Commissioner shall take custody of the suspended or revoked license; and such part or all of the bond submitted for the adult entertainment establishment pursuant to ' 112.05(B)(2) of this chapter shall be forfeited as the Adult Use Commissioner shall deem necessary to reimburse the county for the costs associated with the proceedings related to the suspension or revocation at issue. Such bond shall be replenished to equal the amount required pursuant to ' 112.05(B)(2) of this chapter prior to the issuance of any new adult establishment license for the licensed premises or for the reinstatement of any suspended license.
(Ord. 21-2000-358, passed 6-5-00)

• **112.17 ADMINISTRATIVE RECORD.**

The Adult Use Commissioner shall cause to be kept in the Adult Use Commissioner's office an accurate record of every adult entertainment license application received and acted on, together with all relevant information and material pertaining to such application, as well as any adult establishment license issued pursuant to such adult establishment license.
(Ord. 21-2000-358, passed 6-5-00)

• **112.18 EMPLOYEE REGISTRATION AND RECORD KEEPING BY LICENSEE.**

(A) *Registration.* The licensee of every adult entertainment establishment shall register each of the licensee's adult establishment employees with the Adult Use Commissioner by providing the following information to the Adult Use Commissioner no later than the business day immediately preceding the day of commencement of the employee's employment at the adult entertainment establishment.

- (1) Legal name.
- (2) Any and all aliases.

(3) Current residential address and telephone number, and all residential addresses for the previous three years.

(4) Date of birth.

(5) Gender, height, weight, hair and eye color.

(6) Social Security Number.

(7) Date of commencement of employment.

(8) Specific job or employment duties.

(9) Whether the employee, within three years preceding the date of registration, has been convicted of any specified criminal act. As to each such conviction, the licensee shall provide the conviction date, the nature of the conviction, and the name and location of the court.

(10) The names of each governmental body, including the county, from which, within three years immediately preceding the date of registration, the employee has received an adult establishment license, or any other official authorization to operate or to be employed at, an adult entertainment establishment or a business substantially the same as an adult entertainment establishment. For each such license or authorization, the licensee shall provide the name and address of the business.

(11) Whether the employee has had any such license or authorization revoked or suspended, and if so, the date and grounds for each such revocation or suspension, and the name and location of the establishment at issue.

(B) *Employee register.*

(1) The licensee of every adult entertainment establishment shall maintain a register of all of its adult establishment employees. For each such employee, the register shall include the following information:

(a) Legal name.

(b) Any and all aliases.

(c) Current residential address and telephone number.

(d) Date of birth.

(e) Gender.

(f) Social Security Number.

- (g) Date of commencement of employment.
- (h) Date of employment termination, if applicable.
- (i) Specific job or employment duties.
- (j) Wage rate, both current and historical.
- (k) Tip income, through the end of the last regular pay period.

(2) The register shall be maintained for all current employees and all employees employed at any time during the preceding 36 months. The licensee shall make the register of its adult establishment employees available for the county immediately upon demand at all reasonable times. (Ord. 21-2000-358, passed 6-5-00) Penalty, see ' 112.99

' 112.19 NUISANCE DECLARED.

Any adult entertainment establishment established, operated, or maintained in violation of any of the provisions or requirements of this chapter or of any adult establishment license shall be, and the same is, declared to be unlawful and a public nuisance. The county may, in addition to or in lieu of any other remedies set forth in this chapter, commence an action to enjoin, remove, or abate such nuisance in the manner provided by law and shall take such other steps and apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such public nuisance, and restrain and enjoin any person from establishing, operating, or maintaining an adult entertainment establishment contrary to the provisions of this chapter.

(Ord. 21-2000-358, passed 6-5-00) Penalty, see ' 112.99

' 112.20 COMPUTATION OF TIME.

Unless otherwise specifically set forth in this chapter, the time within which any act required by this chapter is to be done shall be computed by excluding the first day and including the last day, unless the last day is Saturday, Sunday or a federal or State of Kentucky holiday, in which case it shall also be excluded. If the day immediately following such Saturday, Sunday, or holiday is also a Saturday, Sunday or holiday, then such succeeding day shall also be excluded.

(Ord. 21-2000-358, passed 6-5-00)

' 112.99 PENALTY.

Any person who violates, neglects, refuses to comply with, or assists or participates in any way in the violation of, any of the provisions or requirements of this chapter or of any of the provisions or

requirements of any adult entertainment license, shall be fined not more than \$500 for each such violation. Each day such violation continues shall constitute a separate offense. The Adult Use Commissioner shall give written notice to any such person of any such violation and the fine imposed by serving a citation in person or by certified U.S. mail, postage prepaid, return receipt requested, addressed to the licensee's address as set forth in the licensee's application.

(Ord. 21-2000-358, passed 6-5-00)

