

## CHAPTER 111: ADULT ENTERTAINMENT ESTABLISHMENTS

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### 111.01 FINDINGS, DECLARATION OF PUBLIC POLICY.

(A) The Shelby County Fiscal Court finds it has been the experience of other communities that certain adult entertainment activities which are located near areas zoned for residential use, near schools and public parks, and near malls and similar open spaces that cater to use by family groups and children adversely affect the viability of such nearby properties for their described purposes.

(B) (1) The Shelby County Fiscal Court relies on such evidence of the adverse secondary effects of adult entertainment uses that is within the common knowledge of local governments and is widely reported in judicial opinions, media reports, land use studies, and crime impact reports made available to the Shelby County Fiscal Court, several of which are set forth herein. Additionally, the Shelby County Fiscal Court relies on repeated judicial findings upholding the ability of local governments to rely on this

body of secondary effects evidence to impose reasonable time, place, and manner regulations on Adult Entertainment Businesses. The Shelby County Fiscal Court relies upon and incorporates the findings of secondary effects discussed in the following non-exhaustive list of cases: *City of Erie v. Pap >s A.M.*, 529 U.S. 277 (2000); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 427 U.S. 50 (1976); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215 (1990); *California v. LaRue*, 409 U.S. 109 (1972); *DLS, Inc. v. City of Chattanooga*, 107 F.3d 403 (6th Cir. 1997); *Currence v. City of Cincinnati*, 28 Fed. Appx. 438 (6th Cir. 2002); *Broadway Books v. Roberts*, 642 F. Supp. 486 (E.D. Tenn. 1986); *Bright Lights, Inc. v. City of Newport*, 830 F. Supp. 378 (E.D. Ky. 1993); *Ben=s Bar, Inc. v. Village of Somerset*, 316 F. 3d 702 (7th Cir. 2003); *Richland Bookmart v. Nichols*, 137 F.3d 435 (6th Cir. 1998); *Center for Fair Public Policy v. Maricopa County*, 336 F.3d 1153 (9th Cir. 2003); *Deja vu v. Metro Government*, 1999 U.S. App. LEXIS 535 (6th Cir. 1999); *Bamon Corp. v. City of Dayton*, 923 F.2d 470 (6th Cir. 1991); *Triplett Grille, Inc. v. City of Akron*, 40 F.3d 129 (6th Cir. 1994); *O=Connor v. City and County of Denver*, 894 F.2d 1210 (10th Cir. 1990); *Deja vu of Nashville, Inc., et al. v. Metropolitan Government of Nashville and Davidson County*, 274 F.3d 377 (6th Cir. 2001); *Z.J. Gifts D-2, LLC v. City of Aurora*, 136 F.3d 683 (10th Cir. 1998); *ILQ Investments, Inc. v. City of Rochester*, 25 F.3d 1413 (8th Cir. 1994); *World Wide Video of Spokane, Inc. v. City of Spokane*, 227 F. Supp. 2d 1143 (E.D. Wash. 2002); *Threesome Entertainment v. Strittmather*, 4 F. Supp. 2d 710 (N.D. Ohio 1998); *Bigg Wolf Discount Video Sales, Inc. v. Montgomery County*, 256 F. Supp. 2d 385 (D. Md. 2003); *Kentucky Restaurant Concepts, Inc. v. City of Louisville and Jefferson County*, 209 F. Supp. 2d 672 (W.D. Ky. 2002); *Restaurant Ventures v. Lexington-Fayette Urban County Gov=t.*, 60 S.W.3d 572 (Ct. App. Ky. 2001) *Mr. B=s Bar & Lounge, Inc. v. Louisville*, 630 S.W.2d 564 (Ct. App. Ky. 1981); and *Executive Arts Studio, Inc. v. City of Grand Rapids*, 391 F.3d 783 (6th Cir. 2004).

(2) The Shelby County Fiscal Court further relies on reports from other communities concerning secondary effects occurring in and around Adult Entertainment Businesses, including, but not limited to, Phoenix, Arizona; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas; Seattle, Washington; Tucson, Arizona; Testimony, Warner-Robins, Georgia; Newport News, Virginia; St. Cloud, Minnesota; New York Times Square study; State of Minnesota; and also on findings of physical abuse from the paper entitled *Strip Clubs According to Strippers; Exposing Workplace Sexual Violence*, by Kelly Holsopple, Program Director, Freedom and Justice Center for Prostitution Resources, Minneapolis, Minnesota. Based on cases and reports such as these, the Shelby County Fiscal Court finds:

(a) Adult Entertainment Businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, illicit drug use and drug trafficking, negative impacts on property values, urban blight, pornographic litter, and sexual assault and exploitation.

(b) Sexual acts, including masturbation, oral and anal sex, sometimes occur at unregulated Adult Entertainment Businesses, especially those which provide private or semi-private booths, rooms, or cubicles for view films, videos, or live sexually explicit shows, which acts constitute a public nuisance and pose a risk to public health through the spread of sexually transmitted diseases.

(c) Numerous studies and reports have determined that semen is found in areas of Adult Entertainment Businesses where persons view sexually oriented films.

(d) Sanitary conditions in some Adult Entertainment Establishments are unhealthy, in part because of the failure of owners or operators to regulate those activities and maintain their facilities.

(e) Each of the foregoing negative secondary effects constitutes a harm which the Shelby County Fiscal Court has a substantial government interest in preventing.

(C) Adult entertainment activity tends to attract an undesirable clientele which discourages neighboring residents from undertaking civic improvements, causes residents and businesses to move elsewhere and frustrates attempts to attract new residences and business to come into an area, all of which factors contribute to a diminution of property values and to a general deterioration of neighborhoods.

(D) The small closet-like rooms or booths at adult amusement arcades in other communities have encouraged persons to loiter for the purposes of engaging in unlawful, often anonymous, sexual conduct and have encouraged lewd conduct in public places, thereby creating public nuisances and generally unsanitary and unhealthful conditions that create dangers to the public health, welfare and safety.

(E) The concentration of sexually explicit movies and books and sexual paraphernalia in Adult Entertainment Establishments which also house sexually explicit movies, as well as hotel rooms rented by the hour to couples afforded free sexually explicit movies in the hotel room, have provided prostitutes an appealing and visible meeting place to ply their trade and have created public nuisances in otherwise respectable neighborhoods.

(F) Children, the family environment and residential neighborhoods suffer injury from the deleterious effects and harmful consequences resulting from the distribution of, and exposure to, certain sexually explicit items and devices. This is particularly so when such items and devices are permitted to leave a business=s premises and litter the immediate neighborhood and other areas where children are likely to be.

(G) The noise generated by patrons coming and going from Adult Entertainment Establishments causes a substantial disruption to nearby residents, and modest curtailment of the hours during which entertainment is offered to patrons of such establishments would afford some relief to persons living in those nearby residences without significantly interfering with the availability of adult entertainment.

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(H) Nationally, there is extensive involvement of organized crime in the business of adult bookstores, and the disclosure of persons who own, as well as the names of those persons who operate adult bookstores and other Adult Entertainment Establishments, will aid law enforcement officials in the enforcement of the federal and state laws prohibiting the distribution of obscene matter, the use of minors to distribute obscene matter, the advertising of obscene material, the distribution of obscene material to minors, promoting the sale of obscenity, the use of a minor in a sexual performance, the distribution of material portraying a sexual performance by a minor, the promoting of material portraying a sexual performance by a minor and the advertising of material portraying a sexual performance by a minor and the use of minors to distribute materials portraying a sexual performance by a minor.

(I) The Fiscal Court of Shelby County declares as a matter of public policy that in order to preserve surrounding neighborhoods, prevent blight and the deterioration of the neighborhoods within Shelby County, protect property values, protect children from the deleterious effects of exposure to sexually explicit material and prevent the incidence of crime and juvenile delinquency, the licensing and regulation of Adult Entertainment Establishments is a public necessity and is required in the interest of public health, safety and welfare as well as the economic and aesthetic well-being of the people.

(J) Adult Entertainment Businesses have operational characteristics, which should be reasonably regulated in order to protect those substantial governmental concerns.

(K) A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and operators of Adult Entertainment Businesses. Further, such a licensing procedure will place an incentive on operators to see that Adult Entertainment Businesses that may locate in Shelby County are run in a manner consistent with the health, safety and welfare of patrons and employees, as well as the citizens of Shelby County. It is appropriate to require reasonable assurances that the licensee is the actual operator of the Adult Entertainment Business, and fully in possession and control of the premises and activities occurring therein.

(L) The regulation of nudity in Adult Entertainment Businesses will further the substantial governmental interests in preventing prostitution and other sex-related crimes, including illegal sex acts, and protecting the public health, safety, and welfare.

(M) Requiring sufficient lighting in all Adult Entertainment Businesses will advance the substantial governmental interest in curbing illegal sexual activity on the premises of Adult Entertainment Businesses, and will facilitate enforcement of the provisions of this chapter and other federal, state and local laws, thereby furthering the substantial governmental interest in protecting the public health, safety, and welfare.

(N) The disclosure of certain information by those persons ultimately responsible for the day-to-day operation and maintenance of Adult Entertainment Businesses, and by employees of such businesses, will facilitate the enforcement of the provisions of this chapter and other federal, state and local laws, and will thereby further the substantial government interest in protecting the public health, safety, and welfare.

(O) A person who recently has been convicted of a sexually related crime is not an appropriate individual to operate or be employed in an Adult Entertainment Business.

(P) Barring such individuals from the management of and employment in Adult Entertainment Businesses for a period of years serves as a deterrent to and prevents the commission of sexually related criminal acts, including conduct which leads to the transmission of sexually transmitted diseases.  
(Ord. 05-17-06, passed 5-17-2005)

**' 111.02 PURPOSE.**

(A) (1) It is the purpose of this chapter to regulate Adult Entertainment Businesses in order to promote the health, safety and welfare of the residents of Shelby County, Kentucky, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of Adult Entertainment Businesses within Shelby County. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor 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 effect of this chapter to condone or legitimize the distribution of obscene material;

(2) To prevent the unsanitary conditions which exist at adult amusement arcades and similar establishments and to prevent health risks, including AIDs and other sexually transmitted diseases, caused by illicit and unlawful sexual relations in such public establishments;

(3) To protect children and the residential neighbors from the deleterious and harmful effects of exposure to certain sexually explicit items and devices; and

(4) To obtain the identity of persons licensed and to be licensed for the operation of establishments selling, showing, renting or offering certain sexually explicit material or entertainment to insure proper identification of those persons responsible for the operation of such businesses so as to assist in the proper enforcement of this chapter.

(B) It is not the purpose of this chapter to establish community standards on obscenity nor to permit persons to engage in any activity which is in violation of law, including but not limited to, state laws pertaining to the advertising, promotion, distribution or sale of obscene matter or matters portraying a sexual performance by a minor, or state laws pertaining to the use of a minor in a sexual performance or promotion of sexual performance by a minor, or the use of a minor to distribute material portraying sexual performance by a minor.  
(Ord. 05-17-06, passed 5-17-2005)

**111.03 DEFINITIONS.**

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

**ADULT ENTERTAINMENT ACTIVITY** or **ACTIVITIES** or **ADULT ENTERTAINMENT ESTABLISHMENT**. Shall mean regular commercial participation in 1 or more of the following defined activities:

(1) **ADULT AMUSEMENT ARCADE**. Any place to which the public is permitted or invited where one or more video booths and/or live viewing booths are available to patrons where the images shown and/or live entertainment presented are characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.

(2) **ADULT CABARET**. A nightclub, bar, restaurant, or similar commercial establishment that as a substantial or significant portion of its business regularly features:

(a) Persons who appear in areas of the establishment open to patrons in a state of nudity or state of semi-nudity so as to expose to view specified anatomical areas; or

(b) Any live entertainment, exhibition, performance, or dance by persons whose entertainment, exhibition, performance, or dance is characterized by an emphasis on the depiction or description of specified anatomical areas or specified sexual activities; or

(c) Adult media.

(3) **ADULT MEDIA**. Magazines, books, photographic reproductions, videotapes, movies, slides, compact discs in any format (such as, CD-ROM, CD), digital video discs in any format (such as, DVD), other devices used to reproduce or record computer images, or other print, video, film, electronic, computer-based, analog, or digital media characterized by an emphasis on matter depicting, describing or related to specified sexual activities or specified anatomical areas.

(4) **ADULT MEDIA STORE**. An establishment that rents and/or sells adult media and that meets any of the following tests:

(a) More than 25% of the gross public floor area is devoted to adult media; or

(b) More than 25% of the stock in trade consists of adult media; or

(c) A media store which advertises or holds itself out in any forum as an Adult Entertainment Business by use of such terms as X-rated, XXX, adult, sex, nude, or otherwise advertises or holds itself out as an Adult Entertainment Business; or

(d) An establishment as a prevailing practice excludes minors by virtue of age, regardless of whether the minor is accompanied by a parent or guardian.

(5) **ADULT MOTEL.** A hotel, motel or similar commercial establishment which:

(a) Offers accommodations to the public for any form of consideration; and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas and which advertises the availability of sexually oriented materials, which may include the use of terms such as XXX or adults only. Excluded from this definition is a business that does not advertise adult materials to the public but only posts a notice or sign in the hotel or motel room advising guests of the availability of cable television or that adult movies are available upon request of the guest; or

(b) Offers a sleeping room for rent for a period of time that is less than 10 hours; or

(c) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than 10 hours.

(6) **ADULT MOTION PICTURE THEATER.** A commercial establishment occupying a building or portion of a building (including any portion of a building which contains more than 150 square feet) where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions, or other projected images are regularly shown, if such establishment as a prevailing practice excludes minors by virtue of age, regardless of whether the minor is accompanied by a parent or guardian, or if, as a prevailing practice, the films, motion pictures, video cassettes, slides or similar photographic reproductions, or other projected images presented are characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas for observation by patrons therein.

(7) **ADULT NOVELTY STORE.**

(a) A business offering goods for sale or rent and that meets any of the following tests:

1. More than 5% of the stock in trade of the business consists of sexually-oriented novelties or toys; and more than 5% of the gross public floor area of the business is devoted to the display of sexually oriented novelties or toys; or

2. It offers for sale items from any 2 of the following categories: Adult media, sexually-oriented novelties or toys or other items marketed or presented in a context to suggest their use for such practices, and the combination of such items constitutes more than 10% of the stock in trade of the business and occupies more than 10% of the gross public floor area of the business; or

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3. It advertises or holds itself out in any forum as an Adult Entertainment Business by use of such terms as sex toys, X-rated, XXX, adult, sex, nude, or otherwise advertises or holds itself out as a sexually oriented business.

(b) **ADULT NOVELTY STORE** shall not include any establishment which, as a substantial portion of its business, offers for sale or rental to persons employed in the medical, legal or education professions anatomical models, including representations of human genital organs or female breasts, or other models, displays, and exhibits produced and marketed primarily for use in the practice of medicine or law or for use by an educational institution.

(8) **ADULT THEATER.** A theater, concert hall, auditorium, or similar commercial establishment that as a substantial or significant portion of its business regularly features persons who appear in a state of nudity or semi-nudity, live performances which are characterized by an emphasis on the depiction or description of specified anatomical areas, specified sexual activities, or live entertainment of an erotic nature that is characterized by an emphasis on the depiction or description of specified anatomical areas, or specified sexual activities.

(9) **COVERING.** Any clothing or wearing apparel, including pasties, but does not include any substance that can be washed off the skin, such as paint or make-up, or any substance designed to simulate the appearance of the anatomical area beneath it.

(10) **EMPLOYEE.** A person who performs any service or work on the premises of an Adult Entertainment Business, including but not limited to providing entertainment, performing work of a management or supervisory nature, or performing support functions, 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 on the premises exclusively for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.

(11) **EMPLOYEE STATION.** An area on the premises of an Adult Entertainment Business designated for occupancy exclusively by 1 or more employees whose duties include assuring compliance with the provisions of this chapter.

(12) **GROSS PUBLIC FLOOR AREA.** The total area of the building accessible or visible to the public, including showrooms, motion picture theaters, motion picture arcades, service areas, behind-computer areas, storage areas visible from such other areas, restrooms (whether or not labeled public), areas used for cabarets or similar shows (including stage areas), plus aisles, hallways and entryways serving such areas.

(13) **HEALTH ENFORCEMENT OFFICER.** The Director of the Shelby County Health Department or his or her authorized representative.

(14) **LAW ENFORCEMENT OFFICIAL.** The Shelby County Sheriff or his or her authorized representative.

(15) **LICENSEE.** With respect to an Adult Entertainment Business license issued under this chapter, a person in whose name a license to operate an Adult Entertainment Business has been issued, as well as the individual(s) designated on the license application as principally responsible for the operation of the Adult Entertainment Business. With respect to an employee license issued under this chapter, **LICENSEE** means a person in whose name a license has been issued authorizing employment in an Adult Entertainment Business.

(16) **LIVE VIEWING BOOTH.** Any private or semi-private booth, cubicle, stall or compartment which is designed, constructed or used to hold or seat patrons wherein a live performance is presented to patrons which is distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas. A **LIVE VIEWING BOOTH** shall not mean a theater, movie house, playhouse or a room or enclosure or portion thereof which contains more than 150 square feet of floor space.

(17) **MASSAGE.** Touching, stroking, fondling, friction and vibration and applying manual touch and pressure to the body, and which is not performed by a massage therapist.

(18) **MASSAGE PARLOR, ADULT.** Any business offering massages given by a person who is not a massage therapist.

(19) **MASSAGE THERAPIST.** A person licensed and regulated pursuant to KRS 309.350 through 309.364, or a health care professional licensed in the Commonwealth of Kentucky who practices within the scope of such license and according to the standards and ethics of such profession, or any person acting under the supervision of such a licensed health care professional.

(20) **MASSAGE, THERAPEUTIC.** The technique used by a massage therapist with the intent to positively affect the health and well-being of the client.

(21) **NUDE MODEL STUDIO.**

(a) Any place where a person who appears nude or semi-nude or who displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration.

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(b) **NUDE MODEL STUDIO** shall not include:

1. A proprietary school licensed by the Commonwealth of Kentucky, or a college, junior college or university supported entirely or in part by public taxation.

2. A private college, university or other entity, such as non-profit organizations or associations, that offer art instruction in which models are used as an educational component for students and which do not have a sign outside the building or otherwise advertise that nude or semi-nude models are available for viewing.

(22) **NUDE** or **STATE OF NUDITY**. Exposing to view the genitals, pubic area, vulva, perineum, anus, anal cleft or cleavage, or pubic hair with less than a fully opaque covering; exposing to view any portion of the areola of the female breast with less than a fully opaque covering; exposing to view male genitals in a discernibly turgid state, even if entirely covered by an opaque covering; or exposing to view any device, costume, or covering that gives the appearance of or simulates any of these anatomical areas.

(23) **OPERATE**. To control or hold primary responsibility for the operation of an Adult Entertainment Business, either as a business entity, as an individual, or as part of a group of individuals with shared responsibility. **OPERATE** or **CAUSE TO BE OPERATED** shall mean to cause to function or to put or keep in operation.

(24) **OPERATOR**. Any person on the premises of an Adult Entertainment Business who is authorized to exercise overall operational control or hold primary responsibility for the operation of an Adult Entertainment Business or who causes to function or who puts or keeps in operation the business. A person may be found to be operating or causing to be operated an Adult Entertainment Business whether or not that person is an owner, part owner, licensee of the business.

(25) **PERSON**. An individual, proprietorship, partnership, firm, trust, assignee, independent contractor, limited liability company, association, joint stock company, corporation or combination of individuals of whatever fond or character.

(26) **PRINCIPAL OWNER**. Any person owning, directly or beneficially, 10% of a corporation=s equity security or 10% or more of the membership interests. **OWNER** includes the spouses of any of these individuals.

(27) **PRINCIPAL USE.** A substantial or significant use, but not necessarily a majority of the business activity or stock in trade. The fact that a business may have 1 or more other principal uses unrelated to adult entertainment shall not relieve the business from the provisions of this chapter applicable to Adult Entertainment Establishments. **PRINCIPAL USE** shall exist in the following circumstances:

(a) Where a business establishment dedicates, or permits the use of, at least 25% of the utilized square footage of its premises for adult entertainment activity or activities; or

(b) Where at least 25% of the gross receipts of a business establishment, excluding food and beverage receipts, result from adult entertainment activity or activities.

(28) **SEMI-NUDITY** or **SEMI-NUDE CONDITION** or **SEMI-NUDE.** Exposing to view, with less than a fully opaque covering, any portion of the female breast below the top of the areola or any portion of the buttocks. This definition shall include the entire lower portion of the female breast, but shall not include any portion of the cleavage of the female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other clothing, provided that the areola is not exposed in whole or in part.

(29) **SEXUAL ENCOUNTER CENTER.** A commercial enterprise that, as 1 of its principal business purposes, offers for any form of consideration:

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

(b) Activities between male and female persons and/or persons of the same sex when 1 or more of the persons is semi-nude.

(30) **SEXUALLY ORIENTED NOVELTIES OR TOYS.** Instruments, devices, or paraphernalia either designed as representations of human genital organs or female breasts, or designed or marketed primarily for use to stimulate human genital organs or for use in connection with specified sexual activities.

(31) **SPECIFIED ANATOMICAL AREAS.**

(a) The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or

(b) Less than completely and opaquely covered human genitals, pubic region, buttocks or female breast below a point immediately above the top of the areola.

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(32) ***SPECIFIED CRIMINAL ACTIVITY.*** Any of the following offenses:

- (a) KRS 510.040, 510.050, or 510.060 (rape in the first, second, or third degree);
- (b) KRS 510.070, 510.080, or 510.090 (sodomy in the first, second, or third degree);
- (c) KRS 510.110, 510.120, or 510.130 (sexual abuse in the first, second, or third degree);
- (d) KRS 510.140 (sexual misconduct);
- (e) KRS 510.150 (indecent exposure);
- (f) KRS 517.050 (falsifying business records);
- (g) KRS 529.020, 529.030, 529.040, or 529.050 (prostitution, promoting prostitution in the first, second, or third degree);
- (h) KRS 529.070 (permitting prostitution);
- (i) KRS 531.020, 531.030, 531.040 (distributing obscene matter, distributing obscene matter to minors, using minors to distribute obscene matter);
- (j) KRS 218A.140 *et seq.* (offenses relating to controlled substances);
- (k) Any offense listed in KRS 531.300 through 531.370 (sexual exploitation of minors offenses);
- (l) Engaging in organized crime (KRS 506.120) relating to an Adult Entertainment business; criminal attempt, conspiracy or solicitation to commit any of the foregoing offenses or offenses in other jurisdictions that, if the acts would have constituted any of the foregoing offenses if the acts had been committed in Kentucky; for which:
  - 1. Less than 2 years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;
  - 2. Less than 5 years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense;or

3. Less than 5 years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of 2 or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period.

4. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant.

(33) **SPECIFIED SEXUAL ACTIVITIES.** Partial or complete male and/or female nudity in conjunction with:

(1) Displays of human genitals in a state of sexual stimulation;

(2) Acts of human masturbation, sexual intercourse or sodomy, or use of any objects in an act of apparent sexual stimulation or gratification; or

(3) Fondling of female breasts for the purpose of sexual stimulation or other erotic touching of human genitals, pubic region, buttocks or breasts.

(34) **STOCK IN TRADE.** The individual items displayed in areas open to the public and offered for sale or rental in an establishment.

(35) **TRANSFER OF OWNERSHIP OR CONTROL OF AN ADULT ENTERTAINMENT BUSINESS.** Shall mean any of the following:

(a) The sale, lease, or sublease of the business;

(b) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or

(c) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

(36) **VIDEO BOOTH.** Any private or semi-private booth, cubicle, stall or compartment which is designed, constructed or used to hold or seat patrons and is used for presenting or viewing motion pictures, videos, photographs, or similar images or photographic reproductions which are distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas by any photographic, electronic, magnetic tape, digital or other medium (including, but not limited to, film, video, magnetic tape, laser disc, digital video disc, CD-ROM, books, magazines or periodicals) for observation by patrons therein. A **VIDEO BOOTH** shall not mean a theater, movie house, playhouse or a room or enclosure or portion thereof which contains more than 150 square feet of floor space.

(37) **VIEWING BOOTH.** Live viewing booth or video booth, and **VIEWING BOOTHS** means live viewing booths, video booths, or any combination thereof.  
(Ord. 05-17-06, passed 5-17-2005)

**' 111.04 REGULATIONS PERTAINING TO THE EXHIBITION OF SEXUALLY EXPLICIT FILMS, VIDEOS OR LIVE ENTERTAINMENT IN VIEWING BOOTHS.**

No person may operate or cause to be operated an Adult Entertainment Business which exhibits on the premises in a viewing booth, as defined in ' 111.03, films, video cassettes, other video or image reproduction, or live entertainment which are distinguished or characterized by an emphasis on the description or depiction of specified sexual activities or specified anatomical areas, without complying with the following requirements:

(A) The Adult Entertainment Business license application required under this chapter shall be accompanied by a diagram of the premises showing a plan thereof which specifies the location of 1 or more employee=s stations and the location of all overhead lighting fixtures, and which designates any portion of the premises in which patrons will not be permitted. The diagram shall also designate the place at which the Adult Entertainment Business license will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer=s or architect=s blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus 6 inches.

(B) The interior of the premises shall be configured in such a manner that there is an unobstructed view from an employee=s station of every area of the premises to which any patron is permitted access for any purpose, including the interior of all viewing booths and excluding restrooms. Restrooms may not contain video reproduction equipment, and no entertainment of any kind may be offered in restrooms. If the premises has 2 or more employee=s stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least 1 of the employee=s stations. The view required in this subsection must be by direct line of sight from the employee=s station.

(C) No alteration in the configuration or location of an employee=s station shall be made without the prior approval of the Building Inspector.

(D) 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 1 hour fire-restrictive materials.

(E) At least 1 employee shall be on duty and situated in each employee=s station at all times that any patron is present inside the premises.

(F) An employee=s station shall not exceed 32 square feet of floor area, and no single dimension of an employee=s station shall exceed 8 feet.

(G) The view from the employee=s station(s) shall remain unobstructed by any doors, curtains, partitions, walls, merchandise, display racks or other materials.

(H) No patron may at any time be permitted access to any area of the premises which has been designated in the license application filed pursuant to this chapter as an area in which patrons will not be permitted.

(I) No viewing booth may be occupied by more than 1 person at any time.

(J) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access, including both the interior of viewing booths and restrooms, at an illumination level of not less than 5.0 foot-candles as measured at floor level.

(K) The illumination described above shall be maintained at all times that any patron is present in the premises. In the event of a power failure, the business shall stop operating immediately and all patrons shall be cleared from the premises. The premises shall not be reopened until the minimum illumination level can be assured.

(L) No openings of any kind shall be permitted to exist between viewing booths or in any wall of a viewing booth.

(M) No person shall make or attempt to make an opening of any kind between viewing booths or in any wall of a viewing booth.

(N) The walls of each viewing booth shall be inspected regularly during each business day to determine if any openings or holes exist.

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

(P) All wall surfaces, ceiling surfaces and seating surfaces in viewing booths shall be constructed of, or permanently covered by, nonporous, easily cleanable material.

(Ord. 05-17-06, passed 5-17-2005)

**' 111.05 RESTRICTIONS, SIGNAGE AND OPERATING REQUIREMENTS FOR ALL ADULT ENTERTAINMENT ESTABLISHMENTS.**

(A) An Adult Entertainment Establishment shall not permit its stock in trade, adult media or other adult entertainment activities, including the depiction of specified anatomical areas or specified sexual activities to be visible from outside the premises subject to public view, including from public sidewalks, streets, parking lots, hallways or passageways.

(B) The Adult Entertainment Establishment operator shall, at all times, cause the entrance of such establishments to be attended so as to prevent persons under the age of 18 from admittance and to ensure compliance with other requirements of this chapter.

(C) Adult Entertainment Establishments shall be closed to the public between the hours of 12:00 a.m. to 6:00 a.m., 7 days a week.

(D) Adult Entertainment Establishments, except as otherwise regulated by more restrictive laws, may not have more than 1 outside sign, flush to the wall, facial style, not to exceed 10 feet by 3 feet, with no flashing lights or depictions of specified sexual activities or specified anatomical areas.  
(Ord. 05-17-06, passed 5-17-2005)

**' 111.06 LOCATION RESTRICTIONS.**

(A) The public entrance to an establishment engaging in adult entertainment activities shall not be located within 1,000 feet of any building containing a public or private elementary, middle or secondary school, institution or higher education or business college; any park-mall or park-like area of open space under the control of a governmental agency; any building used for a place of religious worship; or any building used for a governmental function or public library. The distance shall be measured along a straight line from the nearest property line of the real estate on which the building or public park-line is located to the public entrance to such establishment engaging in an adult entertainment activity.

(B) The public entrance to an establishment engaging in adult entertainment activities may not be located within 1,000 feet of an area zoned as residential, or from property used for residential purposes. The distance shall be measured along a straight line from the boundary of the area zoned or used for residential purposes to the entrance to such establishment engaging in an adult entertainment activity.

(C) The public entrance to an establishment engaging in adult entertainment activities shall not be located within 1,000 feet of the public entrance of another adult entertainment activity establishment.

(D) The public entrance to an establishment engaging in adult entertainment activities shall not be located within 500 feet of the public entrance of an establishment licensed to serve alcoholic beverages.  
(Ord. 05-17-06, passed 5-17-2005)

' **111.07 ADMINISTRATION.**

(A) *Generally.* No person shall:

(1) Operate an Adult Entertainment Business activity without a valid Adult Entertainment license issued by the County Judge Executive, pursuant to this chapter.

(2) In connection with operating an Adult Entertainment Business, retain the services of a person, including an employee, as defined in ' 111.03, who does not meet all the applicable requirements contained herein.

(B) *License application procedure for Adult Entertainment Establishments.*

(1) The principal owner(s) or the operator(s) of an establishment intending to engage in an adult entertainment activity, shall make application for a license with the County Judge Executive in accordance with this chapter.

(2) Such application shall be in writing, notarized, and shall be in the form prescribed by the County Judge Executive. The application will be deemed complete only when it contains the following information:

(a) The name, business location address, business mailing address and phone number of the establishment and the name and business address of the prospective licensee.

(b) The applicant=s full true name, mailing address, date of birth, and a copy of a government- issued photo identification card or set of fingerprints.

1. If the applicant is 1 or more natural persons, then all principal owners shall comply.

2. If the applicant is other than an individual, such as a corporation or partnership, each officer, director, general partner, principal owner and each other person who will participate directly in decisions relating to management of the business shall sign the application for a license as the applicant and comply with the requirements of this section.

(c) If the prospective licensee is a corporation, a current certificate of good standing issued by the appropriate officer of the Commonwealth of Kentucky.

(d) The name and address of the prospective licensee=s designated agent for service of process.

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(e) If the applicant is not the owner of record of the real property on which the licensed establishment is located or to be located, the application shall include the name and address of the owner of record of the real property.

(f) A designation of the adult entertainment activities, as defined in ' 111.03, in which the applicant seeks to engage at the specified location.

(g) All convictions for specified criminal activities, as defined in ' 111.03, of the applicant or applicants whose names are required pursuant to this section.

(h) The name, mailing address and telephone number of any person to whom the applicant wants mail notice to be given in case of violation or other matters affecting any license hereunder.

(i) A drawing or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The drawing or diagram need not be professionally prepared but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus 6 inches.

(j) The required fee.

(3) Any information required under this section deemed to be private and/or confidential within the meaning of KRS 61.878, or within the constitutional right to privacy, shall not be disclosed to any person other than law enforcement.

*(C) License application procedure for employee licenses.*

(1) No person shall work as an employee in an Adult Entertainment Establishment without first obtaining an employee license.

(2) Any person intending to be an employee at an Adult Entertainment Establishment shall make application for an employee license with the County Judge Executive in accordance with this section. The application shall be in writing, notarized, and shall be in the form prescribed by the County Judge Executive and shall be deemed complete when it contains the following items:

(a) The legal name of the applicant;

(b) Any and all aliases or names used or to be used by the applicant in the course of prior, current or prospective appearances or performances as a dancer, performer or entertainer;

(c) The applicant=s mailing address where the applicant may be contacted by the County Judge Executive;

(d) The applicant=s date of birth;

(e) A set of the applicant=s fingerprints or a copy of a government-issued photo identification card;

(f) A recent photograph of the applicant;

(g) The required fee;

(3) Any information required under this section deemed to be private and/or confidential within the meaning of KRS 61.878, or within the constitutional right to privacy, shall not be disclosed to any person other than law enforcement agencies or other governmental agency.

(D) The Sheriff or his or her designee, and/or the Shelby County Health Department, are empowered to enact from time to time whatever rules and regulations are deemed necessary for the orderly and complete administration of this chapter at such times, in the discretion of the Sheriff and/or Shelby County Health Department as the need arises for such rules and regulations. All regulations shall be submitted to the Fiscal Court and shall become effective within 30 days of submission unless disapproved by the Fiscal Court prior to that date. All licensees and persons with license applications pending shall be mailed copies of all such regulations.

(Ord. 05-17-06, passed 5-17-2005)

**111.08 ISSUANCE OF LICENSE OR DENIAL OF LICENSE.**

(A) *Adult Entertainment Establishment license.*

(1) Upon the filing of a completed application for an Adult Entertainment Establishment license, the County Judge Executive shall issue a temporary license to the applicant, pending the final decision of the County Judge Executive to deny or grant the license. The County Judge Executive shall have 15 business days following the date the applicant submits a completed application to cause an investigation to be made as to the information required to be submitted in the application. In addition, there shall be an inspection of the premises for compliance with Shelby County zoning, building, safety, health and fire codes. If inspections are not made within the specified 15 business days, unless such failure is due to the applicant=s or the real estate owner=s disallowance of said inspections, the property shall be deemed to comply with the codes specified in the previous sentence. Within 20 business days after the receipt of a completed application, the County Judge Executive shall either issue a license or issue a written notice of intent to deny the license to the applicant, setting out the reason(s) for denial. The County Judge Executive shall approve the issuance of a license unless 1 or more of the following is found to be true:

(a) An applicant is less than 18 years of age.

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(b) An applicant is delinquent in the payment to Shelby County of taxes, fees, fines or penalties assessed against or imposed upon the applicant in relation to the Adult Entertainment Establishment.

(c) An applicant, including any principal owner of the Adult Entertainment Establishment, has been convicted of a specified criminal activity, as defined in ' 111.03.

(d) The proposed Adult Entertainment Establishment is located in a zoning district other than a district in which Adult Entertainment Businesses are allowed to operate under the applicable Shelby County zoning regulations or is not in compliance with the location restrictions established for Adult Entertainment Establishments under this chapter.

(e) The applicant=s premises have been found to not be in compliance with Shelby County zoning, building, safety, health or fire codes.

(f) The applicant has submitted false information on the application form.

(2) An applicant that is ineligible for a license due to subsection (A)(1)(c) of this section may reapply by submitting a new completed application for an Adult Entertainment Establishment license only after the time period required by ' 111.03(32) has elapsed. Applicants who do not qualify for a license because they are under the age of 18 may submit a new, completed application after turning 18 years of age.

(3) The license, if granted, shall state on its face the name of the persons or persons to whom it is granted, the number of the license issued to that applicant, the expiration date, and the address of the Adult Entertainment Establishment. The Adult Entertainment Establishment license shall be posted in a conspicuous place at or near the entrance to such business so that it may be easily read at any time.

(4) Licenses so granted shall expire 1 year from the date of issuance, but shall be reissued annually thereafter, provided that a completed renewal application is submitted, including the license renewal fee, no earlier than 45 days nor sooner than 30 days prior to expiration, subject to the licensee=s compliance with all the license application requirements at the time of renewal.

**(B) *Adult Entertainment Establishment employee license.***

(1) Upon the filing of a completed application for an Adult Entertainment Establishment employee license, the County Judge Executive shall immediately issue a temporary employee license pending a final decision by the County Judge Executive to grant or deny the employee license. Within 15 business days after receipt of the completed application, the County Judge Executive shall cause an investigation to be made based on the information in the application, including whether the applicant has been convicted of a specified criminal activity, as defined in ' 111.03. The County Judge Executive shall issue an employee license unless the applicant is under 18 years old or has submitted false

information on the application or has been convicted of a specified criminal activity. Either the license shall be issued, or written notice of intent to deny the license shall be issued to the licensee within 20 business days from when the completed application was received, setting out the reason(s) for denial.

(a) The license so granted shall expire 1 year from the date of issuance and shall be annually reissued by the County Judge Executive, provided that the employee submits a completed renewal application and the licensee is in compliance with all the same application requirements at the time of renewal.

(b) An Adult Entertainment Establishment employee license shall contain a photograph of the licensee. An Adult Entertainment Establishment employee shall keep the employee=s license on his or her person or on the premises where the licensee is then working or performing, and shall produce such license for inspection upon request by the Shelby County Sheriff or other authorized law enforcement official. Such officer or official, pursuant to this chapter, shall request verification of an employee=s license only when reasonable and necessary to advance the purposes of this chapter.

(c) Application to renew an employee license shall be made no sooner than 45 days nor earlier than 30 days prior to expiration of the earlier license.  
(Ord. 05-17-06, passed 5-17-2005)

**111.09 FEES.**

(A) Every application for a new Adult Entertainment Business license shall be accompanied by a \$300 non-refundable application and investigation fee.

(B) Every application for renewal of an Adult Entertainment Business license shall be accompanied by a \$100 non-refundable application and investigation fee.

(C) Every application for a new Adult Entertainment Business employee license shall be accompanied by a nonrefundable application and investigation fee of \$50.

(D) Every application for renewal of an Adult Entertainment Business employee license shall be accompanied by an annual, nonrefundable application and investigation fee of \$25.  
(Ord. 05-17-06, passed 5-17-2005)

**111.10 INSPECTION.**

(A) The Sheriff, Building Inspector and Health Department and applicable fire code representatives shall, from time to time, inspect that portion of each Adult Entertainment Business licensed under the provisions of this chapter that is open to the public in order to assess compliance with the applicable regulations. Inspections shall occur at reasonable times, in a reasonable manner, and only when the Adult Entertainment Establishment is open for business.

(B) An applicant or licensee shall permit the representatives of the Shelby County Health Department, Sheriff, Building Inspector and fire code enforcement officer to inspect that portion of the premises of an Adult Entertainment Business that is open to the public for the purpose of insuring compliance with the law, at any reasonable time that it is occupied or open for business.  
(Ord. 05-17-06, passed 5-17-2005)

**111.11 LICENSE SUSPENSION.**

(A) The County Judge Executive shall issue a written notice of intent to suspend an Adult Entertainment Business license for the following reasons:

(1) The licensee has violated or is not in compliance with any section of this chapter; or

(2) The licensee has authorized or approved an employee=s violation of or failure to comply with any section of this chapter, or as a result of the licensee=s negligent failure to supervise either the premises of the Adult Entertainment Business or an Adult Entertainment Business employee, has allowed an employee to violate or fail to comply with any section of this chapter.

(3) The licensee is in violation of a zoning, building, health, law or fire regulation or requirement.

(4) The licensee is delinquent in paying any taxes or fees past due that were assessed in relation to the Adult Entertainment Business.

(5) The licensee refused to allow an inspection authorized by this chapter.

(B) The suspension shall last no more than 30 days.  
(Ord. 05-17-06, passed 5-17-2005)

**' 111.12 LICENSE REVOCATION.**

(A) The County Judge Executive shall issue a written notice of intent to revoke an Adult Entertainment Business license, including the reason(s) therefor, for the following reasons:

(1) A licensee has knowingly allowed, or as a result of the licensee=s negligent failure to supervise either the premises of the Adult Entertainment Business or an Adult Entertainment Business employee has allowed, possession, use, or sale of controlled substances on the premises;

(2) A licensee has knowingly allowed, or as a result of the licensee=s negligent failure to supervise either the premises of the Adult Entertainment Business or an Adult Entertainment Business employee has allowed, sexual intercourse or other sex act, prostitution, solicitation, or the commission of a felony on the premises;

(3) A licensee operated the Adult Entertainment Business during a period of time when the licensee knew or reasonably should have known that the licensee=s license was suspended;

(4) A licensee has knowingly allowed, or as a result of the licensee=s negligent failure to supervise either the premises of the Adult Entertainment Business or an Adult Entertainment Business employee has allowed, any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sex act to occur in or on the licensed premises;

(5) A licensee has been convicted of a specified criminal activity, as defined in ' 111.03, during the term of the license;

(6) The license has been suspended twice previously within the last 12-month period.

(B) The County Judge Executive shall issue a written notice of intent to revoke an Adult Entertainment Business employee license, including the reason(s) therefor, if it determines that:

(1) The licensee gave false or misleading information in the material submitted during the application process;

(2) The licensee has acted as an employee on the premises of an Adult Entertainment Business during a period of time when the licensee knew or reasonably should have known that the licensee=s license was suspended; or

(3) The licensee has been convicted of a specified criminal activity, as defined ' 111.03 during the term of the license.

(4) The licensee engaged in sexual intercourse or other sex act, prostitution, or solicitation, or committed a felony on the premises.

(5) The employee license has been suspended twice previously within the last 12-month period. (Ord. 05-17-06, passed 5-17-2005)

### **' 111.13 PROCEDURE FOR DENIAL, SUSPENSION OR REVOCATION.**

(A) If facts exist under ' ' 111.08, 111.11 or 111.12 to deny, suspend or revoke a license issued under this chapter, the County Judge Executive shall notify the applicant or licensee (respondent), in writing, of the grounds therefor, by personal delivery or by certified mail directed to the address listed on the application or license for receipt of notice. The respondent shall have 5 business days to provide the County Judge Executive, in writing, a statement of reasons why the license should not be denied, suspended or revoked. Within 3 working days of the receipt of respondent=s written response, the County Judge Executive shall notify respondent in writing of the date of the respondent=s denial, suspension or revocation hearing which shall occur no later than 10 working days from the receipt of respondent=s written response.

(1) If the respondent fails to respond within 5 working days after receipt of the notice of intent to deny, suspend or revoke the license, the denial, suspension or revocation shall become final.

(2) In the event a hearing is set, it shall take place before a Hearing Officer designated by the Shelby County Fiscal Court to hear such matters. The respondent shall have the opportunity to be represented by counsel, present evidence and witnesses, and cross-examine the witnesses. The hearing shall be transcribed or recorded. The Hearing Officer shall render a decision and adopt written findings of fact in support of the decision whether to grant the license or to deny, suspend or revoke the license, which shall be contained in the record and sent to the respondent by certified mail or by personal delivery within 3 working days after the hearing.

(B) If, after a hearing, the Hearing Officer finds that grounds exist to deny, suspend or revoke the license, such denial, suspension or revocation shall become effective and final 30 days from the date the respondent receives notice of the decision by certified mail or personal delivery. Such notice shall include a statement advising the respondent of the right to take the matter to a court of competent jurisdiction for appropriate disposition.

(C) The respondent shall have 30 calendar days from the date the respondent receives such notice by certified mail or personal delivery to take the matter to a court of competent jurisdiction. If the respondent has been issued a temporary license, in the case of a denial, or an annual license, in the case of a suspension or revocation, and files an action in a court of competent jurisdiction, the license shall remain in force and effect throughout the judicial proceedings described in this section. If no action is filed in a court of competent jurisdiction within the 30 calendar days from receiving written notice, via

certified mail or personal delivery, of the Hearing Officer=s decision denying, suspending or revoking the license, the license shall expire at the end of said 30 calendar days, in conformity with the Hearing Officer=s decision denying, suspending, or revoking the permit.

(D) If the licensee files an action in a court of competent jurisdiction within the aforementioned 30-day calendar period, the County Judge Executive shall issue a temporary license to maintain the status quo during the pendency of the court proceedings until a final judgment is rendered in the courts.

(E) Within 10 working days of receiving notice of the filing of a court action, the County Judge Executive shall cause the complete record of the hearing, including a transcript, to be filed with the court. (Ord. 05-17-06, passed 5-17-2005)

**111.14 TRANSFER OF LICENSE.**

(A) An Adult Entertainment Business license is not transferable from 1 licensee to another or from 1 location to another. Any purported transfer of an Adult Entertainment Business license shall automatically and immediately revoke that license.

(B) An Adult Entertainment Business employee license is not transferable from 1 licensee to another, but the use of the license by the individual to whom it was issued may be transferred from 1 licensed Adult Entertainment Business to another such licensed establishment during the term of the license, provided that the licensee gives written notice of such transfer to the Sheriff within 15 days of such transfer.

(Ord. 05-17-06, passed 5-17-2005)

**111.15 SCIENTER NECESSARY TO PROVE LIABILITY.**

This chapter does not impose strict liability for violations of its provisions. Where any provision or offense herein fails to state a necessary level of culpability to establish a violation or liability, the offense shall be established upon a showing that the person acted knowingly or recklessly with regard to the predicate act. Notwithstanding anything to the contrary, for the purposes of this chapter, an act by an employee shall be imputed to the Adult Entertainment licensee for the purpose of establishing a violation of this chapter, or for purposes of license denial, modification, or revocation only if a licensee allowed, either knowingly or by reckless failure to supervise, a violation of this chapter to occur. It shall be a defense to liability that the Adult Entertainment Establishment licensee was powerless to prevent the violation.

(Ord. 05-17-06, passed 5-17-2005)

**§ 111.16 FAILURE OF OFFICIAL TO MEET TIME FRAME NOT TO RISK APPLICANT OR LICENSEE RIGHTS.**

In the event that a government official is required to take an act or do a thing pursuant to this chapter within a prescribed time, and fails to take such act or do such thing within the time prescribed, said failure shall not prevent the exercise of constitutional rights of an applicant or licensee. If the act required of the official under this chapter, but not completed in the time prescribed, includes approval of condition(s) necessary for approval of an applicant or licensee's application for an Adult Entertainment Establishment license or an Adult Entertainment Establishment employee license (including a renewal), the applicant or licensee shall be deemed to have satisfied the condition(s) for which approval was sought. (Ord. 05-17-06, passed 5-17-2005)

**§ 111.99 PENALTY.**

(A) Any person who violates any provision of this chapter, including providing false information on the application or refusing to submit to an inspection as authorized herein, shall be guilty of a Class B misdemeanor.

(B) Any person cited hereunder for a failure to meet a requirement hereof may be cited again for said failure 1 or more days after a prior citation and in such case each citation shall constitute a separate offense.

(C) In addition to the penalties provided herein for violations of this chapter, the appropriate Shelby County enforcement officer is authorized to pursue remedial civil actions for violations of this chapter by civil complaint or petition for injunctive relief, declaration of rights or other appropriate proceedings filed in the Shelby County, Kentucky, Circuit Court.  
(Ord. 05-17-06, passed 5-17-2005)

