

## **TITLE XI: BUSINESS REGULATIONS**

### Chapter

- 110. GENERAL LICENSING PROVISIONS**
- 111. PEDDLERS, ITINERANT MERCHANTS AND SOLICITORS**
- 112. INSURANCE COMPANIES**
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## CHAPTER 110: GENERAL LICENSING PROVISIONS

### Section

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### **§ 110.01 LICENSES REQUIRED TO ENGAGE IN CERTAIN TRADES, BUSINESSES OR PROFESSIONS.**

No person shall engage in any of the trades, businesses or professions for which licenses are required by any provision of this code or any other ordinance of the city without first applying for and obtaining a license from the City Clerk or other duly authorized issuing authority.

### **§ 110.02 APPLICATION FOR LICENSE.**

(A) All original applications for licenses, unless otherwise specifically provided, shall be made to the City Clerk in writing upon forms to be furnished by him or her and shall contain:

- (1) The name of the applicant and of each officer, partner or business associate;
- (2) His or her present occupation and place of business;
- (3) His or her place of residence for 5 years next preceding the date of application;
- (4) The nature and location of the intended business or enterprise;

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(5) The period of time for which the license is desired;

(6) A description of the merchandise to be sold, if for a vendor; and

(7) Such other information concerning the applicant and his or her business as may be reasonable and proper, having regard to the nature of the license desired.

(B) Renewal of an annual license may be granted to a licensee in good standing upon the original application, unless otherwise provided.

(C) With each original or renewal application, the applicant shall deposit the fee required for the license requested.

(D) It shall be unlawful knowingly to make any false statement or representation in the license application.

Penalty, see § 110.99

**§ 110.03 STANDARDS; ISSUANCE OF LICENSE.**

(A) Upon receipt of the application for a license, accompanied by the proper fee, if approval by another officer or department is not required, the City Clerk shall forthwith deposit the fee in the General Fund of the city and issue to the applicant a proper license certificate signed by the City Clerk and any other appropriate city official. If for any reason the license is not issued, the license fee shall be returned to the applicant.

(B) Upon receipt of an application, an investigation of the applicant's business reputation and moral character shall be made.

(C) The application shall be approved unless such investigation discloses tangible evidence that the conduct of the applicant's business would pose a substantial threat to the public health, safety, morals or general welfare. In particular, tangible evidence that the applicant has done or possesses any of the following will constitute valid reasons for disapproval of an application:

(1) Has been convicted of a crime of moral turpitude;

(2) Has made willful misstatements in the application;

(3) Has committed prior violations of ordinances pertaining to itinerant merchants, peddlers, solicitors and the like;

(4) Has committed prior fraudulent acts;

- (5) Has a record of continual breaches of solicited contracts; or
- (6) Has an unsatisfactory moral character

**§ 110.04 DATE AND DURATION OF LICENSE.**

(A) A license shall not be valid beyond the expiration date therein specified and, unless otherwise provided, shall not extend beyond December 31 of the year issued. However, at any time after December 14 licenses may be issued for the ensuing calendar year. Unless otherwise specified the full annual fee will be required of licensees irrespective of the date of issue of the license.

(B) In no event shall a license be granted to any business or any person for a longer time than 1 year.

(KRS 92.310)

**§ 110.05 LICENSE NOT TRANSFERABLE.**

Every license shall be issued to a real party in interest in the enterprise or business and unless otherwise provided no license shall be assigned or transferred.

Penalty, see § 110.99

**§ 110.06 LICENSE CERTIFICATE TO BE DISPLAYED.**

Every licensee carrying on business at a fixed location shall keep posted in a prominent place upon the licensed premises, the license certificate. Other licensees shall carry their license certificates at all times and whenever requested by any officer or citizen, shall exhibit the license.

Penalty, see § 110.99

**§ 110.07 REVOCATION OR SUSPENSION.**

(A) Any license may be revoked by the legislative body at any time for conditions or considerations which, had they existed at the time of issuance, would have been valid grounds for its denial; for any misrepresentation of a material fact in the application discovered after issuance of the license; for violation of any provision of this chapter or other law or ordinance relating to the operation of the business or enterprise for which the license has been issued; or upon conviction of a licensee for any federal, state or municipal law or ordinance involving moral turpitude.

(B) The revocation shall become effective upon notice served upon the licensee or posted upon the premises affected.

(C) As a preliminary to revocation, the legislative body may issue an order suspending the license, which shall become effective immediately upon service of written notice to the licensee. This notice shall specify the reason for suspension, and may provide conditions under which reinstatement of the license may be obtained. Upon compliance with these conditions within the time specified, the license may be restored.

#### **§ 110.08 APPEAL AND REVIEW.**

In case any applicant has been denied a license, or if his or her license has been revoked or suspended, the applicant or licensee as the case may be, shall within 3 business days have the right to appeal to the legislative body from the denial, revocation or suspension. Notice of appeal shall be filed in writing with the City Clerk who shall fix the time and place for a hearing which shall be held not later than 1 week thereafter. The City Clerk shall notify the Mayor and all members of the legislative body of the time and place of the hearing not less than 24 hours in advance thereof. A majority of the legislative body members shall constitute a quorum to hear the appeal. The appellant may appear and be heard in person or by counsel. If, after hearing, a majority of the members of the legislative body present at the meeting declare in favor of the applicant, the license shall be issued or fully reinstated as the case may be; otherwise the order appealed from shall become final.

#### **§ 110.09 EXEMPTIONS.**

The provisions of this chapter shall not apply to any business, occupation or profession which is exempt from municipal licensing and/or license taxes pursuant to state or federal law.

#### **§ 110.99 PENALTY.**

Whoever violates any provision of this chapter shall be guilty of a misdemeanor and shall be fined not more than \$500.

## CHAPTER 111: PEDDLERS, ITINERANT MERCHANTS AND SOLICITORS

### Section

- 111.01 Definitions
- 111.02 License requirement
  
- 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.

**BUSINESS.** The business carried on by any person who is an itinerant merchant, peddler or solicitor as defined in this section.

**GOODS.** Merchandise of any description whatsoever, and includes, but is not restricted to wares and foodstuffs.

**ITINERANT MERCHANT.** Any person, whether as owner, agent or consignee, who engages in a temporary business of selling goods within the city and who, in the furtherance of the business, uses any building, structure, vehicle or any place within the city.

#### **PEDDLER.**

- (1) Any person who travels from place to place by any means carrying goods for sale or making sales or making deliveries.
- (2) Any person who, without traveling from place to place, sells or offers goods for sale from any public place within the city.
- (3) A person who is a **PEDDLER** is not an itinerant merchant.

**SOLICITOR.** Any person who travels by any means from place to place, taking or attempting to take orders for sale of goods to be delivered in the future or for services to be performed in the future. A person who is a **SOLICITOR** is not a peddler.

**§ 111.02 LICENSE REQUIREMENT.**

(A) (1) Any person who is an itinerant merchant, peddler or solicitor shall obtain a license before engaging in such activity within the city, setting forth in writing his or her name, address, telephone number; and shall provide two forms of identification.

(2) The application shall state the following:

(a) The name and address of the person, if any, for whose purpose the business will be carried on, and, if a corporation, the state of incorporation;

(b) The time period or periods during which it is proposed to carry on applicant's business; and

(c) The nature, character, and quality of the goods or services to be offered for sale or delivered.

(B) The fee for the license required by this chapter shall be as set from time to time by the legislative body.

(C) No license issued under this chapter shall be transferable.

(D) All licenses issued under this chapter shall expire 90 days after the date of issuance thereof.

Penalty, see § 111.99

**§ 111.99 PENALTY.**

Whoever violates any provision of this chapter shall be guilty of a misdemeanor and shall be fined not more than \$500. Each day's violation shall constitute a separate offense.



## CHAPTER 112: INSURANCE COMPANIES

### Section

- 112.01 Imposition of license fee
- 112.02 Amount of fee for companies issuing life insurance
- 112.03 Amount of fee for companies issuing policies other than life insurance
- 112.04 Due date; interest
- 112.05 Written breakdown of collections

### **§ 112.01 IMPOSITION OF LICENSE FEE.**

There is hereby imposed on each insurance company a license fee for the privilege of engaging in the business of insurance within the corporate limits of the city, on a calendar-year basis.

### **§ 112.02 AMOUNT OF FEE FOR COMPANIES ISSUING LIFE INSURANCE.**

The license fee imposed upon each insurance company which issues life insurance policies on the lives of persons residing within the corporate limits of the city shall be 10% of the first year's premiums actually collected within each calendar quarter by reason of the issuance of such policies.

(KRS 91A.080(2)) (Prior Code KOC, § 220.31, passed 11-4-2002) (Am. Ord. 2008-2, passed 1-7-2008)

### **§ 112.03 AMOUNT OF FEE FOR COMPANIES ISSUING POLICIES OTHER THAN LIFE INSURANCE.**

The license fee imposed on each insurance company which issues any insurance policy which is not a life insurance policy shall be 10% of the premiums actually collected within each calendar quarter by reason of the issuance of the policies on risks located within the corporate limits of the city on those classes of business which the company is authorized to transact, less all premiums returned to policyholders; however, any license fee or tax imposed upon premium receipts shall not include premiums received for insuring employers against liability for personal injuries to their employees, or death caused thereby, under the provision of the Worker's Compensation Act and shall not include premiums received on policies of group health insurance provided for state employees under KRS 18A.225(2) and 18A.228, or premiums received by any state employee benefit fund created pursuant to

KRS Chapter 18A for the purpose of providing health benefits to state employees. No license fee imposed under this section shall apply to premiums received on health insurance policies issued to individuals nor to policies issued through Kentucky Access created in KRS 304.17B-005. No license fee imposed under this section shall apply to premiums paid to insurers of municipal bonds, leases or other debt instruments issued by or on behalf of any political subdivision of the state; provided that this exemption shall not apply if the bonds, leases or other debt instruments are issued for profit or on behalf of for-profit or private organizations.

(KRS 91A.080(3), (10)) (Prior Code KOC, § 220.31, passed 11-4-2002) (Am. Ord. 2008-2, passed 1-7-2008)

#### **§ 112.04 DUE DATE; INTEREST.**

All license fees imposed by this chapter shall be due no later than 30 days after the end of each calendar quarter. License fees which are not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6).

(KRS 91A.080(8), (9))

#### **§ 112.05 WRITTEN BREAKDOWN OF COLLECTIONS.**

Every insurance company subject to the license fees imposed by this chapter shall annually, by March 31, furnish the city a written breakdown of all collections in the preceding calendar year for the following categories of insurance:

(A) Casualty;

(B) Automobile;

(C) Inland marine;

(D) Fire and allied perils;

(E) Health; and

(F) Life.

(KRS 91A.080(8))

## CHAPTER 113: FRANCHISE REGULATIONS

### Section

#### ***Cable Television***

- 113.01 Scope and applicability
- 113.02 Filing and review of rates
- 113.03 Provision generally applicable to rate orders
- 113.04 Franchisee duties
- 113.05 Duties of Cable Rate Commission
- 113.06 Penalties and forfeitures
- 113.07 Proprietary information
- 113.08 Effective date

#### ***Utilities***

- 113.20 Scope
- 113.21 Definitions
- 113.22 Franchisee's rights and privileges
- 113.23 Plans and specifications; construction
- 113.24 Indemnification
- 113.25 Franchise period
- 113.26 Awarding franchise; notice and bids
- 113.27 Rates

#### ***Communications Services***

- 113.40 Franchise fees

***Cross-reference:***

*Bank franchise and local deposit tax, see §35.05*

**CABLE TELEVISION****§ 113.01 SCOPE AND APPLICABILITY.**

This chapter governs the regulation of rates for basic service and equipment within the City of Pewee Valley, Kentucky ("City") for any franchisee which has been notified that (a) the city has been certified to regulate its basic service and equipment rates; and (b) the city has adopted regulations governing regulation of basic service and equipment rates. The provisions set forth below are intended to be consistent with all Federal Communications Commission ("FCC") regulations governing the regulation of basic service rates and equipment, and the city will regulate and interpret its rules so that they are consistent with FCC regulations, as if those regulations were set forth in full herein; the franchisee is prohibited from engaging in any activity it is prohibited in engaging in under FCC rules, as if those rules were set forth in full herein. For purposes of these provisions, the term "basic service" at Title 47 C.F.R. § 76.901 and the term "equipment" refers to all equipment and services subject to regulation under Title 47 C.F.R. § 76.923. (Prior Code KOC, § 610.4, passed 11-1-1993)

**§ 113.02 FILING AND REVIEW OF RATES.***(A) Initial filings by franchisees.*

(1) *Filings; when made.* A franchisee that is notified that its basic service and equipment rates are subject to regulation must file a submission ("the rate filing") within 30 days of the notification (but no earlier than November 15, 1993), justifying its then-existing basic service and equipment rates. All rates, for all customer classifications must be justified. Once a franchisee has been so notified by the city that its rates are subject to regulation, it may not thereafter increase its rates for basic service or equipment without the prior approval of the city. This requirement applies in all cases, including with respect to increases in rates announced prior to the date the operator was notified its rates were subject to regulation where the increases were not implemented prior to the date of notice. A franchisee must submit a rate filing to justify any increase in basic service or equipment rates or any new basic service or equipment rate (collectively referred to herein as rate increases). An "increase" occurs when there is an increase in rates or decrease in program or customer services. Rate filings proposing and supporting rate increases must be filed for review at least 30 days in advance of the proposed effective date of the increase. This requirement does not alter or eliminate any other notice requirement.

(2) *Filings; where made.* Every rate filing must be submitted to the city's Cable Rate Commission ("C.R.C."). A rate filing shall be considered filed for review on the date the required rate filing and all required copies are received by the C.R.C. Four copies of each rate filing (including all supporting materials) must be submitted. If the operator claims any part of the filing is proprietary, it shall additionally file 8 copies which omit the proprietary information.

(3) *Filing; contents.* Subject to any FCC regulations governing the burden of proof, a rate filing submitted by a franchisee must show that the rates the franchisee proposes to charge for basic service and equipment are reasonable. Except as inconsistent with FCC rules:

(a) Every rate filing must clearly state in a covering letter whether it justifies existing rates; or proposes an increase in rates. The covering letter must also identify any rate that is derived in whole or in part based upon cost of service and identify any pages of the rate filing that contain information that the franchisee claims is proprietary. It must state whether any part of the proposed increase is based on an inflation adjustment or an alleged increase in external costs. The covering letter should also contain a brief, narrative description of any proposed changes in rates or in service.

(b) The pages of each rate filing must be numbered sequentially.

(c) The rate filing must contain all applicable FCC forms and these forms must be correctly completed.

(d) If different rates are proposed for basic service for different classes of customers, the filing must show that the classifications and the differences in the rate charged are reasonable and consistent with federal law.

(4) *Establishment of rate.* If the franchisee seeks to support a rate based upon a cost of service, the city will establish a rate that provides the franchisee an opportunity to recover the reasonable costs associated with providing basic cable service, including a reasonable profit. An expense or investment is not presumed reasonable merely because the franchisee has incurred or made it. A franchisee is not entitled to recover monopoly profits in any form.

(5) *Cost of service analysis.* In addition to information the city requires the franchisee to provide, and unless the city grants a waiver of this provision, a franchisee who seeks to justify all or any part of its rates based upon its cost of service must submit a complete cost of service analysis that shows all expenses it incurs and all revenues derived from the system, directly or indirectly by the franchisee or any person that constitutes a cable operator of the system within the meaning of 47 U.S.C. § 522(5). The cost of service must identify the accounting level (as that term is used in the FCC's regulations) at which each expense or revenue identified was aggregated and show clearly how the expense or revenue was allocated. The franchisee may not include costs at an accounting level unless it also includes all revenues from that same level attributable to the system or to a group of systems, of which the system serving the city is a part. The replacement cost of a comparable system must be identified and supported. The franchisee must identify the name and address of any entity with which it has a contract, other than a programmer, which derives revenues from the system and must state whether and how the revenues of that entity were included in the cost of service. In addition, the cost of service shall clearly show the derivation of a proposed charge per channel and the application of that charge to yield a basic service rate. It must also show and support the derivation and allocation of any amounts included in the derivation of the rate for:

(a) Operation and maintenance expenses;

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- (b) Administrative and general expenses;
- (c) Programming expenses (identifying retransmission consent costs and copyright fees separately);
- (d) Costs for PEG access and any institutional network;
- (e) Franchise fee expenses;
- (f) Investment in the system and associated depreciation;
- (g) Other expenses, including federal, state and local taxes, itemized; and
- (h) The proposed return on equity and actual interest expense paid by the franchisee.

(6) Notwithstanding the foregoing, a franchisee is not required to submit the cost of service specified in division (A)(5) above for equipment rates, and instead initially shall complete, submit and support the costs of equipment using applicable FCC forms. Any cost of service submitted to justify basic service rates must show that the cost of service does not include equipment costs.

*(B) Initial city review.*

(1) After receiving a rate filing, the C.R.C. promptly shall publish a notice that a filing has been received and that, except for those parts which may be withheld as proprietary, it is available for public review. The notice shall state that interested parties may comment on the filing, and shall provide interested parties 7 days to submit written comments on the filing to the C.R.C. The C.R.C. shall submit the comments received and its recommendations for action to the City Council no later than 20 days after the filing and shall make those recommendations available for public inspection. The franchisee may submit a response to public comments or staff recommendations, but must do so no later than 3 business days after the staff recommendations are submitted to the City Council. The response shall be filed with the C.R.C., and if submitted in a timely fashion, the C.R.C. shall forward a copy to the City Council.

(2) Within 30 days of the date of the filing, the City Council shall issue a written order, which may be in any lawful form, approving the proposed rate in whole or in part; denying the proposed rate in whole or in part; or tolling the proposed rate in whole or part. If the City Council tolls the rate in whole or in part, its written order at a minimum shall explain that it requires additional time to review the rate filing and state that the franchisee may cure any deficiency in its filing by submitting a supplementary filing as provided in division (C) below. With respect to existing rates, tolling means the rates may remain in effect, subject to refund; with respect to rate changes, tolling means the portion of the rate change that is tolled may not go into effect.

(C) *Supplementary filings.*

(1) If a proposed rate is tolled in whole or in part, the franchisee shall submit a supplementary filing 20 days from the effective date of the tolling order, containing corrections, if any, to its filing (including any required supplement to its cost of service filing) and any response to information filed by interested parties or to the recommendations of the staff, or any additional information necessary to support the proposed rate. Supplementary filings must be filed in accordance with division (A)(2) above.

(2) A supplementary filing also must contain such information as the city directs the franchisee to provide.

(3) In addition to information the city requires the franchisee to provide, and unless the city grants a waiver of this provision, a franchisee who claims that it is entitled to a rate in whole or in part based upon the adjustments for inflation and external costs contemplated by Title 47 C.F.R. § 76.922(d)(2) and (3) must submit the following:

(a) A calculation showing how each part of the adjustment was derived;

(b) A statement itemizing each external cost (as defined by FCC regulations), the amount of that external cost for the 2 calendar years prior to the date of the filing and the year-to-date in which the filing is made; and the projected amount of the external cost for the remainder of the year in which the filing is made and for the following calendar year; (The statement must specifically show any increases in revenues from programming services. "Revenues" include all revenues, in whatever form received.)

(c) If the increase is attributable to any increase in programming service costs, the contract for each programming service whose cost has increased; a sworn statement identifying each programming service whose costs increased where the programmer is an affiliate of the franchisee (as defined by FCC regulations); and, for any contract that has been in effect less than 12 months, the prior contract for the service;

(d) A sworn statement by the franchisee's chief financial officer or an independent, certified accountant stating that he or she has examined all external costs (including all programming costs) and has offset against any increase claimed, the amount of any decreases in external costs, and the amount by which any increase in external costs was below the GNP-PI, as required by Title 47 C.F.R. § 76.922, or any applicable, superceding regulation; affirming that the franchisee has only sought to recover any external cost to the extent that cost exceeded the GNP-PI; and affirming that the franchisee has not attempted to recover any increase in the cost of programming purchased by an affiliate except as provided in 47 C.F.R. § 76.922, or any applicable, superceding regulation.

(4) Upon receiving the supplementary filing, the C.R.C. promptly shall publish a notice that a filing has been received and that it is available for public review (except those parts which may be withheld as proprietary). The notice shall state that interested parties may comment on the filing, and shall provide interested parties 20 days to submit written comments on the filing to the C.R.C. The

C.R.C. shall submit the comments received and its recommendations for action to the City Council no later than 30 days prior to the date the City Council must act under division (C)(7) below.

(5) The recommendations shall be made available for public inspection. The franchisee may submit a response to public comments or staff recommendations, but must do so no later than 10 days after the staff recommendations are submitted to the City Council. The response shall be filed with the C.R.C., and if submitted in a timely fashion, the C.R.C. shall forward a copy to the City Council.

(6) The City Council shall issue a written order, which may be in any lawful form, approving the proposed rate in whole or in part; denying the proposed rate in whole or in part; or allowing the rate to go into effect in whole or in part, subject to refund. If the City Council issues an order allowing the rates to go into effect subject to refund, it shall also direct the franchisee to maintain an accounting in accordance with Title 47 C.F.R. § 76.933.

(7) The order specified in division (C)(5) above shall be adopted within 90 days after the tolling order for any rate the franchisee justifies based on the FCC benchmark. The order shall be adopted within 150 days of the tolling order for any rate the franchisee justified with a cost of service showing.

(Prior Code KOC, § 610.4, passed 11-1-1993)

### **§ 113.03 PROVISION GENERALLY APPLICABLE TO RATE ORDERS.**

(A) Any rate order of the City Council shall be issued and effective upon adoption. Each rate order shall be released to the public and the franchisee. In any case where the City Council approves, denies or tolls a rate; orders that a rate may go into effect subject to refund; or orders refunds or establishes rates, a public notice shall be published stating that the order has issued and is available for review. Any such order shall be in writing.

(B) The City Council may take any steps that it is not prohibited from taking by federal law to protect the public interest as part of any rate order or by any other means. By way of illustration and not limitation, it may require refunds, set rates and impose forfeitures and penalties directly or through its delegated representatives and enforce refund orders. Any order prescribing a rate must explain why the franchisee's proposed rate was unreasonable and why the prescribed rate is reasonable. However, before prescribing a rate or ordering a refund to subscribers, the City Council shall ensure the franchisee has had notice and opportunity to comment on the proposed rate or refunds. If the recommendations of the C.R.C. propose a refund or a rate, then mailing a copy of the recommendation to the franchisee at the time it is submitted to City Council shall be deemed to provide the franchisee this notice and the franchisee must comment on the refund or rate in its response to the recommendations.

(C) No order approving or setting a rate using the FCC benchmarks shall be interpreted to establish the just and reasonable rate to subscribers. Every such rate approved or established shall be subject to further reduction and refund to the extent permitted under applicable laws and regulations, as the same may be amended from time to time. By way of illustration and not limitation, should the FCC reduce



the benchmarks, the city shall have the right to reduce a franchisee's rates and to require the franchisee to refund any amounts collected above the benchmark, except to the extent prohibited by federal law.

(Prior Code KOC, § 610.4, passed 11-1-1993)

**§ 113.04 FRANCHISEE DUTIES.**

(A) A franchisee must implement remedial requirements, including prospective rate reductions and refunds, within 60 days of the date the City Council issues an order mandating a remedy.

(B) Within 90 days of the date an order mandating a remedy is issued, a franchisee must file a certification, signed by an authorized representative of the cable company stating:

(1) Whether the franchisee has complied fully with all provisions of the City Council's order;

(2) Describing in detail the precise measures taken to implement the City Council's order; and

(3) Showing how refunds (including interest) were calculated and distributed.

(C) It is each franchisees' responsibility to keep books and records of account so that it can refund any amounts owed to subscribers.

(D) It is each franchisees' duty to submit as complete a filing as possible, and knowingly withholding information or making a filing that is incomplete under applicable law shall be treated as an evasion of this chapter.

(E) Information requests records of revenues or expenses that are allocated to the franchisee's system must respond to requests for information from the city by deadlines established by the city. A franchisee is:

(1) A franchisee and any other entity that has responsible for ensuring that such other entity responds to the city's requests.

(2) Because federal law limits the time available for an initial response to a filing by a franchisee, before the order contemplated by § 113.02(B) issues, the franchisee must be prepared to respond to requests for information regarding its filing within 5 days of the date an information request is mailed to it. The information may include the information the franchisee would be required to provide as part of any supplementary filing.

(Prior Code KOC, § 610.4, passed 11-1-1993)

**§ 113.05 DUTIES OF CABLE RATE COMMISSION.**

(A) The C.R.C. shall be responsible for administering the provisions herein.

(B) Without limitation and by way of illustration:

(1) C.R.C. shall ensure notices are given to the public and each franchisee as required herein and by FCC regulations.

(2) C.R.C. may submit requests for information to the franchisee and establish deadlines for response to them, as provided in § 113.04.

(3) For good cause, the C.R.C. may waive any provision herein or extend any deadline for filing or response except as to such matters that are mandatory under FCC regulations.

(4) C.R.C. shall rule on any request for confidentiality.

(5) C.R.C. shall prepare the recommendations to the City Council contemplated by § 113.02(B) and (C). If the C.R.C. recommends that any increase be denied in whole or in part, it shall:

(a) Propose a rate and explain the basis for its recommendation (it may propose that rates remain at existing levels); and

(b) Recommend whether and on what basis refunds should issue; and

(c) Notify the franchisee of its recommendation at the time it is submitted to the Council.

(Prior Code KOC, § 610.4, passed 11-1-1993)

#### **§ 113.06 PENALTIES AND FORFEITURES.**

Except as prohibited by federal law, a franchisee shall remain subject to penalties and forfeitures under the city's Ord. 1982-1, which originally granted the franchise, and its request for approval of a rate may be denied if it:

(A) Knowingly submits false or fraudulent information to the city in connection with any rate proceeding;

(B) Fails to comply with any lawful order or request of the city, including, but not limited to a request for information or an order setting rates; or

(C) Evades or attempts to evade federal or local rate regulation; provided that, filing for approval of a rate that is later determined to be unreasonable is not in and of itself an evasion of federal or local rate regulation.

(Prior Code KOC, § 610.4, passed 11-1-1993)

**§ 113.07 PROPRIETARY INFORMATION.**

(A) If these provisions, or any request for information requires the production of proprietary information, the franchisee must produce the information. However, at the time the allegedly proprietary information is submitted, a franchisee may request that specific, identified portions of its response be treated as confidential and withheld from public disclosure. The request must state the reason why the information should be treated as proprietary and the facts that support those reasons. The request for confidentiality will be granted if the city determines that the preponderance of the evidence shows that non-disclosure is consistent with the provisions of the Freedom of Information Act, 5 U.S.C. § 552. The city shall place in a public file for inspection any decision that results in information being withheld. If the franchisee requests confidentiality and the request is denied, (1) where the franchisee is proposing a rate increase, it may withdraw the proposal, in which case the allegedly proprietary information will be returned to it; or (2) the franchisee may seek review within 5 working days of the denial in any appropriate forum. Release of the information will be stayed pending review.

(B) (1) Any interested party may file a request in inspect material withheld as proprietary with the C.R.C.

(2) The C.R.C. shall weigh the policy considerations favoring non-disclosure against the reasons cited for permitting inspection in light of the facts of the particular case. It will then promptly notify the requesting entity and the cable franchisee that submitted the information as to the disposition of the request.

(3) It may grant, deny or condition a request. The requesting party or the franchisee may seek review of the decision by filing an appeal with any appropriate forum. Disclosure will be stayed pending resolution of any appeal.  
(Prior Code KOC, § 610.4, passed 11-1-1993)

**§ 113.08 EFFECTIVE DATE.**

This chapter shall become effective upon its passage and publication as required by law.  
(Prior Code KOC, § 610.4, passed 11-1-1993)

**UTILITIES**

**§ 113.20 SCOPE.**

There is hereby created a franchise for the erection of poles and for stringing, laying and maintaining overhead and underground wires and cables for the transmission, distribution and sale of electricity together with all appurtenant facilities and equipment and for installing, laying and maintaining

gas pipes for the transmission, distribution and sale of gas together with all equipment facilities and equipment in, along, under and across the public ways, roads, streets, alleys and other public places in the city; and for constructing the necessary conduits and manholes for the installation of the wires, pipes and facilities and equipment, and for selling electricity and gas by means of the facilities. The gas and electricity may be conveyed through the city and to any other town or to any portion of the county or to any other county.  
(Prior Code KOC, § 450.1, passed 5-5-1975)

### § 113.21 DEFINITIONS.

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

**COMPANY.** The person, firm or corporation which shall become the purchaser of the franchise, or any successor or assignee of such person.

**STREETS.** The public ways, roads, streets, alleys, and other public places of the city.  
(Prior Code KOC, § 450.1, passed 5-5-1975)

### § 113.22 FRANCHISEE RIGHTS AND PRIVILEGES.

The company acquiring this franchise shall have the right to erect, install and maintain poles, cables and conduits in, along, under and across and over the streets, and to install, string, lay and maintain wires thereon and thereunder together with all related facilities and equipment; for the transmission, distribution and sale of electric energy, and the company shall also have the privilege of installing, laying and maintaining gas mains and pipes, together with all related facilities and equipment in, along, under, and across the streets, and to transmit and sell gas through the pipes. The company shall also have the right to use the streets with its service and maintenance vehicles and equipment in furtherance of this franchise.

(Prior Code KOC, § 450.1, passed 5-5-1975)

### § 113.23 PLANS AND SPECIFICATIONS; CONSTRUCTION.

(A) Before beginning the construction of any new line of pipes, poles or conduits under this franchise, the company shall prepare a plat showing the construction of the work to be done and a brief description showing the manner in which it is to be done, which plan and specification shall be presented to the City Council for approval. After the work is completed, the City Council shall have the right to examine it, and in case it finds that the work has not been done in accordance with the plans and specifications approved by it, the company shall, at its own expense, make such changes as will cause the work to conform to the plans and specifications approved by the Council.

(B) The work shall be done in a workmanlike manner, and so as not to unnecessarily interfere with the public use of any streets. Wherever the surface of any street is opened, it must be restored at the expense of the company, within a reasonable time, to as good a condition as it was prior to the opening thereof.

(Prior Code KOC, § 450.1, passed 5-5-1975) Penalty, see § 10.99

**§ 113.24 INDEMNIFICATION.**

The company acquiring this franchise and its successors and assigns shall indemnify the city for any and all damage that may legally arise from the presence or operation of its pipes, wires or appliances or poles so constructed or maintained on or along the streets, and defend all actions which may be brought against the city by reason of or arising out of the construction or operation of the gas and electric lines.

(Prior Code KOC, § 450.1, passed 5-5-1975)

**§ 113.25 FRANCHISE PERIOD.**

The franchise hereby created shall continue for a period of 20 years from and after the date the same shall become effective, but it is not exclusive, and the city reserves the right to sell similar franchises to others.

(Prior Code KOC, § 450.1, passed 5-5-1975)

**§ 113.26 AWARDING FRANCHISE; NOTICE AND BIDS.**

(A) (1) It shall be the duty of the City Clerk to advertise the sale of the franchise as herein set out for a period of 10 days, by written or printed notice posted in 3 of the most conspicuous places in the city, and advertise the sale of the franchise once a week for 3 consecutive weeks in the county newspaper, so that the final publication shall appear not later than 2 days before the day on which the sale will occur and not sooner than some day during the week preceding the week in which the sale shall take place.

(2) The notice and newspaper advertisement shall state when the Clerk shall sell the franchise at public auction to the highest and best bidder, giving the time and place of sale. In the advertisement and notice, the right of the City Council to reject any and all bids shall be reserved. The newspaper publication shall describe the franchise to be sold and any special provisions. The Clerk shall sell the franchise in accordance with the notice and advertisement.

(3) The City Council may accept that bid which, in its judgment, is the highest and best. No bid shall be accepted of less than \$50, which amount is fixed as the upset price for the franchise. The bidder to whom the franchise or privilege shall be awarded shall within 10 days after the acceptance of its bid by the City Council pay the amount of the bid to the Treasurer of the city.

**Pewee Valley - Business Regulations**

(B) In case the successful bidder for the franchise shall fail within 30 days after its bid shall have been accepted to comply with the provisions of this subchapter, the Clerk shall again advertise the franchise for sale in the manner in which the first sale was made, and shall again sell the franchise in the manner and upon the same conditions and requirements as the original sale of the franchise was made, except that no sale shall be made to the bidder who had failed to perform the terms of the first sale.

(Prior Code KOC, § 450.1, passed 5-5-1975)

**§ 113.27 RATES.**

The company agrees to charge such rates as may from time to time be fixed by the Public Service Commission of Kentucky, or any successor regulatory body.

(Prior Code KOC, § 450.1, passed 5-5-1975) Penalty, see § 10.99

***COMMUNICATIONS SERVICES*****§ 113.40 FRANCHISE FEES.**

The franchisee shall pay to the city as annual compensation for the use of the rights-of-way a communications franchise fee equal to the following:

(A) \$100 per antenna in the rights-of-way; plus

(B) (1) For each single cable, wire, fiber, conduit or other linear facility, or bundle of the same up to 2 inches in diameter placed above ground, \$1 per foot of rights-of-way on which it is placed or over which it is suspended; plus

(2) For each bundle of cable, wire, fiber, conduit or other linear facility greater than 2 inches in diameter placed above ground, \$0.50 per foot of rights-of-way on which it is placed or over which it is suspended; plus

(3) For each single cable, wire, fiber, conduit or other linear facility, or aggregate of the same placed below ground contemporaneously, \$0.50 per foot of rights-of-way used to accommodate the same.

(Ord. 2005-9, passed - -2005)