

**COMMONWEALTH OF KENTUCKY  
SPENCER COUNTY FISCAL COURT  
ORDINANCE NO. 6, SERIES 2005**

**AN ORDINANCE CREATING THE GOVERNING OF ADULT  
ENTERTAINMENT ESTABLISHMENTS WITHIN SPENCER COUNTY,  
KENTUCKY.**

WHEREAS, the County of Spencer has the authority pursuant to the Kentucky Revised Statutes to regulate and control Adult Entertainment Establishments within its boundaries, and further

WHEREAS, it is necessary and desirous to establish controls and guidelines in the area of Adult Entertainment Establishments,

NOW THEREFORE, be in ordained by the Fiscal Court of Spencer County, Kentucky, that the following be enacted as an Ordinance controlling and regulating Adult Entertainment Establishments, to-wit:

**ADULT ENTERTAINMENT ESTABLISHMENTS**

Section 1	Definitions
Section 2	Administration
Section 3	Restrictions; operating requirements
Section 4	Construction requirements
Section 5	Location restrictions
Section 6	Penalty

**SECTION 1 – 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” One or more of the activities defined below:

- (a) Adult Amusement Arcade. An establishment having one or more of the following customer-operated motion picture devices, peep shows, viewing areas and/or similar devices either coin, token or slug operated or which, in consideration of an entrance fee, display matter distinguished or characterized by an emphasis on depictions of sexual activities, as hereinafter defined, or which other male or female persons who expose to view of the customer the bare female breast below a point immediately above the top of the areola, human genitals, pubic region or buttocks, even if partially or completely covered by translucent material, or human or

simulated male genitals in a discernibly turgid state, even if completely or opaquely covered.

- (b) **Adult Book Store.** An establishment having as one of its principal uses the sale, rent or display of pictures, books, periodicals, magazines, appliances and similar material which are distinguished or characterized by their emphasis or depictions of sexual activities as hereinafter defined.
- (c) **Adult Entertainment Provider.** A commercial establishment, such as a hotel or motel, which in addition to providing as the major part of its business, services unrelated to depictions of sexual activities as herein defined, makes entertainment (either live or film or video tape) available to its customers, which entertainment has a dominant theme or is characterized or distinguished by an emphasis on matter depicting, describing or relating to sexual activities, if such establishment advertises the availability of such adult entertainment at its establishment - ( the advertisement of such materials shall not include the posting of a card or handbill on or near a television set in a hotel or motel room advising room guests that such adult movies are available upon request of the guest, or advertising informing the public of availability of commercial cable channels).
- (d) **Adult Motion Picture Theater.** An establishment having as one of its principal uses the presentation of motion pictures, slide projections and other similar material having as a dominant theme or characterized or distinguished by an emphasis on matter depicting, describing or relating to sexual activities, as hereinafter defined, for observation by persons herein. The nature and extent of advertisements for such matter may be considered in determining whether the activity is one of the establishment's principal uses.
- (e) **Adult State Show Theater.** An establishment having as one of its principal uses the presentation of live performances of humans or animals having as a dominant theme or characterized or distinguished by an emphasis on matter depicting, describing, or relating to sexual activities, as hereinafter defined for observation by persons therein.
- (f) **Cabaret.** An establishment which features as one of its principal uses, entertainers and/or waiters and/or bartenders, male or female impersonators and/or persons, either male or female, who expose to public view the patrons of the entertainment any time the bare female breast below a point immediately above the top of the areola, human genitals, pubic region or buttocks, even if partially or completely covered by translucent material, and/or human or simulated male genitals in a discernibly turgid state, even if completely and opaquely covered.

- (g) Massage parlor. An establishment for treating the human body by rubbing, stroking, kneading, tapping or similar treatment with the hand or any other part of the human body which promotes its services in a manner designed to appeal to the patron's sexual interest.
- (h) Self-designated Adult Entertainment Center. Any establishment which designates all or a portion of its premises as for adults only and has a policy of excluding minors from its premises or from a portion of its premises or which advertises so as to convey the impression that the services, entertainment, matter or goods available at the premises or at the portion of the premises designated for adults only are characterized or distinguished by depictions of sexual activities, as herein defined.

"EMPLOYEE." Any person hired by or suffered or permitted to work in an establishment engaging in adult entertainment activities whether that person receives remuneration or compensation directly from the operator or owner of the establishment, from patrons of the establishment or from any other source whether by contract of employment or otherwise.

"ESTABLISHMENT." A business entity or endeavor, fixed, mobile or traveling, including its owners, operators, directors, shareholders, partners, employees and possessions.

"LICENSEE." A person who is the holder of a valid license under this ordinance and shall also include an agent, servant, or employee of or other person acting on behalf of a license whenever a licensee is prohibited from doing a certain act under this ordinance.

"MATTER." Any book, magazine, newspaper, or other printed or written material or any picture, drawing, photograph, motion picture, video cassette film or other pictorial representation or mechanical, chemical, or electrical reproduction or any other articles, equipment, machines or materials.

"OPERATOR." Any individual, partnership, corporation, or business entity.

"OWNER." Any individual, partnership, corporation or business entity who has legal title to real estate, with or without accompanying actual possession thereof, or has all or part of the beneficial ownership of any real estate and a right to present use of enjoyment thereof, including a mortgage in possession.

"PERSON." Any individual, partnership, corporation, or business entity.

"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 one or more other principal uses unrelated to adult entertainment shall not relieve the business from the provisions of this ordinance applicable to adult entertainment establishments.

The fact that an establishment dedicated a section or area of the business premises for a business purpose or activity which would otherwise require a licensing under this ordinance if such purposes or activity were the sole business or activity of the establishment may be considered evidence of a PRINCIPAL USE.

“SEXUAL ACTIVITIES.” Partial or complete male and/or female nudity in conjunction with:

- (1) Depiction of human genitals in a state of sexual stimulation;
- (2) Acts of human masturbation, sexual intercourse of sodomy; or
- (3) Holding or other erotic touching of human genitals, pubic regions, buttocks or breasts.

## **SECTION 2 – ADMINISTRATION**

- (a) No person shall maintain or operate any adult entertainment establishment or adult entertainment activity within the county without an adult entertainment license. Such license may be issued by the County Judge Executive upon a satisfactory showing that an applicant for such license can or has met the requirements of this chapter, and upon payment of a license fee of five hundred dollars (\$500.00). The fee shall thereafter be paid by December 31 of each year. Once granted a license may be revoked if not renewed as provided for in county regulations adopted pursuant to this chapter. In addition, a license may be revoked by Fiscal Court for non-compliance with the requirements of this chapter. Once revoked a person may not apply for another license for a period of three (3) years after the date of revocation.
- (b) The Sheriff or his designee, and/or the Spencer County Health Department are empowered to enact from time to time, on an as need basis, whatever rules and regulations are deemed necessary for the orderly and complete administration of this chapter. All rules and regulations shall be submitted to the Fiscal Court and shall become effective within thirty (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.

## **SECTION 3 – RESTRICTIONS; OPERATING REQUIREMENTS**

- (a) Signs. An establishment engaging in adult entertainment activity, except as otherwise provided by laws which may be more restrictive, may not have more than one sign outside, flush to the wall, facial style, not to exceed in size ten (10) feet in length (horizontal to the ground) and three (3) feet in width (vertical to the ground) with no flashing lights and with

no lettering, wording or pictorial or representations matter which is distinguished or characterized by an emphasis on depictions of sexual activities defined in Section 1.

- (c) Material not to be subject to public view. An establishment engaging in an adult entertainment may not display its stock in trade or matter depicting, describing, or relating to sexual activities in such manner as to be subject to public view from outside the establishment, including but not limited to view from public sidewalks, streets, arcades, hallways or passageways.
- (c) Employee age requirement. An operator or his employee engaging in an adult entertainment activity shall not permit a person under eighteen (18) years of age to be employed by, nor to enter his establishment, except that such establishment operating as a self-designated adult entertainment center may permit persons under eighteen (18) years of age on that portion of the premises not otherwise dedicated to any adult entertainment activity, provided such as establishment monitors the area designated for adult entertainment activity so as to insure persons under eighteen (18) years of age are prevented from entering the areas. Such exemption for self designated adult entertainment centers shall not apply to the employment of persons under eighteen (18) years of age at such establishments. This chapter shall not be construed to be an exemption from or in conflict with any requirement found in any statute, ordinance, regulation or other provision of law applicable to a license or potential licensee hereunder which is more stringent in terms of an age requirement for employees.
- (d) An operator engaging in an adult entertainment activity shall, at all times, cause the entrance of his establishment to be so attended as to insure compliance with the requirements of this chapter.
- (d) Restricted hours. An establishment licensed to engage in adult entertainment shall not permit any person to conduct, show, state, or perform any entertainment, whether live or on file or video tape or to perform massage between the hours of midnight to 6:00 a.m.

#### **SECTION 4 – CONSTRUCTION REQUIREMENTS**

- (a) An adult amusement arcade, except as otherwise provided by laws which may be more restrictive, shall meet the requirements set forth in this chapter.
- (b) Any wall or partition which is situated so as to create a viewing area in which any amusement device or viewing screen is located shall be

constructed of not less than one hour fire-restrictive material and shall contain no hole or other perforation.

- (c) A person who operates or causes to be operated an adult amusement arcade which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor spaces, a film, video cassette or other video reproduction which depict specified sexual activities as defined in Section 1 shall comply with the following requirements.
- (1) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's or cashier's station of every area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. The view required in this chapter must be by direct line of sight from the manager or cashier's station.
  - (2) It shall be the duty of the owners and operators, and it shall also be the duty of any agents and employees present in the premises to ensure that the view area specified in subsection (c)(1) above remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times.
  - (3) No viewing room may be occupied by more than one person at a time.
- (d) There shall be no fewer than two (2) doorways, each of a width not less than thirty-six (36) inches, which provides ingress or egress from any room in which an amusement device or viewing area is located, provided however that one doorway shall be sufficient in the event the Fire Chief, or his designee, should so determine. The doorway or doorways shall be unlocked during business hours.
- (e) Over every doorway which provides egress from any room in which an amusement device or viewing area is located there shall be maintained an internally illuminated exit sign with letters at least five (5) inches in height.
- (f) A light level of no less than one foot candle at floor level shall be maintained in every portion of the establishment to which the public is admitted.

## **SECTION 5 – LOCATION RESTRICTIONS**

- (a) The public entrance to an establishment engaging in adult entertainment activities shall not be located within one thousand (1000) feet of any building containing a public or private elementary, middle or secondary school, institution of higher education or business college; any park-mall or park-like area of open space under the control of a government 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 in along a straight line from the nearest property line of the real estate on which the building or public park-line area is located to the 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 one thousand (1000) feet of an area zoned as residential, or an area used for residential purposes. The distance shall be measured along a straight line from the boundary line of the newest 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 entertaining activities shall not be located within one thousand (1000) feet of the public entrance of another adult entertainment activity establishment.
- (d) The public entrance to an establishment engaging in adult entertainment shall not be located within five hundred (500) feet of the public entrance of an establishment licensed to serve alcoholic beverages.

**SECTION 6 – PENALTY**

Any person violating this chapter shall be guilty of a Class B Misdemeanor. In addition, the county and the city shall be entitled to injunctive relief prohibiting the continuation of an adult entertainment activity or adult entertainment establishment not in compliance with this chapter.

This ordinance shall take effect upon its passage and approval and publications as required by law.

FIRST READING

Sept 20, 2004

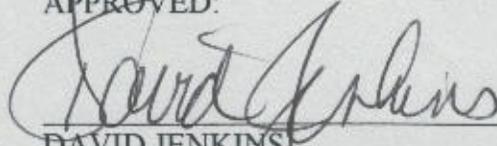
SECOND READING

Oct. 18, 2004

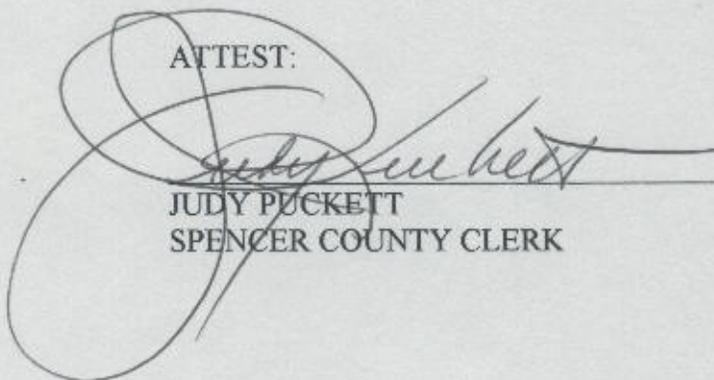
PASSED AND APPROVED

Oct 18, 2004

APPROVED:

  
\_\_\_\_\_  
DAVID JENKINS  
COUNTY JUDGE EXECUTIVE

ATTEST:

  
\_\_\_\_\_  
JUDY PUCKETT  
SPENCER COUNTY CLERK