

ORDINANCE NO. 92-021

CITY OF PIONEER VILLAGE, BULLITT COUNTY, KENTUCKY

AN ORDINANCE PROPOSING LICENSING OF ADULT ENTERTAINMENT ACTIVITIES.

BE IT ORDAINED by the City of Pioneer Village:

The City of Pioneer Village, Bullitt County, Kentucky, hereby ordains as follows:

SECTION I: Findings, Declarations of Public Policy and Purpose.

(A) Findings: The City Council finds that certain adult entertainment activities which are located near areas zoned for residential use, near schools, public parks, malls and similar open spaces that cater to use by family groups and children, have an adverse effect on the uses of such properties for such purposes; that certain adult entertainment activities, because of the conditions of their operations, have contributed to an increased incidence of crime and juvenile delinquency; that adult entertainment activities, through outside displays, tend to attract an undesirable quantity and quality of clientele that encourages neighboring residents and business to move elsewhere and militates against new residents and businesses coming into the area thereby adversely affecting property values and contributing to a general deterioration of the city's neighborhoods; that the city and the United States government have spent thousands of dollars on community development and neighborhood enhancement projects over the past several years to eliminate further deterioration of the city's neighborhoods; and the city is presently engaged in extensive economic development problems to promote the establishment of commercial businesses in the City of Pioneer Village and to further attract residents and businesses to this city.

(B) Declarations of Public Policy: The City Council declares as a matter of public policy that the regulation of adult entertainment activities within the city limits is a public necessity and is required in the interest of health, safety, welfare, and the economic and aesthetic well-being of the people and is required to protect property values; to prevent deterioration of the city's neighborhoods; to promote the establishment and return of residents and businesses to the city's neighborhoods; and to decrease the incidents of crime and juvenile delinquency.

(C) Purpose: The purpose of this chapter is to effect the declaration of public policy set forth herein as it relates to the foregoing findings of the City Council and more particularly to:

- (1) Protect property values;
- (2) Prevent deterioration of the city's neighborhoods;
- (3) Promote a climate conducive to establishment of businesses in the city's neighborhoods;
- (4) Enhance the quality of life in the city's neighborhoods;
- (5) Preserve and stabilize the city's neighborhoods;
- (6) Decrease the incidents of crime and juvenile delinquency.

It is not the purpose of this section to establish community standards on obscenity nor to allow the establishment of adult entertainment activities which are in violation of state laws on pornography.

SECTION II: Definitions.

For the purpose of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning:

"ADULT ENTERTAINMENT ACTIVITIES": One or more of the following activities:

(A) ADULT AMUSEMENT ARCADE: An establishment having as a substantial or significant portion of its business one or more of the following: customer-operated motion picture devices, peep shows, or similar devices, either coin-, token-, or slug-operated or in consideration of an entrance fee or the like or both, which display material distinguished or characterized by their emphasis on matter depicting or relating to sexual activities as hereinafter defined.

(B) ADULT BOOKSTORE: An establishment having as a substantial or significant portion of its stock in trade for sale, rent or display, pictures, books, periodicals, magazines, appliances, and similar material which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to sexual activities as hereinafter defined or an establishment with a segment or section devoted to the sale or display of such material.

(C) ADULT MINI-MOTION PICTURE THEATRE: An establishment with a capacity for less than 50 persons having as a substantial or significant portion of its use the presentation of materials 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.

(D) ADULT MOTION PICTURE THEATRE: An establishment with a capacity of 50 or more persons having as a substantial or significant portion of its use the presentation of material having as a dominant theme or characterized or distinguished by an emphasis on matter depicting, describing or relating to sexual activities, as herein after defined, for observation by persons therein.

(E) ADULT STAGE SHOW THEATRE: An establishment used for presenting live performances of humans or animals having as a dominant theme or characterized or distinguished by an emphasis on matter depicting or relating to sexual activities, as hereinafter defined, for observation by persons therein.

(F) CABARET: An establishment which features as entertainers, waiters, or bartenders, male or female impersonators, or persons, either male or female, who expose to public view of the patrons of the establishment at any time the bare female breast below a point immediately above the top of the areola, human genitals, public region or buttocks, or human or simulated male genitals in a discernible turgid state, even if completely or opaquely covered.

(G) COMMERCIAL SEXUAL ENTERTAINMENT CENTER: A commercial establishment which consistently excludes minors from areas open to adult patrons and which establishments or areas are advertised by the owners or operators thereof, so as to convey the idea that there is being offered in such areas entertainment or items which are designed to appeal to adult sexual interest, whether or not such entertainment or items involve or depict sexual activities as hereinafter defined.

"MAYOR": The Mayor of the City of Pioneer Village or his designee.

"OPERATOR": Any individual, partnership, corporation or business entity who establishes or maintains a business as its owner or manager.

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

"SEXUAL ACTIVITIES":

(A) Depiction of human genitals in a state of sexual stimulation;

(B) Acts of human masturbation, sexual intercourse or sodomy;

(C) Holding or other erotic touching of human genitals, pubic regions, buttocks or breasts.

SECTION III: Restrictions, Requirements and Conditions:

(A) An establishment engaging in adult entertainment activities, except as otherwise provided by laws which may be more restrictive, or except as provided for by a variance granted by the Mayor, may not display more than one sign visible from the outside of the building. In all but those cases where variances are granted, this sign shall be flush to the wall, fascia style, and not to exceed in size ten feet in length (horizontal to the ground) and three feet in width (vertical to the ground). Signs may not have flashing lights and may have no lettering, wording, or pictorial or representational matter which are distinguished or characterized by their emphasis on matter depicting, describing or relating to sexual activities.

(B) An establishment engaging in adult entertainment activities may not display their stock in trade or 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 passways.

(C) An operator engaging in adult entertainment activities may not permit a person under 18 years of age to enter his establishment.

(D) An operator engaging in adult entertainment activities shall, at all times, cause the entrance of his establishment to be so attended as to insure compliance with the requirements contained in division (D) above.

(E) An adult amusement arcade, except as otherwise provided by laws which may be more restrictive, shall meet the following requirements:

(1) Any wall or partition which is situated so as to create a room, enclosure or booth in which any amusement device is located shall be constructed of not less than one hour fire-resistive material.

(2) The width of the aisles in any room where an amusement device is located shall be more than 42 inches.

(3) There shall be no fewer than two doorways of a width no less than 36 inches which provide ingress or egress from any room in which an amusement device is located. However, one doorway shall be sufficient in the event the Fire Chief should so determine. The doorway or doorways shall be unlocked during business hours.

(4) Over every doorway which provides egress from any room in which an amusement device is located there shall be maintained an internally illuminated exit sign with letters at least five inches in height.

(5) Each amusement device located in such establishment shall be situated so as to permit the person using the device to have a constantly unobstructed view of the doorway or doorways which provide ingress or egress from the establishment.

(6) A light level of no less than ten footcandles at floor level shall be maintained in every portion of the establishment to which the public is admitted.

(7) The number of persons in any room or partitioned portion of a room where amusement devices are located shall not exceed one person per 30 square feet. The maximum occupancy loan permitted in any room or partitioned portion of a room in which amusement devices are located shall be conspicuously posted by the operator, and shall remain posted at the entrance of the room.

(8) The number of amusement devices shall not exceed the maximum occupancy loan permitted in any room or partitioned portion of a room in which an amusement device is located. The maximum number of amusement devices permitted in any room or partitioned portion of a room shall be conspicuously posted by the operator, and shall remain posted at the entrance of the room.

SECTION IV: Licensing.

(A) The operator of an establishment engaging in an adult entertainment activity shall be required to make application for a license with the Mayor of the City of Pioneer Village within 30 days of the date of commencing his business. The application shall be in writing, under oath, and shall contain the following information together with such further information as the Mayor may require:

- (1) The name and location of the establishment.

(2) The names and address of the applicants, owners of the establishment, and if a corporation, the names and addresses of the directors and the names and addresses of shareholders owning capital stock therein, and if a partnership, the names and addresses of the partners.

(3) The names and addresses of the owners of the property on which the establishment is located.

(4) The names and addresses of any rental agent of the property on which the establishment is located.

(5) The nature of the activity or activities to be engaged in at such location.

(6) All criminal convictions of the applicant, owners, directors, partners, shareholders, or employees other than misdemeanor traffic violations. This information shall be at all times current. It shall be the responsibility of the operator to notify the Mayor of the City of Pioneer Village of any changes in this information.

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

(8) A photograph or drawing of any signs displayed or proposed to be displayed on the exterior of the establishment and a statement of the dimensions of these signs.

(9) Proof of registration with the City Clerk/Treasurer.

(10) A certificate from the State Fire Marshall that all applicable fire regulations have been met and, in the case of an adult amusement arcade, that all requirements of Section III(E) have been met.

(11) A certificate of occupancy issued by the Zoning Inspector of the City certifying that the business is in compliance with applicable zoning laws or has nonconforming use rights.

(B) The Mayor will cause the premises to be inspected after the application has been received and shall issue a license forthwith if all restrictions, requirements, conditions, and applicable requirements of the law have been met. However, no license will be issued if the applicant or any owner, director, partner, shareholder or employee has been convicted of any felony or of a misdemeanor charge involving moral turpitude within the last five years. The granting of a license does not certify compliance with all applicable laws nor does it stop the city

from enforcement of all applicable laws. If inspection reveals failure to comply with any restrictions, requirements or conditions, the Mayor shall notify the applicant in writing of this fact; state what failures have been discovered; allow a reasonable time to correct such defects; and inform the applicant of the appeal procedure if the applicant does not agree with the Mayor's decision.

(C) The Mayor may permit such variance or deviation from the regulations of this Section as will effectuate its purpose and intent.

(D) On receipt of notice, no person shall work or permit himself to be employed at an adult entertainment activity which has not been licensed.

(E) All licenses shall be for the fiscal year July 1 to June 30 or the remaining portion of the fiscal year. The annual license fee shall be the sum of \$600.

(F) Annual fees may be prorated at the rate of \$50 per month for the remaining full month of the current fiscal year, but not to exceed \$600. Application for renewal of a license shall be made on or before March 15 of each year and accompanied by the annual fee of \$600. The application shall also contain any changes in the information required by item (A) above which have occurred since the previous application.

(G) A license may be transferred to a new owner or operator or to a new location by a license holder by giving written notice to the Mayor 14 days before the effective date of the transfer, on filing therewith the complete information required in item (A) above for the new owner or operator, and on the finding by the Mayor that the new owner or operator or location is qualified under this chapter. The fee for a license transfer shall be \$100.

(H) The Mayor shall have the power to revoke the license for the failure to comply with the restrictions, requirements, and conditions set forth herein and if a felony or crime of moral turpitude is committed on the premises, or on the conviction of any operators, director, partner, shareholder, employee, or applicant of a felony or a misdemeanor involving moral turpitude. Ten days written notice delivered in person or by certified mail shall be given to such interested persons listed on the application for a license apprising them of reasons for the revocation and informing them of the appeal procedure if they do not agree with the Mayor's decision. The findings and rulings of the hearing shall be a final determination of the issues raised on appeal.

SECTION V: Penalty.

Any operator or owner who shall operate an adult entertainment activity in violation of this chapter shall be guilty of a violation and shall be penalized and fined in a sum not to exceed \$500 for each offense. Each day of prohibited operation shall constitute a separate offense.

First Reading: February 17, 1992

Second Reading: March 16, 1992


JAMES WELKER, Mayor

ATTEST:


BRENDA WELKER, Clerk

	<u>Votes For</u>	<u>Votes Against</u>	<u>Abstentions</u>
BENNY WOODS	<u> ✓ </u>	<u> </u>	<u> </u>
KEVIN VACHON	<u> ✓ </u>	<u> </u>	<u> </u>
CARMINE BERTOLO	<u> ✓ </u>	<u> </u>	<u> </u>
ALLEN MARICLE	<u> ✓ </u>	<u> </u>	<u> </u>
DALEN THUROW	<u> ✓ </u>	<u> </u>	<u> </u>
CORBIN HUFF	<u> ✓ </u>	<u> </u>	<u> </u>