

**HOPKINS COUNTY, KENTUCKY
ORDINANCE 2000- 3**

AN ORDINANCE PROVIDING FOR THE LICENSING AND REGULATION OF ADULT ENTERTAINMENT ESTABLISHMENTS AND THEIR EMPLOYEES.

BE IT ORDAINED BY HOPKINS COUNTY, KENTUCKY:

WHEREAS, the United States Sixth Circuit Court of Appeals has found constitutional flaws in the Sexually Oriented Business Ordinance of the City of Paducah upon which Hopkins County Ordinance 2000-1 was modeled (see Nightclubs, Inc. vs. City of Paducah, et al, No. 98-6581 decided February 2, 2000), Hopkins County Ordinance 2000-1 is hereby repealed in its entirety and the following Ordinance is adopted.

WHEREAS, Hopkins County is concerned about the secondary effects and impacts of adult entertainment establishments such as adult amusement arcades, adult cabarets, adult dancing establishments, and adult sexual entertainment centers; and

WHEREAS, adult entertainment establishments require special supervision in order to protect and preserve the health, safety and welfare of the patrons of such establishments as well as the citizens of the County; and

WHEREAS, the County finds that adult entertainment establishments are frequently used for unlawful sexual activities, including prostitution and sexual liaisons of a casual nature; and

WHEREAS, the concern over sexually transmitted diseases is a legitimate health concern of the County which demands regular regulation of adult entertainment establishments in order to protect the health and well-being of the citizens; and

WHEREAS, licensing is a legitimate and reasonable means of accountability to ensure that operators of adult entertainment establishments comply with reasonable regulations and to ensure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation; and

WHEREAS, there is convincing documented evidence that adult entertainment establishments, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, causing increased crime and the down-grading of property values and property taxes; and

WHEREAS, the County desires to limit the location of these adult entertainment establishments in such a manner that they not be located within one thousand (1000) yards of any school building, church building, or park.

WHEREAS, the County desires to minimize and control these adverse effects and thereby protect the health, safety and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods and deter the spread of urban blight; and

WHEREAS, it is not the intent of this Ordinance to suppress any speech activities protected by the First Amendment, but to enact a content neutral ordinance which addresses the secondary effects of adult entertainment establishments; and

WHEREAS, it is not the intent of the County to condone or legitimize the distribution of obscene material, and the County recognizes that state and federal law prohibits the distribution of obscene materials and expects and encourages state law enforcement officials to enforce state obscenity statutes against any such illegal activities in the County.

SECTION I. PURPOSE AND FINDINGS

A. Purpose.

It is the purpose of this Ordinance to regulate adult entertainment establishments in order to promote the health, safety, and general welfare of the citizens of the County, and to establish reasonable and uniform regulations relating to adult entertainment establishments. The provisions of this Ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this Ordinance 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 Ordinance to condone or legitimize the distribution of obscene material.

B. Findings.

Based on evidence concerning the adverse secondary effects of adult uses on the community presented in reports made available to the County, and on findings incorporated in the cases of City of Renton v. Playtime Theatres, Inc., 475 U. S. 41 (1986), Young v. American Mini Theatres, 427 U.S. 50 (1976), and Barnes v. Glen Theatre, Inc., 501 U.S. 560 (1991), and in studies in other communities including, but not limited to, Phoenix, Arizona; Minneapolis, Minnesota; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas; Seattle, Washington; Oklahoma City, Oklahoma; Cleveland, Ohio; and Beaumont, Texas; and also on findings from the report of Attorney General's Working Group on the

regulation of adult entertainment establishments (June 6, 1989, State of Minnesota), the County finds:

1. Adult entertainment establishments lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the operators of the establishments. Further, there is presently no mechanism to make the owners of these establishments responsible for the activities that occur on their premises.

2. Certain employees of adult entertainment establishments as defined in this Ordinance engage in higher incidents of certain types of illicit sexual behavior than employees of other establishments.

3. Sexual acts, including masturbation, and oral and anal sex, occur at adult entertainment establishments, especially those which provide private or semi-private booths or cubicles for viewing films, videos or live sex shows.

4. Offering and providing such space encourages such activities which creates unhealthy conditions.

5. Persons frequent certain adult entertainment establishments for the purpose of engaging in sex within the premises of such adult entertainment establishments.

6. At least fifty (50) communicable diseases may be spread by activities occurring in adult entertainment establishments, including but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV/AIDS), genital herpes, hepatitis B, non-A, non-B amebiasis, salmonella infections, and shigella infections.

7. Since 1981 and to the present, there has been an increasing cumulative number of reported cases of AIDS caused by the human immunodeficiency virus (HIV) in the

United States. Through December 31, 1997, there have been 619,690 reported cases of AIDS in the United States.

8. As of December 31, 1997, there have been 2,583 reported cases of AIDS in the Commonwealth of Kentucky.

9. The Surgeon General of the United States in his report of October 22, 1986, has advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug abuse, exposure to infected blood and blood components, and from an infected mother to her newborn.

10. According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.

11. Sanitary conditions in some adult entertainment establishments are unhealthy, in part, because of the activities conducted there are unhealthy, and, in part, because of the non-regulated nature of the activities and the failure of the owners and operators of the facilities to self-regulate those activities and maintain those facilities.

12. Numerous studies and reports have determined that semen is found in the areas of adult entertainment establishments where persons view adult oriented films.

13. The findings noted in paragraphs 1 through 12 raise substantial governmental concerns.

14. Adult entertainment establishments have operational characteristics which should be reasonably regulated in order to protect those substantial government concerns.

15. A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and the operators of the adult

entertainment establishments. Further, such a licensing procedure will place a heretofore non-existent incentive on the operators to see that the adult entertainment establishment is run in a manner consistent with the health, safety, and welfare of its patrons and employees, as well as the citizens of the County. It is appropriate to require reasonable assurances that the licensee is the actual operator of the adult entertainment establishment, fully in possession and control of the premises and activities occurring therein.

16. Removal of doors on adult booths and requiring sufficient lighting on premises with adult booths advances a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in adult theaters.

17. Requiring licensees of adult entertainment establishments to keep information regarding current employees and certain past employees will help reduce the incidence of certain types of criminal behavior by facilitating the identification of potential witnesses or suspects and by preventing minors from working in such establishments.

18. The disclosure of certain information by those persons ultimately responsible for the day-to-day operation and maintenance of the adult entertainment establishments, where such information is substantially related to the significant governmental interest in the operation of such uses, will aid in preventing the spread of sexually transmitted diseases.

19. It is desirable in the prevention of the spread of communicable diseases to obtain a limited amount of information regarding certain employees who may engage in the

conduct which this Ordinance is designed to prevent or who are likely to be witnesses to such activity.

20. The fact that an applicant for an adult use license has been convicted of a sexually related crime leads to the rational assumption that the applicant may engage in that conduct in contravention of this Ordinance.

21. The barring of such individuals from certain types of employment at adult entertainment establishments for a period of years serves as a deterrent to and prevents conduct which leads to the transmission of sexually transmitted diseases.

22. Local law enforcement agencies report that use of and trafficking in controlled substances has increased in the general vicinity of adult entertainment establishments.

23. The general welfare, health and safety of the citizens of the County will be promoted by the enactment of this Ordinance.

SECTION II. ADULT ENTERTAINMENT ESTABLISHMENT DEFINED

A. Definitions.

1. Amusement arcade means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, computers or other image producing devices are maintained to show images to five (5) or fewer persons per machine at any one time and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" as herein defined.

2. Specified sexual activities means:

a. Human genitals in a state of sexual stimulation or arousal.

b. Acts of human masturbation, sexual intercourse, sodomy, oral sex, real or simulated, fondling or other erotic touching of human genitals, pubic region, buttocks or female breasts, or sexual contact between humans and animals.

3. Film or video viewing device means any electrical or mechanical device or computer which projects or displays any film or videotape, computer disk or reproduction, the temporary use of which is contingent upon the payment of some consideration and which use is to occur upon the premises where the device is located.

4. Adult cabaret or adult dancing establishment means an establishment which features, as one of its principal business uses or as a regular use of its business, employees, agents, servants, independent contractors or entertainers, either male or female, who appear in public view of the patrons of the establishment at any time in a nearly nude state, as defined in subsection A.8. herein, including but not limited to go-go dancers, exotic or erotic dancers, strippers, male or female impersonators, or similar entertainers.

5. Adult entertainment establishment means an "adult cabaret," "adult dancing establishment," or "sexual entertainment center."

6. Adult entertainer means any person who appears in public view of the patrons of an adult entertainment establishment at any time in a nearly nude state, as defined in subsection A.8. herein, including but not limited to go-go dancers, exotic or erotic dancers, strippers, male or female impersonators, or similar entertainers. "Adult entertainment employee" means any individual working or performing services in any adult entertainment establishment, including any independent contractor who provides services on behalf of

any adult entertainment establishment to or for the patrons of such business, but this does not include janitors, cooks, accountants, or other employees who do not have direct contact with patrons. Adult entertainment employees include, but are not limited to, dancers, bouncers, doormen, bartenders, and waiters working on the premises of adult entertainment establishments.

7. Sexual entertainment center means any establishment, not otherwise specifically defined in this Section, which regularly makes available to or for patrons of such businesses material, services, or entertainment appealing to "adult sexual interests," including but not limited to a public bath house, a public swingers' club, or similar public establishment if the establishment or its entertainment, services, or goods are offered or provided by or on behalf of the establishment in a manner patently designed to appeal to such adult sexual interests. Entertainment appealing to adult sexual interests, for purposes of Sections II through V of this Ordinance, shall mean any exhibition, live performance, display or dance of any type which has as a significant or substantial portion of such performance any "specified sexual activities," as defined in subsection A.2. herein, or the exhibition of any person or persons in a nearly nude state, as defined by subsection A.8.

8. Nearly nude. A person is nearly nude when that person appears in public at any time in a state of dress or attire in which no more than the anus, genitals, pubic region, and areola of the female breast are opaquely covered. "Nearly nude" shall include, but not be limited to, the state of female dress or attire commonly known as "pasties" and "g-string" or "thong" whether or not worn in combination with accessory clothing such as gloves, hats, shoes, jewelry, stockings, and similar accessory garments.

9. **Nude.** A person is nude when that person appears in such a manner as to expose to public view the anus, genitals, pubic region, or areola of the female breast.

10. **Entertainment area** means an area in an adult entertainment establishment consisting of a platform or other structure raised not less than eighteen (18) inches above the immediately surrounding main floor area.

B. Film or video viewing device specifications and requirements.

1. Any amusement arcade containing film or video viewing devices shall comply with the requirements of subsection B.2. herein if the material exhibited by the devices depicts any of the specified sexual activities defined in subsection A.2.

2. Each device and every viewing booth for all film or video devices must comply with all of the following:

- a. Be visible from a well-illuminated continuous main aisle;
- b. Not be obscured by any curtain, door or other enclosure;
- c. All side or rear walls must be without holes or openings;
- d. Shall not be occupied by more than one patron at a time;
- e. Be illuminated by a light bulb of a wattage of no less than 25 watts.

3. No owner, operator, employee, or agent of an amusement arcade shall violate this Section and/or allow and/or permit a violation thereof to occur.

4. No patron of an amusement arcade shall violate subsection B.2.d. above.

5. Each violation of any provision of this Section is subject to a fine of between one hundred dollars (\$100.00) to five hundred dollars (\$500.00) and/or imprisonment for a term not to exceed twelve (12) months in jail.

SECTION III. ADDITIONAL REQUIREMENTS

A. General requirements.

In addition to the licensing and other general requirements contained in this Ordinance relating to adult entertainment establishments, each adult entertainment establishment shall comply with the following requirements:

1. **Nude activity.** No person shall, while on the premises of any adult entertainment establishment, perform or appear while nude.

2. **Prohibited activities.** No person, while on the premises of any adult entertainment establishment, shall engage in, or simulate any specified sexual activities.

3. **Entertainment area.** No person in an adult entertainment establishment shall engage in any form of entertainment or dancing except while said person is positioned in or occupying an entertainment area, as defined in Section II A.10. of this Ordinance, and while the person so dancing, performing, displaying or exhibiting is positioned not less than six (6) feet from any patron or spectator.

4. **Entertainment area exclusion.** No spectator, patron, or persons other than a licensed adult entertainer shall be present in an entertainment area, as defined in Section II A.10. of the Ordinance, during the course of any adult entertainment, dancing, or performance.

5. **Physical contact prohibition.** While on the premises of an adult entertainment establishment, no adult entertainment employee shall be permitted to have any physical contact with any other adult entertainment employee, other employee, patron or spectator while that adult entertainment employee is entertaining, dancing, or performing and all such

performances shall occur only in an entertainment area. An adult entertainment employee shall not touch the breast, buttocks, or genitals of any patron, spectator, or other adult entertainment employee and no patron or spectator shall touch the breast, buttocks, or genitals of any adult entertainment employee or another patron or spectator while on the premises of the adult entertainment establishment.

6. Age restriction. No person under eighteen (18) years of age shall be permitted in an adult entertainment establishment.

7. Business hours. No adult entertainment establishment shall be open for business between the hours of 1:00 a.m. and 6:00 a.m., Monday through Sunday.

8. Adult entertainer. No owner or operator of an adult entertainment establishment shall permit a non-licensed adult entertainer to work or perform services in its adult entertainment establishment.

9. An establishment shall not exhibit any lettering, wording, pictorial or representational matter which is distinguished or characterized by a depiction of sexual activities on any sign subject to public view from outside the establishment.

10. An establishment shall not display its stock in trade, inventory, or merchandise which depicts, describes or relates to sexual activities in such a manner as to be subject to public view from outside the establishment.

11. An establishment must have an employee on duty at all times, in which the business is opened and must be positioned at a station in the premises which is located in such a manner that the entrance can be monitored at all times. Any person who reasonably appears to be under the age of eighteen (18) shall be requested to verify

his/her age. All persons under the age of eighteen (18) discovered in the establishment shall be immediately escorted out of the premises.

12. Effective immediately upon the adoption of this Ordinance, no adult entertainment establishment shall be located within one thousand (1000) yards of a school building, church building, or park.

B. Penalty.

Any person who shall violate any of the provisions of Section III shall, upon conviction thereof, be fined not more than five hundred dollars (\$500.00) or imprisoned for a period of not more than twelve (12) months, or both so fined and imprisoned.

SECTION IV. LICENSE

A. General requirements.

No person shall own an adult entertainment establishment as defined in Section II of the Ordinance without an adult entertainment establishment license. No person shall operate a non-licensed adult entertainment establishment.

B. Application.

The owner of an adult entertainment establishment shall apply for a license with the Hopkins County Sheriff's Office. Such application shall be in writing, shall be in the form prescribed by the Sheriff of Hopkins County, and shall contain the following information:

1. The name and business address of the establishment, including any assumed or fictitious names under which the establishment is or will be operated.
2. The name, including any assumed or fictitious name or alias, business address, social security or tax identification number of the owner and every officer, partner, director,

or person performing a similar function to an officer, partner or director and the names and addresses of any individual who owns ten (10) percent or more of the partnership, corporation, limited liability corporation or company, or limited liability partnership that is the owner of the establishment.

3. In the event the owner of the adult entertainment establishment is not the owner of record of the real property on which the establishment is located or to be located, the applicant shall include a notarized statement from the owner of record of the real property acknowledging that an adult entertainment establishment is located or to be located on the real property upon the issuance of the license. The applicant also shall furnish the name and address of the owner of record of the real property and a copy of the lease or rental agreement or memorandum thereof.

4. The name, including any assumed or fictitious name or alias, business address, date of birth, social security number, and photograph of all persons engaged in the day-to-day management of the licensed premises. All persons who at any time shall be responsible for attending the entrance of the establishment for the purpose of insuring compliance with Section III A.6. of this Ordinance shall be included in this subsection.

5. The name, including any assumed or fictitious name or alias, business address, date of birth, social security number, and photograph of the individual designated by the applicant to undertake to keep the applicant, if licensed, at all times in compliance with the restrictions, requirements, and conditions of Sections III, IV, and V of this Ordinance together with the written statement of the individual stating that he has received a copy of

Sections II through V of this Ordinance and that he willfully undertakes on behalf of the applicant to comply therewith.

6. The name, including any assumed or fictitious name or alias, business address, date of birth, social security number, and photograph of the individual designated by the applicant to be responsible for keeping current the information required hereunder at all times together with a written statement stating that he has received a copy of Sections II through V of this Ordinance and that he willfully undertakes on behalf of the applicant to comply with the requirements therein pertaining to the disclosure of information.

7. The name and address of any rental agent of the property on which the establishment is located.

8. The nature of the activity or activities to be engaged in at such location.

9. A criminal record report for the applicants, owners, officers, directors, partners, employees or other persons whose names are required pursuant to this Section together with a list of all criminal convictions of such persons within the last five (5) years for the offenses listed in Section IV E.2. of this Ordinance. Any such person who is on parole shall submit with the application the terms of such parole.

10. The name and mailing address of the owner to whom notice will be given in case of violations or other matters affecting the license hereunder.

C. Supplemental information.

The information required by subsection (B) of this Section shall be at all times current even after the granting of the adult entertainment license. It shall be the responsibility of the owner or other person designated in the license application to notify

the Hopkins County Sheriff in writing, no later than forty-eight (48) hours after the effective date of any change, alteration or modification in any information contained in the application.

D. Review process.

The Hopkins County Sheriff or his designee shall inspect the premises within fifteen (15) days after the application has been submitted. The Hopkins County Sheriff shall issue a license if all restrictions, requirements, conditions and all applicable requirements of this Ordinance and other applicable laws have been met. The Hopkins County Sheriff shall grant or deny a license application within twenty (20) days of the filing of such application.

E. Prohibitions.

No adult entertainment establishment license shall be issued if the applicant or any operator, officer, director, partner, or shareholder:

1. Is less than eighteen (18) years of age;
2. Has been convicted of any of the following offenses within the last five (5) years:
 - a. Gambling, conspiracy to promote gambling, or possession of gambling records or gambling devices;
 - b. Prostitution, promoting prostitution, permitting prostitution, solicitation for the purpose of prostitution or loitering for the purpose of prostitution;
 - c. The sale, transfer, possession or use of any controlled substance;
 - d. Sexual offenses including rape, sodomy, sexual abuse, sexual misconduct and indecent exposure;

e. Distribution of obscene material to a minor, use of a minor to produce, promote, or distribute obscene material, advertising obscene material, promoting the sale of obscenity;

f. Unlawful transaction with a minor (as defined in KRS Chapter 530 or other similar laws) use of a minor in a sexual performance, promoting a sexual performance by a minor, or possession of or advertising matter portraying a sexual performance by a minor;

g. Murder, manslaughter, or the felony assault (as defined in KRS Chapters 507 or 508 or similar laws).

3. Has failed in the operation of an adult entertainment establishment to comply with any health, zoning, fire, or building code enacted or adopted by any applicable governmental agency and has failed to correct such violation as provided in Section IV F. of this Ordinance.

F. Notice.

If the Hopkins County Sheriff's inspection reveals a failure to comply with any provisions of this Ordinance, the Hopkins County Sheriff shall notify the applicant in writing of that fact, stating what failures have been discovered, allowing a reasonable time to correct such defects and informing the applicant of the appeal procedure if the applicant does not agree with the Hopkins County Sheriff's decision or finding.

G. No transfer of license.

The adult entertainment establishment license issued under this Section does not authorize the operation of an adult entertainment establishment at any place other than the

address designated in the application and such license is not transferable. A transfer is deemed to occur when the business is sold, leased or subleased; when the securities which constitute a controlling interest in the business are sold or otherwise exchanged, or a trust, gift, or other similar legal device is established which transfers the ownership or control of the business, except for a transfer by bequest or other operation of law upon the death of the natural person possessing the ownership or control of the business.

H. Access to licensed premises.

The application for or the granting of an adult entertainment establishment license is deemed to permit periodic inspections by law enforcement officers, or other persons designated or authorized by the Hopkins County Sheriff, of all areas of any establishment requiring a license under Section III of this Ordinance for the purpose of verifying compliance with the terms and conditions of Sections III through V of this Ordinance. It shall be unlawful for an applicant, licensee, owner or operator of an adult entertainment establishment to refuse to permit a law enforcement officer or authorized person to inspect the premises at any time during normal business hours of the establishment.

I. Application and license fee.

Concurrent with the submission of a license application, the applicant shall pay to the Hopkins County Treasurer a non-refundable fee of two hundred dollars (\$200.00). Every adult entertainment establishment shall pay to the Hopkins County Treasurer an annual license fee of one hundred dollars (\$100.00), which fee is due and payable upon the issuance of a license and on or before January 1 of each year thereafter.

J. Expiration.

Each license shall expire on December 31 of each calendar year, unless earlier suspended or revoked. A license shall be renewed as a matter of course upon payment of the annual license fee provided that it is paid on or before January 1 of each year thereafter.

K. Suspension.

The Hopkins County Sheriff may suspend an adult entertainment establishment license for a period not to exceed thirty (30) days if the Hopkins County Sheriff determines that the applicant, owner, operator or an employee thereof has violated any provisions of Sections II through V of this Ordinance, has been on the adult entertainment establishment premises while intoxicated or in a disorderly condition (consistent with the definition of disorderly conduct contained in KRS Chapter 525), has refused to allow an inspection of the premises, or has knowingly permitted any violation of state law to occur on the premises.

L. Revocation.

The Hopkins County Sheriff shall revoke an adult entertainment license if the Hopkins County Sheriff determines that:

1. Cause for suspension under subsection K. above occurs and the license has been suspended within the preceding twelve (12) months;
2. An applicant knowingly gave false or misleading information in the initial license or any subsequent license application;

3. An applicant, owner, operator or employee has knowingly allowed possession, use or sale of controlled substances on the premises;

4. An applicant, owner, operator or employee has knowingly allowed prostitution or solicitation for prostitution on the premises;

5. An applicant, owner, operator or employee has knowingly operated an adult entertainment establishment during a period of time when the establishment's license was suspended; or

6. An applicant, owner, operator or employee has knowingly allowed a violation specified in subsection E. above to occur on the premises.

M. Hearing for denial, suspension or revocation; appeal.

If the Hopkins County Sheriff determines that grounds exist to deny, suspend, or revoke an adult entertainment license, he shall notify the applicant or licensee in writing of his intent to deny, suspend or revoke, including the grounds therefore. The notice shall be sent to the applicant or licensee by certified mail to the owner at the address specified in the application. Within five (5) business days of receipt of such notice, the applicant or licensee may provide to the Hopkins County Sheriff, in writing, a response which shall include a statement of reasons why the license should not be denied, suspended or revoked and may include a request for a hearing. If a response is not timely received by the Hopkins County Sheriff, the notice shall be a final administrative act of denial, suspension or revocation. If a timely response is received by the Hopkins County Sheriff he shall within three (3) business days of his receipt of the response either withdraw the written notice of intent to deny, suspend or revoke by giving notice of such withdrawal to

the applicant or licensee or schedule a hearing before the Hopkins County Judge/Executive or his designee and shall give notice of such hearing to the applicant or licensee. The hearing shall be informal in nature and shall be conducted within seven (7) business days of the Hopkins County Sheriff's receipt of the applicant's or licensee's response. The Hopkins County Judge/Executive or his designee shall render a written decision within three (3) business days after the completion of the hearing and shall serve the applicant or licensee with a copy of his decision by certified mail. The applicant or licensee may appeal a decision of the Hopkins County Judge/Executive or his designee to the Hopkins Circuit Court after receipt of the written notice of the decision. If an applicant or licensee pursues a judicial appeal of a final decision of the Hopkins County Judge/Executive or his designee, then that licensee or applicant may continue to operate or work pending the completion of judicial review.

N. Posting of license.

All adult entertainment establishments licenses shall be posted in a conspicuous place at or near the entrance to the establishment so that it may be easily read at any time.

O. Penalty.

Any person who shall violate any of the provisions of Section IV of this Ordinance, shall, upon conviction thereof, be fined not more than five hundred dollars (\$500.00) or imprisoned for a period of not more than twelve (12) months, or both so fined and imprisoned.

SECTION V. EMPLOYEE LICENSE

A. General requirements.

Any person who is or intends to be employed or working in any capacity, whether as an employee, working proprietor or independent contractor, in an adult entertainment establishment as an adult entertainer, as defined by Section II A.6. of this Ordinance, shall obtain an adult entertainer license. The person seeking an adult entertainer license shall apply for a license with the Hopkins County Sheriff's Office. Such application shall be in writing, shall be in the form prescribed by the Hopkins County Sheriff, and shall contain the following information:

1. The name, including any other name or alias used by the applicant (e.g. "stage name"); present residence and business address; present residence and business telephone number; date and place of birth; social security number; date, issuing state and number of driver's license; height, weight, hair and eye color; a description of any distinguishing marks or tattoos; and a recent photograph of the applicant.

2. The name and address of the adult entertainment establishment where the applicant intends to work together with a written statement that he has received a copy of Sections II through V of this Ordinance and that he willfully undertakes to comply therewith.

3. A statement detailing the applicant's work history for the five (5) year period immediately preceding the date of the filing of the application, including whether the applicant previously operated or was employed in an adult entertainment establishment and whether the applicant has ever had an adult entertainer or other similar license denied, revoked or suspended. In the event of any such denial, revocation or suspension, the applicant shall list the name of the issuing or denying jurisdiction, and state in full the reason for the denial, revocation or suspension.

4. A criminal record report for the applicant together with a statement whether within the last five (5) years the applicant has been convicted of any criminal activity described in Section IV E.2. and, if so, the specific criminal activity involved and the date, place and jurisdiction where such conviction occurred.

B. Issuance process.

The Hopkins County Sheriff shall issue an adult entertainer license to an applicant if all provisions of this Ordinance and other applicable laws have been met. The Hopkins County Sheriff shall conduct an investigation to determine whether the applicant has met all requirements for issuance of a license. The Hopkins County Sheriff shall grant or deny a license application within ten (10) days of the filing of such application. The review, denial, suspension, revocation, and appeal procedure for the issuance of an adult entertainment establishment license in Section IV shall be the process for review, denial, suspension, revocation, and appeal for an adult entertainer license.

C. License prohibitions.

No adult entertainer license shall be issued if the applicant is less than eighteen (18) years of age or has been convicted of any of the offenses listed in Section IV E.2. within the last five (5) years preceding the date of his/her application.

D. Application and license fees.

Concurrent with the submission of his/her license application, the applicant shall pay to the Hopkins County Treasurer a non-refundable fee of twenty-five dollars (\$25.00). An annual license fee of seventy-five dollars (\$75.00) shall be paid to the Hopkins County Treasurer prior to the issuance of the license. Each adult entertainer license shall expire

on December 31 of each calendar year, unless earlier suspended or revoked. A license shall be renewed as a matter of course upon payment of the annual license fee provided that it is paid on or before January 1 of each year thereafter.

E. License to be in possession.

Every employee shall maintain his/her license in or near his/her possession while engaged in work for which the license is required.

F. Penalty.

Any person who violates any of the provisions of Section V of this Ordinance shall, upon conviction thereof, be fined not more than five hundred dollars (\$500.00) or imprisoned for a period of not more than twelve (12) months, or both so fined and imprisoned.

SECTION VI. TERRITORY EMBRACED

All territory within the legal boundaries of the County shall be embraced by the provisions of this Ordinance except for that territory that is regulated by the City of Madisonville, Kentucky.

SECTION VII. SEVERABILITY

If any section, subsection, or clause of this Ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected.

SECTION VIII. EFFECTIVE DATE

This Ordinance shall be read on two separate days and will become effective upon publication pursuant to KRS Chapter 424.

The foregoing Ordinance was read to and presented to a meeting of the Hopkins Fiscal Court of the County of Hopkins, Kentucky, for the first reading on the 4th day of May, 2000, and a second meeting on the 17th day of May, 2000. Motion was made by Magistrate P. Hawkins, seconded by Magistrate Welch, that the Ordinance be adopted as the law of the County of Hopkins, Kentucky, to be effective immediately upon publication thereof as required by law.

Upon vote being taken thereof, the votes were cast as follows:

<u>MAGISTRATES</u>	<u>YEA</u>	<u>NAY</u>
Karol Welch	<u>X</u>	<u> </u>
Coletta Wheeler	<u>X</u>	<u> </u>
Steve Stanley	<u>X</u>	<u> </u>
Whitey Hawkins	<u>X</u>	<u> </u>
Paul Hamilton	<u>X</u>	<u> </u>
Dick Purdy	<u>X</u>	<u> </u>
Patricia Hawkins	<u>X</u>	<u> </u>

It appearing that a majority of the Magistrates voted for the Motion, the Judge/Executive announced that the Motion was carried and that the above Ordinance would be published as required by law and would be effective as a New Ordinance of the County of Hopkins, Kentucky, immediately upon publication thereof.

Dated this 17th day of May, 2000.

Richard L. Frymire
 Richard L. Frymire, Judge/Executive
 County of Hopkins, Kentucky

Attest: Devra Steckler
 Devra Steckler, Clerk
 County of Hopkins, Kentucky