

**SCOTT FISCAL COURT
ORDINANCE NO. 00-01**

**AN ORDINANCE RELATED TO THE AMENDMENT
OF THE ZONING ORDINANCE AND SUBDIVISION & DEVELOPMENT
REGULATIONS TO INCLUDE STANDARDS FOR ADULT ORIENTED USES**

WHEREAS: The existing Zoning Ordinance and Subdivision & Development Regulations do not have a provision for Adult Oriented Uses and Entertainment. This proposed amendment to the Zoning Ordinance and Subdivision & Development Regulations has been submitted and reviewed to the citizens through properly advertised public hearings before the Georgetown-Scott County Planning and Zoning Commission, who at the close of those hearings unanimously recommended the adoption of this amendment and the related Adult Oriented Uses Study;

WHEREAS: KRS 82.088 (1) authorizes the County to "regulate the location of adult establishments by dispersing them throughout the county or by concentrating them in one (1) area. This regulation is intended to "prevent crime, protect the county's retail trade, maintain property values, and generally to protect and preserve the quality of its neighborhoods, commercial districts and the quality of urban life.";

**NOW, THEREFORE, BE IT ORDAINED BY THE SCOTT COUNTY
FISCAL COURT, GEORGETOWN, KENTUCKY,** as follows:

SECTION ONE: NEW PROVISIONS.

A. The following new definitions are created. These definitions shall be codified in the County's ZONING ORDINANCE, ARTICLE II, DEFINITIONS:

1. Adult Oriented Uses. Uses which intend to provide sexual stimulation or gratification, including, but not limited to, all of the following:

a. Adult Bookstore/Video Store. An establishment whose primary business includes the sale or rent of materials (including books, periodicals, magazines, films, videotapes, CD-ROMs, DVDs, audio tapes, or other printed or pictorial material) whether for on-premise or off-premise viewing, that are intended to provide sexual stimulation or gratification, and characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas (see definition below); and who devotes more than 15 percent of their total floor area to the items listed above.

b. Adult Theater. An establishment, whether open or enclosed, used for presenting material, for viewing, that is distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas. This definition includes adult arcade, adult mini-motion picture theater, adult booth(s), adult drive-in theaters.

c. Adult Booth. A small enclosed or partitioned area inside an adult oriented establishment which is: (1) designed or used for the viewing of adult material by one (1) or more persons and, (2) is accessible to any person, regardless of whether a fee is charged for access. The term "Adult Booth" includes, but is not limited to, a "peep show" booth, or other booth used to view adult material (including, but not limited to, videotapes, audiotapes, films, CD-ROMs, DVDs).

d. Adult Dancing. Any dancing which exposes to view by patrons or spectators on the premises at any time the specified anatomical areas and/or specified sexual activities, defined in this Ordinance.

e. Adult Dancing Establishments. An establishment, including but not limited to any restaurant (eating and drinking establishment), lounge, dance hall, night club or other such place whose business includes the offering to customers of live entertainment wherein employees, agents, servants, or independent contractors perform dance routines and/or display or expose specified anatomical areas, offered as adult oriented entertainment for viewing by patrons and spectators on the premises and characterized by the emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

f. Adult Cabaret. See "Adult Dancing Establishments"

g. Adult Motel. A motel or similar establishment with the word "adult" or otherwise that advertises the presentation of adult material, offering public accommodations for any form of consideration which provides patrons with closed circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions for the primary purpose of sexual gratification or as related to specified sexual activities.

h. Sexual Encounter Center. An establishment whose primary business is the provision on premises where customers either congregate, associate, or consort with employees, agents, servants, or independent contractors; who engage in specified sexual activities in the presence of such customers, or who display specified anatomical areas in the presence of such customers, with the intent of providing sexual stimulation or sexual gratification appealing to adult sexual interests.

i. Massage Parlor. An establishment providing massages, for hire, by persons other than a licensed health care professional, including those activities that rub, stroke, knead, or tap the body with the hand or an instrument or both for the purpose of or engaging in sexual gratification or as related to specified sexual activities. This definition also includes those activities listed within "Sexual Encounter Center". This does not include any licensed or sanctioned athletic activity that generally employs or use the services of a physical trainer and/or those listed in the definition of Licensed Massage Therapist.

2. Specified Anatomical Areas including less than completely and opaquely covered: i. human genitals or pubic region; ii. the cleavage of the human buttock; iii. any portion of the human female breast below a horizontal line across the top of the areola at its highest point, the entire lower portion of the female breast, not including cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel provided that the areola is not exposed in whole or in part; and iv. human male genitals in a discernible turgid state, even if completely and opaquely covered.

3. Specified Sexual Activities including, but are not necessarily limited to, human genitals in a state of sexual stimulation, arousal or tumescence; acts of human masturbation, sexual intercourse or sodomy; fondling or other erotic touching of human genitals, pubic region or pubic hair, buttock or female breast(s); acts of human anilingus, bestiality, buggery, cunnilingus, coprophagy, coprophilia, fellation, flagellation, masochism, necrophilia, pederasty, pedophilia, sadism, sadomasochism; excretory functions as part of or in connection with any of the activities listed herein.

4. Licensed Massage Therapist (Licensed Health Care Professional) is any person who has graduated from a 500 hour Massage Therapy School, accredited by a State Licensure Board or its equivalent and who possess a valid state license in massage therapy from any state which regulates the same by means of a written examination; or may include a physician, nurse, occupational therapist, physical therapist, podiatrist, or chiropractor.

5. Protected Uses are any use or area identified in this Ordinance that are influenced by or are susceptible to the secondary effects of adult oriented uses including; any residentially zoned area, any area platted or developed for cluster residential development, any area containing three (3) or more residential and rural residential lots as shown on an approved and recorded plat, public or private school, college or university, church or other place of worship, library, type I day care facility, public park or playground.

B. A new section of the ZONING ORDINANCE, ARTICLE II, SECTION 2.55, ADULT ORIENTED USES, is created as follows: with the following performance standards,

1. Purpose This Ordinance: The purpose of this section is to establish appropriate requirements under which adult oriented uses may locate within the City of Georgetown and Scott County. It has been demonstrated statistically through verifiable studies in numerous communities that adult oriented uses have harmful secondary effects on the communities in which they locate, particularly when near residential or other areas in which residential, educational, religious and/or recreational uses are permitted.

2. Findings Upon Which This Ordinance Is Based: The harmful secondary effects which adult oriented uses have on communities in which they locate include inappropriate

exposure of children and teenagers to graphic sexual images, increased incidence in crime, diminished property values, discouragement of other types of commercial activities, discouragement of residential, educational, religious and recreational uses, hereafter referred to as protected uses. The cumulative effect of the location of adult oriented uses, especially in concentration, is a change in the perceived community character and the diminishment of the quality of life or business for the other uses in the neighborhood in which the adult oriented uses are located. Regulation of adult oriented uses is necessary to reduce the secondary harmful effects of these uses, including, but not limited to, the decline of community health and safety and the blighting of surrounding neighborhoods and uses. Regulation of adult oriented uses is also necessary for the integrity of residential areas, schools, churches or other places of worship, libraries, child care centers, parks and playgrounds, all of which are areas in which minors congregate, a segment of the community particularly at risk when in proximity to adult oriented uses.

3. Exclusions From Operation of This Ordinance: Excluded from this Ordinance are activities which are not for the purpose of sexual stimulation or gratification, including but not limited to the following: Licensed Massage Therapist, as defined in this Ordinance; other persons engaged in massage, e.g. sports massage administered by a team trainer; and artistic studios, photographic or otherwise, utilizing the nude body as a model.

4. Permitted Districts: Adult oriented uses are permitted in B-2, Highway Commercial, and I-1, Light Industry, subject to the general provisions of the Zoning Ordinance and Subdivision & Development Regulations.

5. Locational Standards: a. Distance from residential use: No lot occupied, or to be occupied, by an adult oriented use shall be located closer than a one thousand (1,000) feet radius of any residential zoning district.

b. Distance from educational, religious and child related use: No lot occupied, or to be occupied, by an adult oriented use shall be located closer than a one thousand (1,000) feet radius of any school, public or private, college, university, church or other place of worship, library, type I day care facility, or any public park or playground.

c. Distance from agricultural residential use: No lot occupied, or to be occupied, by an adult oriented use shall be located closer than a one thousand (1,000) feet radius of any agricultural zoning district developed or designated for residential purposes, including cluster residential subdivisions or three (3) or more residential tracts as shown on an approved and recorded subdivision plat.

d. Distance from other adult oriented use: No lot occupied, or to be occupied, by an adult oriented use shall be located closer than a two thousand (2,000) feet radius of any other adult oriented use as defined above.

e. Method of measurement of distances: The distances required by this section shall be measured from the closest property line occupied, or to be occupied, by an adult

oriented use to the closest property line occupied by a protected use, zone district in which an adult oriented use is not permitted, or another adult oriented use.

f. Landscape requirements: All newly constructed or renovated structures that are used for, or proposed for use as, adult oriented uses shall meet the landscaping requirements set out in the Georgetown/Scott County Landscape and Land Use Buffers Ordinance, including the property perimeter requirements otherwise required in Article 6.12, Section A.2.

g. Effect of establishment of protected use: The establishment of any protected use, zone district in which an adult oriented use is not permitted, or another adult oriented use, subsequent to the lawful commencement of an adult oriented use shall not render the adult oriented use non-conforming.

h. Amortization of existing adult oriented uses: An existing adult oriented use established prior to the passage of this ordinance shall be deemed a non-conforming use for a period of two years or for the remaining term of the adult oriented use's lease which is in force at the time of the effective date of this Ordinance, whichever occurs first. For the purpose of this provision, the term of the adult oriented use's lease shall not include extensions. At the expiration of the period established in this subsection, the existing adult oriented use established prior to the passage of this ordinance shall comply with the requirements of this Ordinance.

i. Extension of time for the amortization of existing adult oriented uses: Applications for an extension of the time for compliance established by Section One, B., h., above, may be granted for good cause shown and must be received by the Office of the Building Inspector, with copy to the Planning Commission Office, not less than 90 days prior to the termination date. The application shall be heard by the Board of Adjustments.

j. Miscellaneous adult dancing performance standards: Any adult oriented establishment that features, in whole or in part, adult dancing shall comply with the following requirements:

i. No person shall display or expose specified anatomical areas.

ii. No person, except an employee, agent, servant or independent contractor in any adult dancing establishment, or similar type use described herein, shall simulate any form of specified sexual activity ~~or the exposure of specified anatomical areas~~, except while positioned in or occupying an entertainment area defined as:

"a platform or other similar structure raised not less than eighteen (18) inches above the immediately surrounding main floor area, encompassing an area of at least one hundred (100) square feet and positioned not less than six (6) feet from any patron or spectator."

iii No person maintaining, managing, owning or operating an adult dancing establishment, or similar type use described herein, shall suffer, allow, or permit the construction, maintenance, or use of areas partitioned or screened from public view that are to be occupied, alone or together by any person or persons on the premises of such establishments for performances, private or otherwise, involving the display of or exhibition of specified anatomical areas or specified sexual activities or permit any employee, agent, servant or independent contractor to violate any provision of this ordinance.

iv. No person on the premises of an adult dancing establishment, or similar type use described herein, shall be permitted to use or be present in areas partitioned or screened from public view that are designed to be occupied, together or alone, by any person or persons on the premises of such establishment for the display of or exhibition of specified anatomical areas or specified sexual activities.

k. Locational restriction on display or exposure of specified anatomical areas or simulation of specified sexual activities: i. No zone classification permits the display or exposure of specified anatomical areas or simulation of specified sexual activities in any establishment approved for the sale or consumption of alcohol.

ii. No person shall display or expose specified anatomical areas or simulate specified sexual activities, except while on the premises of an approved adult oriented use.

l. Operating hours: No adult oriented use shall be open for business between the hours of 1:00 a.m. and 6:00 p.m.

m. Prohibition of physical contact: While on the premises of an adult oriented use, no employee, agent, servant or independent contractor shall be permitted to have any physical contact with any other adult entertainment employee, other employee, patron or spectator while the employee, agent, servant or independent contractor is entertaining, dancing or otherwise involved in the display of or exhibition of specified anatomical areas or specified sexual activities.

n. No act is authorized if not otherwise permitted by law: Nothing in this ordinance pertaining to adult dancing establishments, or similar type use, shall be construed to permit or authorize any act or activities that are prohibited by state law. These sections are meant to be in addition to any acts or activities that are so prohibited.

SECTION TWO: AMENDED PROVISIONS. The following sections of the ZONING ORDINANCE, ARTICLE II, is amended to include Adult Oriented Uses as permitted uses in the B-2 Highway Commercial and I-1 Light Industry districts.

A. Section 4.42 B-2 HIGHWAY COMMERCIAL. Parking space must be provided as set forth in Section 2.7. Use Regulations: A building or premises shall be used only for the following purposes:

4.421 PERMITTED USES

- A. Motels
- B. Restaurants and cafes.
- C. Retail stores, especially those which require large storage or display space.
- D. Motor vehicle service stations and other auto-related establishments.
- E. Planned development project for commercial use only. The procedure under Section 2.32 shall be followed.

F. Adult Oriented Uses.; and

B. Section 4.5 LIGHT INDUSTRIAL DISTRICT (I-1). The following regulations shall apply in all industrial districts.

4.51 PERMITTED USES

- A. Non-retail commercial
- B. Light Industry: The Board of Adjustment shall distinguish between light and heavy industry according to the definition in Section 2.1 upon application by the Enforcement Officer when the classification is in doubt.

C. Research laboratories.

D. Planned development project for industrial use only. The procedure under Section 2.32 shall be followed.

E. Manufactured building systems used as office buildings.

(Amendment date 1/26/88)

F. Adult Oriented Uses.


SECTION THREE: SEVERABILITY: Each section or, wherever divisible, sub-section of this Ordinance is separable. The invalidity of a section or sub-section shall not be construed to affect the validity of the remaining sections or sub-sections.

SECTION FOUR: EFFECTIVE DATE: This Ordinance shall take effect upon passage and publication.

The foregoing Ordinance was introduced and read for the first time at the Court's regular meeting December 9, 1999, and for the second time, adopted and approved, at the Court's regular meeting January 27, 2000.

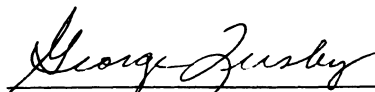
APPROVED BY:

ATTESTED BY:



MARTHA NECLERIO, FISCAL COURT CLERK

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GEORGE LUSBY, JUDGE EXECUTIVE

DRAFT 01/04/00