ORDINANCE NO. 1030.1

AN ORDINANCE RELATING TO THE LICENSING AND REGULATION OF ADULT ENTERTAINMENT ESTABLISHMENTS AND THEIR EMPLOYEES.

(A) Findings. The Fiscal Court finds: that certain adult entertainment activities which might be located near areas zoned for residential use, near schools and public parks, and near shopping centers and similar open spaces that cater to use by family groups and children adversely affect the viability of such nearby properties for such purposes; and

That Nelson County, the local government within the County and the United States Government have spent millions of dollars on community development and neighborhood enhancement projects over the past several years to eliminate blight and to prevent the further deterioration of the County's neighborhoods; and

That adult entertainment activities, because of the conditions of their operations, have contributed to an increased incidence of crime and juvenile delinquency particularly when adult entertainment activities are located in close proximity to one another; and

That adult entertainment activities, through outside displays, tend to attract an undesirable clientele that discourages neighboring residents from undertaking civic improvements and causes residents and businesses to move elsewhere and frustrates attempts to attract new residents and businesses to come into the area, all of which factors contribute to a diminution of property values and to a general deterioration of the County's neighborhoods; and

That the noise generated by patrons coming and going from adult entertainment activity establishments causes a substantial disruption to nearby residents and a modest curtailment of the
to obtain the
enforcement from the deterrence and harassment effects of entertainment establishments; (3) to
protect children and the community
caused by nudity and unseemly sexual relations in such public
entertainment establishments; (2) to prevent health risks
about by the concentration and harmful location of adult
note, the publicity influence and the increase in crime brought
this ordinance are: (1) to protect neighborhoods from the
(c) Purpose. It is further stated that the purposes of
the economic and aesthetic well-being of the people,
required in the interest of public health, safety and welfare and
adult entertainment establishments as a public necessity and is
crime and juvenile delinquency, the location and regulation of
exposure to sexually explicit acts, and decrease the incidence of
neighborhoods, protect children from the deterrence effects of
neighborhoods, prevent blight and the deterioration of
promote the retention of residences and businesses in the county's
surrounding neighborhoods, prevent blight, and the deterioration
declarations as a matter of public policy that in order to preserve
(b) Declaration of Public Purpose. The following shall be
Commonwealth of Kentucky notwithstanding such prohibition.
not (100) am. 1972 as in the enforcement of the laws of the
enforcement of the racketer influence and corrupt organizations
establishments with aid of low enforcement officials to the
the name of the persons who operate such adult activity
that the disclosure of the names of persons who own, as well as
come in the business of such adult entertainment activities and
The net result there is extensive involvement of organized
interest; and
interference with the availability of the entertainment offered
during which entertainment is offered to patrons coming and
persons living in such nearby residences would affect some even to
hours during which entertainment is offered to patrons coming and
identity of persons licensed and to be licensed for renting certain sexually explicit material in order to identify the persons responsible for operating such business and assist in enforcing this ordinance.

It is not the purpose of this Ordinance to establish community standards on obscenity nor to permit persons to engage in any activity which is in violation of law, including but not limited to state laws pertaining to the advertising, promotion, distribution or sale of obscene matter portraying a sexual performance by a minor, or the use of a minor to distribute material portraying sexual performance by a minor.

NOW THEREFORE BE IT ORDAINED BY THE FISCAL COURT OF NELSON COUNTY:

SECTION 1. Definitions.

(A) 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 on film or video tape) available to its customers, which entertainment has as 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. This definition shall not include Video Rental Stores that derive less than TWENTY-FIVE (25%) percent of their Gross Revenue from the rental or sale of sexually explicit films and show no sexually explicit films on the premises. 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 advertising room guests that such adult movies are available upon request of guest, or advertising informing the public of the availability of commercial cable channels.
(B) Commercial Sexual Entertainment Center. Any commercial establishment not otherwise described herein which makes available material or services or entertainment appealing, to adult sexual interests if the establishment, or its entertainment, services or goods are advertised by or on behalf of the establishment in a manner patently designed to appeal to such adult sexual interests, shall mean the Nelson County Adult Entertainement Center.

(C) Self-Designated Adult Entertainment Center. Any establishment which itself designates all or a portion of its premises as for adults only and which 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, 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. This definition shall not include rental or sale of video rental stores that derive less than twenty-five percent of their gross revenue from the rental or sale of sexually explicit films and show no sexually explicit films on the premises.

(D) "Judge/Executive" shall mean any person acting, or permitting to work in an establishment engaged in adult entertainment activities whether that person received 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.

(E) "Employee" shall mean any person hired by or suffered to work in an establishment engaged in adult entertainment activities.

(F) "Establishment" shall mean a business entity, its owners, operators, directors, shareholders, partners, employees, and possessions.
valid license under this Ordinance and shall also include an agent, servant, or employee of, or other person acting on behalf of a licensee whenever a licensee is prohibited from doing a certain act under this Ordinance.

(H) "Person" shall mean any individual, partnership, corporation or business entity.

(I) "Operator" shall mean any individual, partnership, corporation or business entity who establishes and/or maintains a business as its owner or manager and may also mean a "licensee" as defined hereunder.

(J) "Owner" shall mean any individual, partnership, corporation or business entity who has legal title to real estate, with or without accompanying actual possession thereof, and 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.

(K) "Principal Use" shall mean 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 dedicates a section or area of the business premises for a business purpose or activity which would otherwise require licensing under this Ordinance if such purpose of activity were the sole business or activity of the establishment may be considered evidence of a "principal use."

(L) "Sexual Activities" shall mean partial or complete male and/or female nudity in conjunction with:

(1) Depiction of human genitals in a state of sexual stimulation, or;

(2) Acts of human masturbation, sexual intercourse or sodomy, or;
The clause between the hours of 12:00 a.m. and 8:00 a.m. of any entertainment activity shall not permit any person to conduct, show, stage or perform any entertainment, whether live or on film or video, on or after the premises. An establishment license is required to engage in adult entertainment activity.

Section 2.* Restrictions, requirements and conditions.

Public region, buttocks or breasts.

Holding or other erotic touching of human genitals.
(F) The public entrance to an establishment engaging in adult entertainment activities shall not be located within one thousand (1000) feet (i) of any building containing a public or private elementary, middle or secondary school, institution of higher education or business college, or church (ii) or any park, shopping center or park-line area of open space under the control of a governmental agency. Such distance shall be measured along a straight line from the nearest property line of the real estate on which said building or public park-line area is located to the entrance to such establishment engaging in an adult entertainment activity.

(G) The public entrance to an establishment engaging in adult entertainment activities may not be located within one thousand (1000) feet of an area zone R-1, R-2, R-3, R-4, or from an area used for residential purposes. Such 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.

(H) The public entrance to an establishment engaging in adult entertainment activities shall not be located within one (1000) feet of the public entrance of another adult entertainment activity establishment.

(I) 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 3. Licensing.

(A) The owner or operator of an establishment intending to engage or engaging in an adult entertainment activity shall make application for a license with the Judge/Executive or his designee in accordance with this Section. Such application shall be in writing, under oath, and shall be in the form prescribed by
8 that an adult entertainment
real propertyOCKNOWLEDGMENT from the owner or record of the
establishment. It is located to be located, the application shall
be located on the record of the real property on
which the licensed
In the event the applicant or licensee is not the owner
of the

process.

any other individual's natural person shall comply.

licensee owns a greater proportion of the shares in the licensee
than one person or more partnerships or other corporations that own shares in the
licensee. If the licensee is a partnership, then the natural person is

licensee is a corporation, the natural person's

and address of the licensee's designated agent for service of

any process, or any other individual's natural person shall comply.

jurisdiction agreement (a copy of which is to be attached to the
licensee. If the licensee is a partnership, then the natural

person designated as the managing general partner or the

licensee. If the licensee is a corporation, then the natural

licensee is a corporation, the natural person's

number and photograph of a natural person to be determined by

The name, address, date of birth, social security

and business of the applicant.

The name and location of the establishment and the name

The judge/executive or his designee may require:

following information together with such further information as

the judge/executive or his designee and shall contain the
establishment is 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.

(5) The name, 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 the provisions of Subsection C of Section 3 of this ordinance shall be included in the provisions of the paragraph.

(6) The name, 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 hereof and with the rules and regulations promulgated by the Judge/Executive or his designee pursuant to Section 5 hereof together with the sworn affidavit of said individual stating that he has received a copy of this Ordinance, that he understands the restrictions, requirements and conditions hereof, and that he willfully undertakes on behalf of the applicant to comply therewith.

(7) The name, address, date of birth, social security number and photograph of the individual designated by the applicant or licensee to be responsible for keeping the information required hereunder current at all times together with a sworn affidavit of said individual stating that he has received a copy of this Ordinance, that he understands the requirements hereof pertaining to disclosure of information and that he willfully undertakes on behalf of the applicant to comply therewith.

(8) The name and addresses of any rental agent of the property on which the establishment is located.
of the operator or operator of the establishment and any change of address
not intended to be a notice to the Judge/Executive of the person desiguated by the
judgment. The notice shall be the responsibility of the Judge/Executive of
the person desiguated, it shall be the responsibility of the person to whom the
information required by Section 3(a) shall be at
mention for the same, that all applicable the regulations have been
non-conforming rights.
non-conforming use rights and that the proposed use will not
the business in competition with applicable zoning laws or has
administrator of reason, county or the desiguated establishment
other cases a notice of compliance issued by the
A certificate of occupancy for the building and in all
A certificate of occupancy where required and in all
A statement of the dimensions of the building and
A photographic or drawing of any signs displayed on
other matters affecting the Judge/Executive.
applicants want not to be given in case of violation of
the names and address of any person to whom the
or the desiguated the terms of such a person
such person who is on parole shall submit to the Judge/Executive
whose names as required pursuant to Section 3(a) above. Any
of the applicants, owners, directors, partners, or employees
in any other condition other than existing conditions.
The nature of the activity or activities to be engaged-
corporate information required for the application; names and addresses of employees; names and addresses of the owners of the property on which the establishment is located; names and addresses of any rental agents of the property on which the establishment is located; name and address of designated agent for service of process; nature of the activity or activities to be engaged in at the establishment; and the name and address of any person the applicant wants mail notice to be given in case of violation or other matters affecting the license.

(C) The Judge/Executive or his designee will cause the premises to be inspected after such application has been received and all application requirements of Section 3 (A) have been complied with. The Judge/Executive or his designee shall then issue a license forthwith if all restrictions, requirements, conditions and all applicable requirements of this Ordinance and other applicable law have been met; except, that no license will be issued if the applicant or any owner, operator, director, partner, shareholder, or employee has been convicted or any offense set forth in KRS 528.010 (Gambling), KRS 529.010 to 529.080 (Prostitution), KRS 506.030 if such solicitation pertains to a prostitution offense under KRS 529, KRS 510.150 (Sexual offense), KRS 531.010 to 531.040 Distribution of obscene material, within the last five (5) years. Provided, however, the granting of a license does not certify compliance with all applicable laws nor does it stop the county from enforcement of all applicable laws or ordinances. If inspection reveals failure to comply with any restrictions, requirements, or conditions herein, the Judge/Executive or his designee 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 Judge/Executive or his designee's decision. The Judge/Executive or his designee shall
All licenses shall be for the fiscal year, July 1 to

1. (a) No person shall permit himself to be an operator of an

entertainment activity, except as permitted under section 3(c),

entertainment activity being defined under section 1's

subsections 1 and 2. No person shall operate, own or be

employed at an unlicensed entertainment activity, except as

permitted by subsection 3(c),

obtained the license described by subsection 3(c).

performers, and entertainers appearing at the establishment have

been denied a license hereunder, and unless all dances,

entertained in an entertainment activity which has sought and

obtained a license hereunder, an operator or be employed at an establishment,

shall own, operate or conduct an entertainment activity, no operator shall

operate or conduct an establishment not operated by an operator who

shall have been granted a license hereunder.

This Ordinance.

The purpose of this Ordinance is to provide a license under the terms and

conditions of this Ordinance for the purpose of periodically inspecting of the

public areas and any application for granting of a license hereunder.

Applications must be filed with the proper public authorities,

conducted in a public area so as to be open to view of the patrons and

requires, by the terms of this Ordinance, to be a certificate annually to the Fiscal Court that the inspections
June 30, or the remaining portion of such fiscal year. The annual license fee shall be one thousand dollars ($1,000.00). All license fees shall be remitted to the Treasurer of Nelson County. Annual fees may be prorated at the rate of one hundred dollars ($100.00) per month for the remaining full months of the current fiscal year, but not to exceed one thousand dollars ($1,000.00). Application for renewal of a license shall be made on or before March 15 of each year and accompanied by the annual fee of one thousand dollars ($1,000.00). Such application shall also contain any changes in the information required by Section 4(A) above which have occurred since the previous application.

(K) Any person intending to be an employee at an adult entertainment establishment shall make application for a license with the Judge/Executive or his designee in accordance with this Section. Such application shall be in writing, under oath, and shall be in the form prescribed by the Judge/Executive or his designee and shall include: (i) the legal name of the applicant, (ii) any and all names used by the applicant in the course of performance of his/her duties as a dancer, performer or entertainer, (iii) the applicant's residence address, (iv) the applicant's date of birth, (v) the applicant's social security number, (vi) a recent photograph of the applicant; and (vii) the licensee's fingerprints. The applicant shall submit with his/her application an annual license fee of Twenty-five dollars ($25.00). The Judge/Executive or his designee shall grant the applicant the license promptly after receiving a report from the Nelson County Sheriff that the applicant has not been convicted in the past five (5) years of an offense set forth in KRS 529.010 to KRS 529.080 (prostitution) or KRS 510.010 to 510.150 (sexual offenses). The license so granted shall expire on June 30th of each year and shall be reissued by the Judge/Executive of his designee upon application therefore by the employee unless the Judge/Executive or his designee is informed that the applicant
the application at least twenty (20) days in advance of said
application at the address listed for the issuance of applicant in
determined. Said notice shall be served upon the licensee or
notice of the hearing and of the specific matter or charges to be
heard a hearing pursuant to this section 4 shall serve written
the judge/executive or his designee determines to
hearing including any evidence militating the charges.
evindication pertaining to the substance of the matter or charges
judge/executive or his designee shall consider all relevant
hearing under subsection A of this section 4 the
license of the agent's, employees or partners of
activity, whether under this ordinance, state or federal law or
licensure, premises being used for or the site of
such activity, licensees who are engaged in the
currently required under section 2 heretofore of
maintain a license, or has willfully failed to keep the
SEC 5 of this ordinance, or
may be enforced by the judge/executive or his designee pursuant to
requirements and conditions heretofore or with such regulations or
he has failed to comply with the regulations,
the hearing that a license, application, or operator;
designee issues on the basis of substantial evidence presented at
determined under this ordinance at the judge/executive of the
renew any statement for license or may suspend any such license
(A) the judge/executive or his designee may refuse to

SECTION 4. Suspension, Revocation or Reinstatement to Renew a License:

reinstated by this section 4(k).

entertainment establishment without having obtained the license
date of the ordinance, no person shall be an employee at an adult
set forth therein. Within thirty (30) days after the effective
date of the above.

has been convicted in the past five (5) years of any of the above
hearing. Service of notice shall be deemed complete upon certified mailing, return receipt requested, or personal delivery. At the hearing the Judge/Executive or his designee shall afford the licensee or applicant an opportunity to be represented by an attorney, to present evidence, to cross-examine adverse witnesses and otherwise to rebut the evidence presented against the licensee. Within twenty (20) days after the hearing the Judge/Executive or his designee shall publish his findings and shall determine the sanction, if any, to be imposed on the licensee or upon the owner of the licensed premises, which may include suspension of a licensee's license for a period not to exceed five (5) years. If the licensee's license is suspended all persons listed on the application, whether as a partner, director, officer, owner, part owner or operator, managing partner may also be suspended from participating in adult entertainment activities for a period not to exceed five (5) years if the Judge/Executive or his designee finds that such persons knew or reasonable should have known of the violation for which the license is suspended and failed to take steps promptly to cure the violation.

(F) The findings and rulings of any hearing before the Judge/Executive or his designee shall be a final determination of the issues raised and may be appealed to a Court of competent jurisdiction, but shall be enforced during the pendency of any such appeal unless otherwise ordered by the Court.

SECTION 5. Administration of Ordinance

The Judge/Executive or his designee is empowered to enact from time to time whatever rules and regulations are deemed necessary for the orderly and complete administration of this Ordinance at such times, in the discretion of the Judge/Executive or his designee, as the need arises for such rules and regulations. All regulations shall be submitted to the fiscal court and shall become effective within thirty (30) days of
adopted at a duly authorized and constituted meeting of the
February 22, 1993, and given second reading and
meeting of the Vernon Fiscal Court on the
and given third reading at a duly authorized and constituted
Day of

This ordinance shall take effect upon its passage and

and in such case each citation shall constitute a separate
offense. and in such case each citation shall constitute a separate
enactment for said failure to meet a requirement hereof may be cited
herein. For a failure to meet a requirement hereof, any person cited
both, fine and imprisonment, for each offense. Any person cited
dolllars ($500.00) or imprisonment not to exceed one (1) year, or
hundred fifty dollars ($500.00) nor more than five hundred
citation shall be punished by a fine of not less than two
maintenance a license, shall be guilty of a misdemeanor and
upon who knowingly provides false information in an attempt to gain an
Any person who violates any provision of this ordinance or

1. Penalties.

and, the provisions of this ordinance are declared to be
effective without the invalid provisions of application, and to the
provisions of application of the ordinance which can be given
thereof as held invalid, such invalidity shall not affect other
provisions of this ordinance or the application


shall be published one time in the newspaper as soon as practical
pending shall be mailed copies of all such regulations and they
shall be submitted to the fiscal court prior to that
submission unless disapproved by the fiscal court prior to that
Nelson Fiscal Court this 16th day of February 1993.

Votes for 6; Votes against __; abstentions __.

Approved this 16th day of February 1993.

[Signature]
MIKE ABELL
NELSON COUNTY JUDGE-EXECUTIVE

Attest:

[Signature]
CLERK, NELSON FISCAL COURT

APPROVED AS TO FORM AND LEGALITY:

CHALLEN P. MCCOY
NELSON COUNTY ATTORNEY

CPM/rb