

AN ORDINANCE BY THE BOARD OF SUPERVISORS OF PIKE COUNTY, MISSISSIPPI, PROHIBITING THE SALE, DISTRIBUTION OR CONSUMPTION OF ANY ALCOHOLIC BEVERAGES, BEER OR LIGHT WINE IN ANY COMMERCIAL ESTABLISHMENT FEATURING CERTAIN SEXUALLY ORIENTED ADULT ENTERTAINMENT, AND PROHIBITING CERTAIN SEXUALLY ORIENTED ADULT ENTERTAINMENT ACTIVITIES IN ANY COMMERCIAL ESTABLISHMENT WHERE ALCOHOLIC BEVERAGES, BEER OR LIGHT WINE MAY BE SOLD, DISTRIBUTED OR CONSUMED.

WHEREAS, the Board of Supervisors of Pike County, Mississippi, finds that the County has vital governmental interest in preventing crime, maintaining property values, preserving the quality of the county's neighborhoods, protecting minors, and promoting the public health, morals and safety; and

WHEREAS, the Board of Supervisors of Pike County, Mississippi, further finds, based upon reliable information, that commercial establishments may exist within the boundaries of Pike County, Mississippi, outside the corporate boundaries of its municipalities, where dancers, entertainers, performers, or other individuals, who, for commercial gain, dance, perform, model or demonstrate while displaying or exposing "specified anatomical areas", or engage in "specified sexual activities", "straddle dancing", or erotic touching with customers; and

WHEREAS, the Board of Supervisors of Pike County, Mississippi, finds, based upon reliable information and after careful consideration, that the sexually oriented activities herein referred to often occur in establishments concurrent with the sale, distribution and/or consumption of alcoholic beverages, which combination tends to further increase criminal activities, disrupt the peace and order to the community, affect the quality of life of the community, reduce property values of the areas surrounding such establishments, encourage and attract prostitution and sexual permissiveness, adversely affect the perception of the community's reputation as a good and wholesome location for the family, and contribute to the moral degradation of the community, and further, finds that the exploitation of such sexually oriented activities induces persons to purchase and consume alcoholic beverages, light wine or beer, and in many cases to consume intolerable amounts thereof; and

WHEREAS, it is the finding and opinion of the Board of Supervisors of Pike County, Mississippi, based upon reliable information, that in order to preserve and safeguard the health, safety, property values, community moral standards, and the general welfare of the people, businesses and industries of Pike County, it is advisable for the County to regulate the sale, distribution and/or consumption of alcoholic beverages, light wine or beer at establishments where sexually oriented activities as herein referred to occur; and

WHEREAS, the Board of Supervisors of Pike County, Mississippi, is advised that the State of Mississippi has absolute power under the

Twenty First Amendment to the United States Constitution to prohibit the sale, distribution and consumption of alcoholic beverages within its borders; and the Mississippi Legislature has delegated to the Mississippi State Tax Commission the authority to promulgate rules and regulations regarding the sale of alcoholic beverages, and the State Tax Commission prohibits the sale of alcoholic beverages where the sexually oriented activities hereinabove referred to occur; and

WHEREAS, the Board of Supervisors of Pike County, Mississippi, is further advised that the County has legislative authority to prohibit the sale, distribution and consumption of light wine and beer in commercial establishments where the sexually oriented activities herein referred to occur for the purpose of promoting public health, morals and safety in Pike County, Mississippi; and

WHEREAS, the State's and County's power to regulate the sale, distribution and consumption of alcoholic beverages, light wine and beer in commercial establishments under the Twenty First Amendment overrides and is unrelated to any communicative or artistic value that may attach to the sexually oriented activities herein described, and it is specifically not the intent of this action to suppress any speech activities protected by the First Amendment of the United States Constitution, but rather to address secondary effects of sexually oriented businesses as well as the health problems associated with such businesses; and

WHEREAS, it is further not the intent of the Board of Supervisors of Pike County, Mississippi, to condone or legitimize the distribution of obscene materials, and the Board recognizes that State and Federal Law prohibits the distribution of obscene materials, and expects and encourages State enforcement officials to enforce State and Federal Obscenity Statutes against any such illegal activities in Pike County, Mississippi; and

WHEREAS, in the course of considering this Ordinance, the Board of supervisors of Pike County, Mississippi, has reviewed and/or been advised of the experiences and studies of other local governments, including the New Hanover County study, findings incorporated in many court cases, and summaries of land use studies in connection with secondary effects of sexually oriented adult businesses from Garden Grove, CA, Tucson, AZ, Seattle, WA, Austin, TX, Oklahoma City, OK, Indianapolis, IN, Houston, TX, Beaumont, TX, Minneapolis, MN, Phoenix, AZ, Whittier, CA, Amarillo, TX and Cleveland, OH, and further including, but not limited to, the findings by the Hattiesburg City Council as recited in its Ordinance No. 2419, the findings by the Gulfport City Council in its Ordinance No. 2041, the findings by the Warren County Board of Supervisors in the matter of its adoption of an Ordinance regarding adult entertainment, findings of the City of Vicksburg in connection with its adoption of Ordinance No. 93-37, findings of the Jackson City Council on the issue of adult entertainment establishments, and

upon the personal general knowledge of the members of the Board of Supervisors concerning the general effects of alcohol, and the expressions of concern and request for action on the issue at multiple meetings of concerned citizens.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF PIKE COUNTY, MISSISSIPPI, as follows, to-wit:

SECTION 1. The provisions of this Ordinance apply to all territory within the legal boundaries of Pike County, Mississippi, but outside the legal corporate boundaries of the cities of McComb, Magnolia, Summit and Osyka.

SECTION 2. The following phrases or words shall have the meanings or definitions as follows:

- A. "Alcoholic Beverage" means any alcoholic liquid regulated under the laws of the State of Mississippi.
- B. "Beer" and "Light Wine" mean light wine and beer of a specified alcoholic content as defined and regulated by the laws of the State of Mississippi.
- C. "Commercial Establishments" means any location or place of business where the sale, distribution or consumption of alcoholic beverages, light wine or beer may occur, including, but not limited to, private clubs.
- D. "Employee" means a person who performs any service on the premises of a commercial establishment as herein defined on a full-time, part-time, contract basis, or independent basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise, and whether or not the said person is paid a salary, wage, or other compensation by the operator of said business. "Employee" does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises, nor does "Employee" include a person exclusively on the premises as a patron or customer.
- E. "Specified Anatomical Areas" means:
 - (1) Any of the following areas of the human body less than completely or opaquely covered: (a) human genitals or pubic region; (b) the entire cleft of the male or female buttocks. (Attire which is insufficient to comply with this requirement includes, but is not limited to, G-strings, T-backs, and thongs); (c) That portion of the human female breast below a point immediately above the

top of the areola, which includes the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided the areola is not so exposed

- (2) Human male genitals in a discernible turgid state, even if completely and opaquely covered.

F. "Specified Sexual Activities" are

- (1) Human genitals in a state of sexual stimulation or arousal; or
- (2) Acts of or simulated anilingus, bestiality, buggery, cunnilingus, coprophagy, coprophilia, fellation, flagellation, masochism, masturbation, necrophilia, pederasty, pedophilia, sadism, sadomasochism, sapphism, sexual intercourse, sodomy, urolagnia or zoerasty; or
- (3) Fondling or other erotic touching of human genitals, pubic region, buttock, anus or female breast, whether covered or uncovered; or
- (4) Excretory functions as part of, or in connection with any of the activities set forth in (1) through (3) of this definition.

G. "Straddle Dance", also known as "lap dance", "table dance" or "face dance", shall mean any of the following acts:

- (1) The use by an employee of any part of his or her body to touch the genital or pubic area of a person while at the commercial establishment, or touching the genital or pubic area of any employee by a person while at the commercial establishment, regardless of whether the touch occurs while the employee is displaying or exposing any specified anatomical area or whether the touch or touching is direct or through a medium;
- (2) The straddling of the legs of an employee over any part of the body of a person, at the commercial establishment, regardless of whether there is a touch or touching.

H. "Consume" and "Consumption" means the ingestion of alcoholic beverages, light wine or beer, or the possession of any alcoholic beverages, light wine or beer

in any type of drinking container or in any bottle, can or other containers upon which the seal, cork, or cap has been opened.

SECTION 3. It shall be unlawful for any person, group, association, or other legal entity recognized by law to sell, give away, dispense, or consume any alcoholic beverage, light wine or beer in any commercial establishment which features live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities" or by "straddle dance", or where any employee, operator or owner of a commercial establishment exposes his/her "specified anatomical areas" for viewing by patrons, customers or other persons.

SECTION 4. It shall be unlawful for any person, group, association or other legal entity recognized by law which owns or operates a commercial establishment at which alcoholic beverages, light wine or beer are offered for sale, distribution, or consumption on the premises:

- (1) To suffer or permit on the premises a person or employee to expose to the public view "specified anatomical areas" or any simulation thereof, or
- (2) To suffer or permit on the premises a person or employee to engage in any "specified sexual activities" or any simulation thereof, or
- (3) To suffer or permit the exposition on the premises of any graphic representation, including pictures or projection of film which depict "specified anatomical areas" or "sexual activities".
- (4) To suffer or permit the performance of a "straddle dance".

SECTION 5. It shall be unlawful for any employee of a commercial establishment at which alcoholic beverages, light wine or beer are offered for sale, distribution or consumption on the premises:

- (1) To expose to public view "specified anatomical areas" or any simulation thereof,
- (2) To engage in any "specified sexual activities" or any simulation thereof,
- (3) To perform a "straddle dance".

SECTION 6. Any violation of any of the provisions of this Ordinance shall be a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars (\$500.00) or imprisonment for a term not exceeding six (6) months or by both

such fine and imprisonment. Each day any such violation occurs shall constitute a separate offense.

SECTION 7. In addition to the penalties hereinabove provided in Section 6, any condition caused or permitted to exist in violation of any provision of this Ordinance shall be subject to appropriate civil action, including, but not limited to, the declaration of a public nuisance, injunctive relief for abatement, damages and sanctions in any court of appropriate jurisdiction.

SECTION 8. It is not the intention of this Ordinance to restrict, enlarge or affect in any way any existing laws or ordinances of the State of Mississippi or the separate enforcement thereof. No otherwise illegal acts or omissions are or shall be excused or made legal by the passage of this Ordinance. It is declared to be the legislative intent that if any Section, sentence, clause, or provision of this Ordinance is declared void, unconstitutional or invalid for any reason, such portion or provision, or the application or the enforceability thereof, shall be severable from this Ordinance. The remaining portion or provisions of this Ordinance, or all applications and the appropriate enforcement thereof, shall not be affected and shall be interpreted, if necessary, so as to give a meaning consistent with the purpose and intent of the enacted Ordinance.

SECTION 9. Because the adoption of this Ordinance is necessary for the immediate and temporary preservation of the public peace, health and safety and because the opening of commercial establishments featuring adult entertainment in conjunction with the sale or consumption of alcoholic beverages, light wine and beer is a threat to public peace, health, safety and established community moral standards, this Ordinance shall take effect and be in force from and after the date of its enactment, that being _____, provided, however, that for any currently operating non-conforming commercial establishment as of the effective date hereof, the effective date of application of the provisions of this Ordinance to such non-conforming establishment shall be extended by thirty (30) calendar days, after which this Ordinance shall be in full force and effect as to such non-conforming commercial establishment. This provision shall not be a defense or an excuse for any act or omission by any person that is or shall be charged with violation of any other existing laws or ordinances. Further, the extension of time to conform provided by this Section shall not apply to any commercial establishment where such beverages are sold, distributed or consumed and where at the time of passage hereof the acts or omissions of a non-conforming nature were not regularly being performed at such establishment.

SECTION 10. The Clerk of this Board is hereby authorized and directed to publish this Ordinance one (1) time in a local newspaper.

The above and foregoing Ordinance, after having been first reduced to writing, and discussed and considered by the Board, was moved for adoption by Supervisor Carroll Fortenberry, seconded by Supervisor Tommy Paulk. Thereupon, the matter was put to a roll call vote with a result as follows:

THEODORE BULLOCK	VOTED - <i>For</i>
LEXIE ELMORE	VOTED - <i>For</i>
AUBREY MATTHEWS	VOTED - <i>For</i>
T. A. PAULK	VOTED - <i>For</i>
CARROLL FORTENBERRY	VOTED - <i>For</i>

WHEREUPON, the President of the Board declared the Motion carried and the Ordinance so adopted on this the 29th day of ~~March~~, 1998.
April

Theodore Bullock
THEODORE BULLOCK, PRESIDENT
BOARD OF SUPERVISORS

ATTEST:

JOEL RODNEY BARR, CHANCERY CLERK
PIKE COUNTY, MISSISSIPPI
CLERK OF THE BOARD

Joel Rodney Barr