

**AN ORDINANCE REGULATING THE LOCATION AND PERMITTING OF
BUSINESSES OFFERING EXOTIC ENTERTAINMENT WITHIN TAYLOR
COUNTY, WEST VIRGINIA**

Be it enacted by the County Commission of Taylor County, West Virginia:

Section 1 Purpose and Legislative Intent

WHEREAS, West Virginia Code Chapter 7, Article 1, Section 3jj authorizes the Taylor County Commission to limit the locations within Taylor County where businesses may provide exotic entertainment; and,

WHEREAS, The County of Taylor finds that it is desirable and in the best interests of the health, safety, and general welfare and character of Taylor County to so limit the locations where exotic entertainment may be provided; and,

WHEREAS, The Taylor County Commission is concerned that business offering exotic entertainment may increase crime and decrease property values in areas of their operation, and county citizens have expressed their concerns about these impacts; and,

WHEREAS, The Taylor County Commission has no desire to suppress or limit any free speech, but to enact a content-neutral ordinance that addresses the secondary effects of businesses offering exotic entertainment by reasonably restricting the location of such businesses.

NOW, THEREFORE, WITNESSETH, that the Taylor County Commission hereby establishes this Ordinance, placing reasonable and uniform regulations on where exotic entertainment may be offered by business within Taylor County, West Virginia.

Section 2 Definitions

- a. "Exotic Entertainment" means live entertainment, dancing or other services conducted by persons while nude or seminude in a commercial setting or for profit.
- b. "Seminude" has the same meaning as provided for in West Virginia Code §7-1-3jj(a)(2).
- c. "Exotic Entertainment Business" means any business which offers exotic entertainment as defined in this Ordinance.

Section 3 Location of Exotic Entertainment Businesses

- a. No Exotic Entertainment Business may operate, or may be permitted or caused to operate, within one-half mile of:
 - i. A church, synagogue or other building used primarily for religious worship;
 - ii. A public or private school, preschool, or vocational school;
 - iii. A park or recreational area which has been designated as such;
 - iv. A residential dwelling, unless it is that of the operator of the Exotic Entertainment Business;
 - v. A restaurant or entertainment business which is oriented primarily toward children or family entertainment;
 - vi. A motel, campground or bed-and-breakfast; or,
 - vii. Another Exotic Entertainment Business
- b. The distance shall be measured as the shortest distance between any portion of a building or buildings wherein an Exotic Entertainment Business is located and the premises listed in subsection (a), without regard to intervening structures or objects.
- c. No Exotic Entertainment Business may otherwise operate within Taylor County, West Virginia without paying to the County Commission an Application and Permitting fee of ten thousand dollars (\$10,000.00), along with a written statement of intent to operate an Exotic Entertainment Business. The purpose of this fee is to fund enforcement of this Ordinance.

Section 4 Enforcement; relief; violation a misdemeanor; penalties.

- 4.1 The Circuit Court shall have jurisdiction to issue an injunction to enforce the purposes of this ordinance upon petition by the Prosecuting Attorney or his designee, or any citizen of the county who can show a good faith and valid reason for making such application. No bond shall be required unless for good cause shown.
- 4.2 Any person who knowingly constructs, establishes, or operates an Exotic Entertainment Business in the county of Taylor, in violation of this Ordinance, is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than one thousand dollars (\$1,000.00) nor more than two thousand five-hundred dollars (\$2,500.00). A person convicted of a second or subsequent offense under this

ordinance is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than five thousand dollars (\$5,000.00) or imprisoned in the regional jail not more than ninety (90) days, or both fined and imprisoned. For purposes of this section, a separate violation of this Ordinance may be charged for each day the Exotic Entertainment Business is in operation.

- 4.3 No employee shall be guilty of a violation of this Ordinance while acting within the scope of their regular employment, unless such employee has a proprietary interest in the video lottery or gaming establishment, or is a shareholder or officer of a corporation, partner in a partnership, general or limited partner in a limited partnership, or member or manager of a limited liability company which has a proprietary interest in such establishment.

Section 5 Grandfathering.

- 5.1 The provisions of this Ordinance shall not be deemed applicable to any video lottery or gaming establishment in operation as of the first reading of this Ordinance, April 2, 2007.
- 5.2 Any establishment, of which construction is not substantially underway on the date of first reading of this Ordinance, April 2, 2007, must comply with the provisions of this Ordinance as to distance and waiver requirements.

Section 6 Severability.

- 6.1 The provisions of this ordinance are severable, and if any provision or part thereof shall be declared invalid or unconstitutional or inapplicable to any person or circumstances, such invalidity, unconstitutionality, or inapplicability shall not affect or impair the remaining provisions of this ordinance.

Section 7 Applicability.

- 7.1 The establishment or operation of any video lottery or gaming establishment shall be permitted only as regulated by this Ordinance.

Section 8 Effective Date.

- 8.1 This Ordinance shall be deemed effective immediately upon its adoption.

BE IT ADOPTED and ENACTED by the COUNTY COMMISSION OF TAYLOR COUNTY, WEST VIRGINIA THIS ____ DAY OF _____, 2007

[Signature Page of an Ordinance Regulating the Location and Permitting of Businesses
Offering Exotic Entertainment in Taylor County, West Virginia]

First Reading April 2, 2007

Public Hearing April 2, 2007

Second Reading and Adoption April 17, 2007

David Gobel

David Gobel, President of the County Commission

Tony Veltri

Tony Veltri, Commissioner

David Efaw

David Efaw, Commissioner

Nancy Virginia Fowler

Nancy Virginia Fowler, Clerk of the County Commission