

ORDINANCE - 2013-70

AN ORDINANCE AMENDING PART B OF THE UNIFIED DEVELOPMENT CODE OF THE CITY OF MT. JULIET, TENNESSEE, KNOWN AS THE ZONING REGULATIONS (ORDINANCE 2001-29), ADOPTED OCTOBER 8, 2001, AS AMENDED, BY MODIFYING VARIOUS SECTIONS RELATED TO ADULT ENTERTAINMENT ACTIVITIES, INCLUDING TATTOO AND BODY PIERCING.

WHEREAS, the adoption of this ordinance will incorporate regulations for Tattoo, Body Piercing, and certain retail establishments into the Adult Entertainment regulations; and

WHEREAS, the Zoning Ordinance amendment is consistent with the Findings required in Section 14-107.4 of the Zoning Ordinance; and

WHEREAS, the Regional Planning Commission recommended approval of these provisions in their meeting on August 15, 2013 and has determined that the Findings of Fact required by the Zoning Ordinance for amendments are met by this action; and

WHEREAS, the Board of Commissioners desires to regulate and restrict the locations of these establishments within the City of Mt. Juliet.

NOW, THEREFORE, BE IT ORDAINED, BY THE BOARD OF COMMISSIONERS OF THE CITY OF MT. JULIET, TENNESSEE, WILSON COUNTY, WHILE IN REGULAR SESSION ON 10/14/2013, 2013 as follows:

SECTION 1: Section 2-102.2 Terms Defined, is hereby amended by modifying the "Adult Oriented" definition and inserting new definitions for "Skin-Penetrating Body Adornment Procedure", "Substantial Portion" and "Tattoo or Body Piercing Establishment" each to read as follows:

Adult Entertainment business [means] a commercial enterprise that offers as a substantial portion of its stock in trade sexually oriented material, devices, or paraphernalia or specified sexual activities or any combination or form thereof, whether printed, filmed, recorded or live and which restricts or purports to restrict admission to **adults** or to any class of **adults**; or a business establishment advertising and offering for sale and/or rental adult clothing, lingerie, toys, or novelty items; or any tattoo and/or body-piercing establishment. "**Adult Entertainment Business**" includes, but is not limited to:

(A) "**Adult book stores**" which means any corporation, partnership or business of any kind which has a substantial portion of its stock in trade; books, videos, movies, magazines or other periodicals and which offers, sells or rents for a fee:

(1) Any sexually oriented material which is available for viewing by patrons on the premises by means of the operation of movie machines, electronic and digital devices, or slide projectors; or

(2) Any sexually oriented material which has a substantial portion of its contents devoted to the pictorial depiction of sadism, masochism or bestiality; or

(3) Any sexually oriented material which has as its principal theme the depiction of sexual activity by, or lascivious exhibition of, the uncovered genitals, pubic region or buttocks of children who are or appear to be under 18 years of age;

(B) "**Adult** motion picture theaters" which means an enclosed building used for presenting films which are distinguished by an emphasis on matter depicting, describing or relating to specified sexual activities for observation by patrons therein; and

(C) "**Adult** shows" or "**adult** peep shows" which includes all **adult** shows, exhibitions, performances or presentations which contain acts or depictions of specified sexual activities.

(D) "Adult Stores" offering a substantial portion of their stock in trade, the sale of 'adult' clothing, lingerie, toys, or novelty items with a sexual theme or nature.

(E) "Tattoo and Body Piercing establishments" offering skin-penetrating adornment procedures as regulated by the State of Tennessee.

Skin-Penetrating Body Adornment Procedure

(1) A process that involves piercing or entering the skin or the mucous membrane of an individual for the purpose of inserting pigmented patterns, jewelry or other forms of body decoration.

(2) "Skin-penetrating body adornment procedure" includes tattooing and body-piercing.

(3) "Skin-penetrating body adornment procedure" does not include piercing of an ear using a properly disinfected ear piercing gun and single use studs or clutches.

Substantial Portion

(1) At least 15% of the stock in the establishment or on display consists of matters or devices depicting, describing or relating to sexual activities; or

(2) At least 15% of the usable floor area is used for the display or storage of matters or devices depicting, describing or relating to sexual activities; or

(3) At least 15% of the establishment's gross retail sales or revenues are derived from the sale, lease or rental of matters or devices depicting, describing or relating to sexual activities.

Tattoo or Body Piercing Establishment means any establishment where a skin-penetrating body adornment procedure is performed.

SECTION 2: Section 2-103.3 "Commercial Activities" is hereby amended at "Adult Entertainment Activities" so that the Section shall read as follows:

Adult Entertainment activities [means] an establishment having as a substantial portion of its stock in trade the provision or sale of products or services defined by this ordinance as "Adult Entertainment." **Adult Entertainment activities** include, but are not limited to, the following:

(a) **Adult book store** [means] an establishment having as a substantial portion of its stock in trade books, videos, movies, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas as defined in this article, or an establishment with a segment or section devoted to the display or sale of such material.

(b) **Adult mini-motion picture theater** [means] an enclosed building with a capacity for less than 50 persons used for presenting material depicting, describing or relating to specified sexual activities or specified anatomical areas as defined in this article, for observation by patrons therein.

(c) **Adult motion picture theater** [means] an enclosed building with a capacity for 50 or more persons used for presenting material depicting, describing or relating to specified sexual activities or specified anatomical areas as defined in this article, for observation by patrons therein.

(d) **Adult store** [means] an establishment offering a substantial portion of their stock in trade, as the sale of 'adult' clothing, toys, and novelty items with a sexual theme or nature.

(e) **Tattoo and Body Piercing** [means] establishments offering skin-penetrating adornment procedures as regulated by the State of Tennessee.

SECTION 3: Section 3-102 "Listing of Activity Types" is hereby amended as shown below:

All activities are hereby classified into the following types:

- A. *Residential activities.*
- B. *Community facility activities.*
- C. *Commercial activities.*

Adult Entertainment businesses

SECTION 4: Section 3-103.3 "Commercial Activities – Class and types" is hereby amended at Section I, Adult Oriented Businesses, so that the entire Section shall read as follows:

3-103.3 *Commercial activities—Class and types.*

1. *Activity type—Adult Entertainment businesses.*

a. *Intent and limitations.* This grouping is intended to include all "adult oriented businesses and activities" as defined by this ordinance. This grouping includes all facilities wherein material is presented, sold, distributed, or exhibited and which is distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas as defined by this ordinance for observation by patrons therein.

b. *Use listing.*

- Adult arcade**
- Adult bookstore**
- Adult mini-motion picture theater**
- Adult motion picture theater**
- Adult store**
- Tattoo and Body Piercing establishment**

SECTION 5: Section 3-104.7 "Provisions Applicable to Commercial Activities" is hereby amended at Section 1 so that the entire section shall read as follows:

1. **Adult entertainment establishments.** All **adult entertainment establishments** shall be located within the **Adult Entertainment Overlay District**. These districts may overlay those base zone districts as indicated in table 7-102A. In addition, all **adult entertainment establishments** shall adhere to the following location criteria within the overlay district:

- a. No establishment shall be located within 1,000 feet (measured property line to property line) of any church, public or private school ground, college campus, public park or recreation facility, public library, child care facilities, or a lot zoned residentially or devoted primarily to residential use; and
- b. No establishment shall be located within 1,000 feet (measured property line to property line) of another **adult entertainment establishment**.

SECTION 6: Table 7-102A "Permitted and Conditional Uses and Structures Allowable Within Industrial Districts" is hereby amended at Number "(3)" in the Key listing, following the Table, by adding a reference to Section 8-401 so that the entire Key shall read as follows:

Key to interpreting use classifications.

P = Use permitted by right within the district.

SUP = Principal use permitted with supplemental provisions.

C = Conditional use (subject to approval by the Board of [Zoning] Appeals).

O = Requires overlay district.

(1) See subsection 7-104.2, for supplemental design provisions.

(2) See subsection 7-104.1, for supplemental design provisions.

(3) See article VIII, Section 8-401

SECTION 7: Section 3-104.7 "Provisions Applicable to Commercial Activities" is hereby amended at Section 1 so that the entire section shall read as follows:

Sec. 8-401. Adult entertainment districts.

8-401.1 *Purpose and intent.* The [A-E.] Adult Entertainment Overlay District is intended to provide adequate locational opportunities for adult entertainment establishments within the City while reasonably confining such uses to locations that minimize disruptions both to the general community and the specific land uses listed below.


8-401.2 *Locational standards.* All adult entertainment establishments shall be located within the [A-E.] Adult Entertainment Overlay District. The Board of Commissioners may approve this district as an overlay to those base zone districts as indicated by the letter "O" in Article VII, Table 7-102A. In addition, all adult entertainment establishments shall adhere to the locational criteria as stated in 3-104.7(1) within the overlay district:

SECTION 8: If any section, clause, provision, or portion of this Ordinance is held to be invalid or unconstitutional by any Court of competent jurisdiction, such holdings shall not affect any other section, clause, provision, or portion of this Ordinance.

SECTION 9: - PUBLIC HEARING - The zoning changes were the subject of a public hearing held on 10/14/2013 at 6:15 p.m.

SECTION 10: This Ordinance shall take effect at the earliest date allowed by law, the public welfare requiring it.

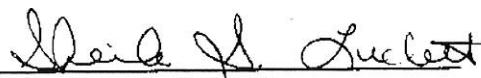
PASSED: 10/14/2013



Ed Hagerty, Mayor

FIRST READING: 9/9/2013
SECOND READING: 10/14/2013

ATTEST:

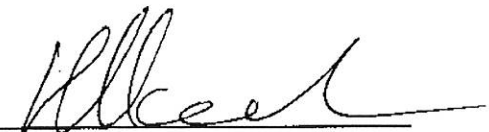


Sheila S. Luckett, CMC
City Recorder

APPROVED AS TO FORM:



Kenny Martin, City Manager


Gino Marchetti
City Attorney