

ORDINANCE 2022-107

AN ORDINANCE TO AMEND ORDINANCE 95-34 AS AMENDED, THE ZONING ORDINANCE OF THE CITY OF RIDGETOP, TO EXPAND ADULT ORIENTED ESTABLISHMENT DEFINITIONS, DEFINE USE SEPARATION DISTANCES PER TENNESSEE CODE ANNOTATED SECTION 7-51-1407, AND DEFINE THE USE PERMITTED IN THE I-I, LIGHT INDUSTRIAL ZONING DISTRICT

WHEREAS, the City's Zoning Ordinance intent and purpose includes but is not limited to dividing the city into zones and districts restricting and regulating therein the use of buildings; and,

WHEREAS, the City's Zoning Ordinance intent and purpose includes but is not limited to protecting the character and maintaining the stability of business, commercial, and manufacturing areas within the city, and to promote the orderly and beneficial development of such areas; and,

WHEREAS, the State of Tennessee General Assembly adopted 2007 Public Act Chapter 541 in 2007 and these Zoning Ordinance amendments include consistent use separation distances based on the finding and intentions defined by the State of Tennessee General Assembly 2007 Public Chapter Act 541; and,

WHEREAS, the Board of Mayor and Aldermen of the City of Ridgetop finds that adult-oriented establishments, as a category of establishments, have deleterious secondary effects and are often associated with illicit sexual activities, crime, and adverse effects on surrounding properties; and

WHEREAS, the Board of Mayor and Aldermen of the City of Ridgetop desires to minimize and control these adverse effects and thereby protect the health, safety, and welfare of the citizenry; protect the citizens from crime; preserve the quality of life; preserve the character of neighborhoods and deter the spread of urban blight; and,

WHEREAS, it is not the intent of the Board of Mayor and Aldermen of the City of Ridgetop with these zoning ordinance amendments to suppress any speech activities protected by the United States or Tennessee Constitutions, but to enact legislation to further content-neutral governmental interests, to wit, the controlling of secondary effects of adult-oriented/sexually-oriented establishments; and,

WHEREAS, the Ridgetop Planning and Zoning Commission's review included that the City currently does not permit the adult oriented establishment use in any zoning districts in the City of Ridgetop and without any permitted designation and regulations, the City has a constitutional challenge liability due to defined discrimination against the use; and,

WHEREAS, The Ridgetop Planning and Zoning Commission at the August 25, 2022, regularly scheduled meeting reviewed and discussed this proposed amendment and voted to recommend its passage to the Board of Board of Mayor and Aldermen.

NOW, THEREFORE, BE IT ORDAINED AND IT IS HEREBY ORDAINED BY THE BOARD OF BOARD OF MAYOR AND ALDERMEN OF THE CITY OF RIDGETOP, TENNESSEE, AS FOLLOWS:

SECTION 1. That Ordinance No. 95-34 adopted on second and final reading on March 21, 1995, being the Zoning Ordinance of Ridgetop, Tennessee, be and the same is hereby amended by expanding the existing definition Section 2.020 and adding new definitions in sections 2.020 as listed in "Exhibit A", (Definitions).

SECTION 2. That Ordinance No. 95-34 adopted on second and final reading on March 21, 1995, being the Municipal Zoning Ordinance of Ridgetop, Tennessee, be and the same is hereby amended by expanding the existing Section 5.053.1 as listed in "Exhibit A", (B. Uses Permitted).

SECTION 3. That Ordinance No. 95-34 adopted on second and final reading on March 21, 1995, being the Municipal Zoning Ordinance of Ridgetop, Tennessee, be and the same is hereby amended by adding new section 4.100 listed in "Exhibit C", to Article III, (Development Standards for Adult Oriented Businesses).

SECTION 4. That the Board of Mayor and Aldermen of the City of Ridgetop, Tennessee, hereby certify that this Ordinance has been submitted to the Planning and Zoning Commission of the City of Ridgetop for a recommendation, and a notice of hearing thereon has been ordered after at least ten (10) days' notice of the time and place of said meeting has been published in a newspaper circulated in the City of Ridgetop, Tennessee. This Ordinance shall take effect fifteen (15) days from the date of its final passage, the public welfare demanding it.

SECTION 5. If any section, clause, provision, or portion of this Ordinance is for any reason declared invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion, of this Ordinance which is not itself invalid or unconstitutional.

SECTION 6. In case of conflict between this Ordinance or any part thereof and the whole or part of any existing or future Ordinance of the City of Ridgetop, the most restrictive shall in all cases apply.

Passed First Reading: September 20, 2022

Public Hearing: _____

Passed Second Reading: _____

MAYOR TIM SHAW

CITY RECORDER

APPROVED AS TO LEGALITY AND FORM:

CITY ATTORNEY

Exhibit A

ADULT BOOKSTORE: An establishment having as a substantial or significant portion of its stock in trade books, magazines, and other periodicals that are distinguished or characterized by their emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas,” as defined in Adult Entertainment, for observation by patrons therein.

ADULT CABARET: A cabaret that features topless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers

ADULT ENTERTAINMENT: Any exhibition of any adult-oriented motion picture, live performance, display or dance of any type, that has as a significant or substantial portion of such performance, any actual or simulated performance of specified sexual activities, including removal of articles of clothing or appearing unclothed.

ADULT-ORIENTED ESTABLISHMENT: Any commercial establishment, business or service, or portion thereof, that offers, as its principal or predominant stock or trade, sexually-oriented material, devices, or paraphernalia or specified sexual activities, or any combination or form thereof, whether printed, filmed, recorded or live and that restricts or purports to restrict admission to adults or to any class of adults. “Adult-oriented establishment” includes, but is not limited to:

ADULT BOOK STORES: Any corporation, partnership or business of any kind that has as its principal or predominant stock or trade, books, magazines or other periodicals and that offers, sells, provides or rents for a fee:

- i. Is available for viewing by patrons on the premises by means of the operation of movie machines or slide projectors; or
- ii. Has a substantial portion of its contents devoted to the pictorial depiction of sadism, masochism or bestiality; or
- iii. 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 eighteen (18) years of age;

ADULT ENTERTAINMENT CENTER: An enclosed building or part of an enclosed building, no portion of which enclosed building is licensed to sell liquor, that permits a customer to view a live person unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola, or any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals, or that charges any admission or fee for the viewing of any such activity.

ADULT MINI-MOTION PICTURE THEATER: An enclosed building with a capacity for less than fifty (50) persons used for presenting material that is distinguished or characterized by their emphasis on matter depicting, describing or

relating to “specified sexual activities” or “specified anatomical areas,” as defined in Adult Entertainment, for observation by patrons therein.

ADULT MOTION PICTURE THEATRES: An enclosed building used for presenting film presentations that are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities for observation by patrons therein.

ADULT SHOWS OR ADULT PEEP SHOWS: All adult shows, exhibitions, performances or presentations that contain acts or depictions of specified sexual activities.

SEXUALLY-ORIENTED MATERIAL: Any book, article, magazine, publication or written matter of any kind, drawing, etching, painting, photograph, motion picture film or sound recording that depicts sexual activity, actual or simulated, involving human beings or human beings and animals, that exhibits uncovered human genitals or pubic region in a lewd or lascivious manner, or that exhibits human male genitals in a discernibly turgid state, even if completely covered.

SPECIFIED SEXUAL ACTIVITIES: Activities, services or performances that include the following sexual activities or the exhibition of the following anatomical areas:

- a) Human genitals in a state of sexual stimulation or arousal;
- b) Acts of human masturbation, sexual intercourse, sodomy, cunnilingus, fellatio or any excretory function, or representation thereof; or
- c) Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts.

Exhibit B

B. Uses Permitted:

In the I-1, Light Industrial District, the following uses and their accessory uses are permitted:

1. Food and kindred products manufacturing, except meat products.
2. Apparel and other finished products made from fabrics, leather, and similar materials manufacturing.
3. Furniture and fixtures manufacturing.
4. Stone, clay, and glass products manufacturing.
5. Miscellaneous manufacturing including jewelry, silverware and plated ware, musical instruments and parts, toys, amusement and sporting goods manufacturing, pens, pencils, and other office materials, costume jewelry, novelties and miscellaneous notions; tobacco manufacturing.
6. Auto diesel repair and machine shops.
7. All types of wholesale trade.
8. Tool and die shops.
9. Warehouse and storage facilities.
10. Agricultural equipment sales and repair.
11. All public utilities including buildings, necessary structures, storage yards and other related uses.
12. Animal health facilities including veterinary clinics.
13. Building materials storage and sales.
14. Office functions only where they are directly related to the industrial establishment in which they are located.
15. Signs and billboards as regulated in ARTICLE IV, SECTION 4.070.
16. Adult Oriented Businesses as regulated by ARTICLE IV, SECTION 4.100

Exhibit C

4.100 Development Standards for Adult Oriented Businesses

All adult oriented businesses are required to adhere to the following development standards:

- a) Pursuant to 7-51-1407 of the Tennessee Code no adult bookstore, adult motion picture theater, adult mini-motion picture theater, adult entertainment center, massage parlor, or sauna shall be operated or maintained within 1000 feet of a residentially zoned district, or a church, state licensed daycare facility, public library, public or private educational facility that serves persons age seventeen or younger, elementary school, middle school, high school, or municipal park.
 - a. Measurements shall be made in a straight line in all directions, without regard to intervening structures or objects, from the nearest point on the property line of a parcel containing an adult-oriented establishment to the nearest point on the property line of a parcel containing a childcare facility, a private, public, or charter school, a public park, family recreation center, a residence, or a place of worship.
- b) Only one of the above regulated uses shall be allowed per block face. As used in this Section, “block face” shall contain a maximum of five hundred (500) linear feet of road frontage. The distance limitations above shall be measured in a straight line from the lot lines of the land containing regulated uses to the lot lines of properties described above.
- c) No adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult entertainment centers shall be operated or maintained except within the I-1 district.
- d) No adult-oriented establishment shall open to do business before eight o'clock a.m. (8:00 a.m.), Monday through Saturday; and no such establishment shall remain open after twelve o'clock (12:00) midnight, Monday through Saturday. No adult-oriented establishment shall be open for business on any Sunday or a legal holiday. Except as provided in TCA 7-51-1405.