

ORDINANCE 174

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE TOWN OF ASHLAND CITY, TENNESSEE, RELATIVE TO THE LOCATION OF ADULT-ORIENTED BUSINESS ESTABLISHMENTS.

WHEREAS, the City Council has determined that certain activities and uses of land hereinafter termed "Adult Oriented businesses" have been determined by various legal actions as activities which the community may control but not prohibit, and

WHEREAS, it is the desire of the City Council to provide the maximum degree of control over these activities as is permitted by law, and

WHEREAS, there are some uses which, because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances, thereby having a deleterious effect upon the use and enjoyment of adjacent areas. Special regulation of these uses is necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. These special regulations are itemized in this section. The primary control or regulation is for the purpose of preventing a concentration of these uses in any one area, and of providing a buffer zone between such businesses and surrounding properties. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including adult-oriented materials. Similarly, it is not the intent nor effect of this ordinance to restrict or deny access by adults to adult-oriented materials protected by the first amendment, or to deny access by the distributors and exhibitors of adult-oriented entertainment to their intended market.

SECTION 1. THEREFORE BE IT ORDAINED, that the existing provisions of Article III, "Definitions" are hereby amended so as to include the following words and phrases.

Adult Arcade means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting, or describing of "specified sexual activities" or "specified anatomical areas".

Adult Bookstore or Adult Video Store means an establishment having as its principal business purpose the sale or rental of books, films, video cassettes or any kind of video tape or any other form of electronic media, or 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".

Adult Entertainment means any exhibition of any adult-oriented motion picture, live performance, or display or dance of any type, which has a significant or substantial portion of such performance, whether actual or simulated, involving "specified sexual activities", including the removal of articles of clothing or appearing unclothed.

Adult Motion Picture Theater means an enclosed building regularly used for presenting material having as a dominant theme or presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas" as defined below, for observation by patrons therein.

Adult-Oriented Establishment includes, but is not limited to, adult bookstores or adult video stores, adult motion picture theaters, adult arcades, adult theaters or cabarets, and further means any premises to which the public or members of the public are invited or admitted and which are so physically arranged as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purpose of viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, when such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect. An adult-oriented establishment further includes, without being limited to, any adult entertainment studio or any premises physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio, or any other term of like import.

Adult Theater or Adult Cabaret means a theater, nightclub, club, bar, restaurant or similar commercial establishment which regularly features:

1. Live performances, displays, or dances which have as their dominant theme or are distinguished or characterized by an emphasis on any actual or simulated "specified sexual activities" or "specified anatomical areas," or the removal of articles of clothing, or appearing partially or totally nude, or
2. Films, motion pictures, video cassettes, slides, or other video or photographic reproductions which are characterized by the depiction of "specified sexual activities" or "specified anatomical areas".

Specified Anatomical Areas means:

1. Less than completely and opaquely covered:
 - a. Human genitals;
 - b. Pubic region;
 - c. Buttocks;

- d. Female breasts below a point immediately above the top of the areola;
2. Human male genitals in a discernible turgid state, even if completely opaquely covered;

Specified Sexual Activities means:

1. Human genitals in a state of sexual stimulation or arousal;
2. Acts of human masturbation, sexual intercourse or sodomy; or
3. Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts.

SECTION 2. BE IT FURTHER ORDAINED that Article VII, Section 2, Subsection 2.2, entitled "Uses Permitted on Appeal" is hereby expanded to include the following language:

2. Adult oriented business establishments such as adult arcades, adult bookstores, adult video stores, adult entertainment establishments, adult motion picture theaters, and adult cabarets shall also be considered as uses permitted on appeal based upon the pre-cited conditions, as well as the following additional conditions:
 1. No adult-oriented establishment shall be operated or maintained in the Town within two thousand (2,000) feet, as measured in a straight line from the closest point from building to building, of a school, church, public recreation facility, day care facility, playground, or park.
 2. No adult-oriented establishment shall be operated or maintained in the Town within one thousand (1,000) feet, as measured in a straight line from the closest point from intended building to property line, of a boundary of any residential zone (R-A, and R-B), or any lot devoted to residential use.
 3. No adult-oriented business establishment shall be operated or maintained in the Town within one thousand (1,000) feet, as measured in a straight line from the closest point from building to building, of another adult-oriented business establishment.

SECTION 3. This ordinance shall take effect thirty (30) days after passage of third and final reading by the City Council, the welfare of the public requiring same. *20* *Twenty*

Mary Sue Jenkins

Mayor

ATTEST:

Demetra O'Neal

City Recorder

Public Hearing Held on: 9-9-97
Passed 1st Reading: 8-12-97
Passed 2nd Reading: 9-9-97
~~Passed 3rd Reading:~~ _____

Approved as to Form and Content

[Signature]

City Attorney