

APPROVED BY COUNTY COMMISSION ^{99-76c}

ORDINANCE NO. 77

DATE 1-11-00

ORDINANCE AMENDING MECKLENBURG COUNTY ZONING ORDINANCE

AN ORDINANCE AMENDING THE MECKLENBURG COUNTY ZONING ORDINANCE

Section 1. The definition of "Adult establishment" found in Section 2.201 of the Mecklenburg County Zoning Ordinance is amended to read as follows:

Adult establishment.

An adult bookstore, adult motion picture theatre, adult mini motion picture theatre, or adult live entertainment business as defined in this section, or massage business as defined in G.S. 14-202.10(8). (Health massage/body work therapists licensed pursuant to G.S. 90-620 *et seq.* shall not be considered to be a massage business.)

Section 2. Section 2.201 is amended to add a new definition to read as follows:

Adult bookstore.

- (a) A retail establishment that has: (1) as one of its principal business purposes the sale or rental of; or (2) a substantial or significant portion of its stock in trade for sale or rental:
- (i) "publications" which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "specified anatomical areas", as defined in G.S. 14-202.10(10), or "specified sexual activities", as defined in G.S. 14-202.10(11); and/or
 - (ii) "sexually oriented devices", as defined in G.S. 14-202.10(9).
- (b) As used in this definition, "publications" include, by way of illustration, books, magazines, other periodicals, movies, video tapes, and other products offered in photographic, electronic, magnetic, digital or other imaging medium.
- (c) Any of the following shall be indicia that an establishment has as one of its principal business purposes the sale or rental of: (i) "publications" which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "specified sexual activities", as defined in G.S. 14-202.10(10), or "specified anatomical areas", as defined in G.S. 14-202.10(11); and/or (ii) "sexually oriented devices", as defined in G.S. 14-202.10(9):
- (i) the business advertises the sale or rental of adult publications and/or sexually oriented devices;
 - (ii) access by persons under eighteen (18) years of age to the business establishment or portions of the business establishment is restricted;

- (iii) signs or notices are posted outside and/or inside the business establishment indicating that the material offered for sale or rental might be offensive;
- (iv) the building or portion of the building containing the business establishment does not have windows or has windows that are screened or otherwise obstructed or are situated in a manner that restricts visual access from outside the building to materials displayed within for sale or rental.

Such indicia shall be considered along with all other factors and available information.

- (d) Notwithstanding the foregoing, a general circulation video store that does not offer for sale any sexually oriented devices shall not constitute an "adult bookstore" even though it offers for sale and/or rental video tapes which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "specified anatomical areas", as defined in G.S. 14-202.10(10), or "specified sexual activities", as defined in G.S. 14-202.10(11) so long as:
 - (i) such described video tapes are stocked and displayed in a room separate from the area of the business establishment where general circulation video tapes are stocked and displayed;
 - (ii) access by persons under eighteen (18) years of age to the room where such described video tapes are stocked and displayed is restricted;
 - (iii) the square footage of the separate room where such described video tapes are stocked and displayed is no more than ten (10) percent of the square footage of the area where general circulation video tapes are stocked and displayed; and
 - (iv) the general circulation video tape portion of the business establishment offers a quantity and selection of new release general circulation video tapes that is typical of a general circulation video store and offers a quantity and selection of other general circulation video tapes that are organized and displayed in a manner that is typical of a general circulation video store.

Section 3. Section 2.201 is amended to add a new definition to read as follows:

Adult live entertainment business.

Any establishment or business which has as one of its principal business purposes the presentation of "adult live entertainment" for observation by patrons. "Adult live entertainment" means any performance of or involving the actual presence of real people which exhibits to "specified sexual activities", as defined in G.S. 14-202.10(10), or "specified anatomical areas", as defined in G.S. 14-202.10(11).

Section 4. The definition of "Adult mini-motion picture theatre" found in Section 2.201 is amended to add a new definition to read as follows:

Adult mini motion picture theatre.

- (a) A commercial establishment with one or more "adult mini motion picture booths" where:
 - (i) one of the principal business purposes is the presentation and viewing of still or motion pictures in the viewing booths that are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "specified anatomical areas", as defined in G.S. 14-202.10(10), or "specified sexual activities", as defined in G.S. 14-202.10(11); or
 - (ii) a substantial or significant portion of the stock of still or motion pictures available for viewing or that are actually viewed in the viewing booths are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "specified anatomical areas", as defined in G.S. 14-202.10(10), or "specified sexual activities", as defined in G.S. 14-202.10(11).
- (b) Any of the following shall be indicia that the business establishment has as one of its principal business purposes the presentation and viewing in viewing booths motion pictures which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "specified sexual activities", as defined in G.S. 14-202.10(10), or "specified anatomical areas", as defined in G.S. 14-202.10(11):
 - (i) restricted access to the business establishment or portions of the business establishment where viewing booths are located by persons under 18 years of age;
 - (ii) posted signs or notices outside and/or inside the business establishment indicated that the material offered for presentation and viewing in the viewing booths might be offensive.

Such indicia shall be considered along with all other factors and available information.

- (c) "Adult mini motion picture booth" means any booth or partitioned area of less than one-hundred fifty (150) square feet in an adult mini motion picture theatre that is designed to hold patrons for the presentation and viewing of still or motion pictures (slides, film, video tape, laser disc, CD-ROM or other imaging media) that are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "specified anatomical areas", as defined in G.S. 14-202.10(10), or "specified sexual activities", as defined in G.S. 14-202.10(11).

Section 5. Section 2.201 is amended to add a new definition to read as follows:

Adult motion picture theatre.

A commercial establishment that regularly presents motion pictures which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to "specified anatomical areas", as defined in G.S. 14-202.10(10), or "specified sexual activities", as defined in G.S. 14-202.10(11), whether enclosed or not, of one-hundred fifty (150) square feet or greater, for observation by patrons therein.

Section 6. If any clause or other portion of this ordinance is held invalid, that decision shall not affect the validity of the remaining portions of this ordinance, which are severable.

Section 7. This ordinance is effective upon adoption.

Approved as to form:

County Attorney

Approved and adopted by the Board of County Commissioners of Mecklenburg County, North Carolina, in meeting on the 11th day of January, 2000.

Clerk, Board of County Commissioners