

ORDINANCE OF THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF
FLOWOOD AMENDING THE ZONING ORDINANCE OF THE CITY TO ADD
PROVISIONS REGULATING ADULT ENTERTAINMENT WITHIN THE CITY

WHEREAS, Mississippi Statutes empower the Mayor and Board of Aldermen of the City of Flowood, Mississippi, with the legislative and governing authority to carry on City government in a manner not inconsistent with general law and regulate the use of land within the City of Flowood, Mississippi, through planning and zoning regulation; and

WHEREAS, the Mayor and Board recognize that 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 adjacent areas, such that special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood; and

WHEREAS, the Mayor and Board find that there is substantial evidence, including numerous studies, reports, and findings on the potential harmful effect of adult entertainment uses made by other cities, experts, city planners, etc., which document that such uses adversely affect property values, cause an increase in crime, encourage businesses to move elsewhere, and contribute to neighborhood blight; and

WHEREAS, the Mayor and Board, find it necessary, expedient and in the best interest of the citizens of Flowood, Mississippi, to regulate the operation and location of adult entertainment establishments for the purpose of stemming a potential increase in the criminal activities and disturbances of the peace and good order of the community, maintaining property values, preventing injuries to residential neighborhoods and commercial districts, and protecting and preserving the quality of life through effective land use planning; and

WHEREAS, the Mayor and Board of Aldermen find that such regulation would protect the health, safety, and welfare of the residents of Flowood, Mississippi.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF FLOWOOD THAT THE ZONING ORDINANCE OF THE CITY IS HEREBY AMENDED TO CREATE ARTICLE VIII AS FOLLOWS:

ARTICLE VIII

ADULT ENTERTAINMENT PROVISIONS

SECTION 101: TITLE

This Ordinance shall be known and may be cited as the Flowood Adult Entertainment Provisions of the Zoning Ordinance.

SECTION 201: PURPOSE

It is the purpose of this ordinance to regulate sexually oriented businesses to promote the health, safety, morals, and general welfare of the citizens of the City and to establish reasonable and uniform regulations to prevent the secondary effects which said businesses cause such as increased crime, decreased property values and economic decline for the City, which the Mayor and Board have determined to exist by reviewing studies from other cities prior to the adoption of this Ordinance. 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 sexually oriented materials. Similarly, it is not the intent or effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent or effect of this ordinance to condone or legitimize the distribution of obscene material.

SECTION 301: DEFINITIONS

With respect to this article the following definitions shall apply:

- 301.1 Adult Arcade: An establishment where, for any form of consideration, one or more motion picture projectors, slide projectors, or similar machines, for viewing by five or fewer persons each, are used to show films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by emphasis upon the depiction or description of “specified sexual activities” or “specified anatomical areas”.
- 301.2 Adult Bookstore: An establishment which has as a substantial portion of its stock-in-trade and offers for sale for any form of consideration any one or more of the following:
- A. Books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides or other visual representations which are characterized by an emphasis upon the depiction or description of “specified sexual activities” or “specified anatomical areas,” or
 - B. Instruments, devices or paraphernalia which are designed for use in connection with “specified sexual activities”.
- 301.3 Adult Cabaret: A nightclub, bar, restaurant, theater, or similar establishment which regularly features live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities”, or films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by an emphasis upon the depiction or description of “specified sexual activities” or “specified anatomical areas”.
- 301.4 Adult Entertainment Establishment: An adult arcade, adult bookstore, adult cabaret, adult motel, adult motion picture theater, or similar establishment which regularly features or depicts behavior which is characterized by the exposure of “specified

anatomical areas”, or where any employee, operator or owner exposes his/her “specified anatomical area” for viewing by patrons.

- 301.5 Adult Motel: A motel or similar establishment which includes the work “adult” in any name it uses or otherwise advertises the presentation of adult material, offering public accommodations for any form of consideration which provides patrons with closed-circuit television transmission, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by an emphasis upon the depiction or description of “specified sexual activities” or “specified anatomical areas”.
- 301.6 Adult Motion Picture Theater: An establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material which is characterized by an emphasis upon the depiction or description of “specified sexual activities” or “specified anatomical areas”.
- 301.7 Church: A facility regularly used to hold religious services, meetings, and similar activities. The term “church” shall not carry a secular connotation and shall include buildings in which the religious services of any denomination are held. The term “church” does not apply to accessory uses, such as schools, residences, coffee houses, day care centers, bingo parlors, and fellowship halls.
- 301.8 Park: Any developed public land or area open to the general public and reserved for recreational purposes.
- 301.9 Playground: Any developed area which is used for and has facilities for recreation, primarily for use by children. For purposes of this Ordinance, the term “playground” shall apply to the principal use of land and not an accessory use.
- 301.10 School: A facility, whether public or private, that provides a curriculum of elementary, secondary, and post secondary academic instruction, including kindergartens, day care centers, elementary schools, junior high schools, high schools, and accredited four-year degree granting institutions of higher learning. For purposes of this Ordinance, the term “school” shall not include business, trade or vocational schools or beauty colleges.
- 301.11 Specified Anatomical Areas: Less than completely and opaquely covered human genitals, pubic region, buttocks, anus or less than 50% of the female breast below a point immediately above the top of the areolae; or human male genitals in a discernibly turgid state even if completely and opaquely covered.
- 301.12 Specified Sexual Activity: Human genitals in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse, or sodomy; fondling or other erotic touchings of human genitals, pubic regions, buttocks or female breast; flagellation or torture in the context of a sexual relationship; masochism, erotic or sexually oriented torture, beating or the infliction of physical pain; erotic touching, fondling or other such contact with an animal by a human being; or human excretion, urination, menstruation,

vaginal or anal irrigation as part of or in connection with any of the activities set forth in this section.

SECTION 401: GENERAL PROVISIONS

Section 401.1 Adult arcades, adult bookstores, adult cabarets, adult entertainment establishments, adult motels and adult motion picture theaters shall be an allowed use in zoning districts I-1 Light Industrial District and L-C Land conservation District located south of the ICG Railway located north of Kleen Steel Crushing Plant.

Section 401.2 No adult arcade, adult bookstore, adult cabaret, adult entertainment establishment, adult motel, or adult motion picture theater, as defined in this Ordinance, shall not be located within 250 feet of another such establishment nor located within five hundred (500) feet of any residentially zoned property, church, school, park, city building or playground.

Section 401.3 If any provisions, section, subsection, sentence, clause or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 401.4 No alcohol, beer, wine or other like drinks may be allowed on or inside the premises of any adult arcade, adult bookstore, adult cabaret, adult entertainment establishment, adult motel, or adult motion picture theater.

Section 401.5 This Ordinance shall be in force and effect thirty (30) days after passage.

SO ORDAINED, this the 17th day of November, 1992.

s/signed

Gary Rhoads, Mayor

ATTEST:

s/signed

Myra Dew, City Clerk