

SUBSTITUTE ORDINANCE NO. BL2018-1051

An ordinance to amend Title 17 of the Metropolitan Code of Laws, the Zoning Ordinance of The Metropolitan Government of Nashville and Davidson County, by removing the Adult Entertainment Overlay for various properties located east of 21st Ave N, (178.12 acres), all of which is described herein (Proposal No. 2018Z-007PR-001).

WHEREAS, case law has upheld ordinances based on evidence of the adverse secondary effects of adult uses and sexually oriented businesses; and,

WHEREAS, there are numerous reports concerning secondary effects occurring in and around sexually oriented businesses, as identified in BL2009-538; and,

WHEREAS, sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, illicit drug use and drug trafficking, negative impacts on property values, urban blight, litter, and sexual assault and exploitation; and

WHEREAS, a 1984 Indianapolis study and a 1986 Oklahoma City study evidence that the adverse secondary effects associated with sexually oriented businesses extend to off-site or retail-only sexually oriented businesses; and

WHEREAS, sexually oriented businesses should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other sexually oriented businesses, to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of sexually oriented businesses in one area; and

WHEREAS, each of the foregoing negative secondary effects constitutes a harm which the Metropolitan Government has a substantial government interest in preventing and/or abating; and

WHEREAS, this substantial government interest in preventing secondary effects, which is the Metropolitan Government's rationale for this ordinance, exists independent of any comparative analysis between sexually oriented and non-sexually oriented businesses; and

WHEREAS, the Metropolitan Government's interest in regulating sexually oriented businesses extends to preventing future secondary effects of either current or future sexually oriented businesses that may locate within the jurisdiction of the Metropolitan Government; and

WHEREAS, the Metropolitan Government finds that the cases and documentation relied on are reasonably believed to be relevant to said secondary effects; and,

WHEREAS, the United States Supreme Court has held that the First Amendment requires only that the government “refrain from effectively denying respondents a reasonable opportunity to open and operate an adult theater within the city.” *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986).

NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. That Title 17 of the Code of Laws of The Metropolitan Government of Nashville and Davidson County, is hereby amended by changing the Official Zoning Map for Metropolitan Nashville and Davidson County, which is made a part of Title 17 by reference, as follows:

By removing the Adult Entertainment Overlay for various properties located east of 21st Ave N, (178.12 acres), being various Property Parcel Nos. on various Maps of the Official Property Identification Maps of The Metropolitan Government of Nashville and Davidson County, all of which is described by lines, words and figures on the attached sketch, which is attached to and made a part of this ordinance as though copied herein.

Section 2. Be it further enacted, that the Metropolitan Clerk is hereby authorized and directed, upon the enactment and approval of this ordinance, to cause the change to be made on various Maps of said Official Zoning Map for Metropolitan Nashville and Davidson County, as set out in Section 1 of this ordinance, and to make notation thereon of reference to the date of passage and approval of this amendatory ordinance.

Section 3. Be it further enacted, that this ordinance take effect immediately after its passage and such change be published in a newspaper of general circulation, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

INTRODUCED BY:

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Councilmember Freddie O’Connell