

ORDINANCE NO. 6-2009

Introduced by: _____

AN ORDINANCE OF THE COUNCIL OF TRAPPE AMENDING THE TRAPPE ZONING ORDINANCE TO ADD DEFINITIONS RELATING TO ADULT ORIENTED BUSINESSES AND TO PROVIDE SUPPLEMENTAL STANDARDS ASSOCIATED WITH THE USE

WHEREAS, the Town of Trappe is authorized by Md. Code Ann. Article 66B §4.01 *et seq.* to enact and administer a zoning ordinance; and

WHEREAS, the Town of Trappe is authorized by Maryland Annotated Code Article 66B §§4.04 and 4.05 to amend, supplement, modify or repeal sections of the zoning ordinance; and

WHEREAS, the Council of Trappe recognizes the significant planning, zoning, property and secondary effects surrounding or arising from the location and operation of Adult Oriented Businesses; and

WHEREAS, the Town's current Zoning Ordinance makes no specific or particular provisions for Adult Oriented Businesses and does not provide for it as a specific use; and

WHEREAS, the Council of Trappe is considering adopting Ordinance 5-2009, which would place a moratorium on Adult Oriented Businesses; and

WHEREAS, the purpose of the moratorium is to prohibit Adult Oriented Business uses to ensure that the Town has sufficient time to conduct the appropriate study and receive desired public input before establishing effective and enduring textual amendments to the Comprehensive Plan, Zoning Ordinance and/or other regulations of the Town; and

WHEREAS, in order to ensure that Adult Oriented Businesses do not circumvent the purpose for the moratorium by locating as a permitted use in the Town, the Town Council wishes to amend the Zoning Ordinance to preclude such a possibility during the moratorium period; and

WHEREAS, the Trappe Planning and Zoning Commission considered the matter at its September 16, 2009 meeting and has recommended that the Town Council approve this Ordinance.

NOW, THEREFORE, the Council of Trappe hereby ordains that the sections of the Town of Trappe Zoning Ordinance set forth below be amended as follows:

Section 1. The Trappe Zoning Ordinance, Title II, Section 2, titled "Definitions" is hereby amended to include the words and phrases, which are defined in the attached "Definitions

Relating To Adult Oriented Businesses” which is attached hereto and incorporated herein by reference.

Section 2: Subsection 12.90 is hereby added to the Zoning Ordinance, Section 12 titled “Supplementary District Regulations”:

Subsection 12.90 – Adult Oriented Businesses. The Council of Trappe enacted a moratorium on Adult Oriented Businesses on _____, 2009 pursuant to Ordinance No. 5-2009 for the purpose of establishing appropriate rules and regulations regarding this use. This moratorium is expected to expire on _____ unless extended by the Council. During the life of this moratorium, including any extension thereto, no commercial or retail establishment, including, but not limited to a newspaper/magazine shop, retail sales store, bookstore, video cassette rental or other similar use that can legitimately operate, may sell a significant amount of adult entertainment materials as those terms are defined in the Adult Oriented Business Moratorium Ordinance No. 5-2009.

Section 3. This Ordinance shall become effective on the _____day of _____, 2009.

Robert Crosswell

Walter Chase

Norm Fegel

Rosalee Potter

Richard Dorbin

Additions reflected in bold

I hereby certify that the foregoing Ordinance Number _____ of the Town of Trappe was duly read and enacted in accordance with the applicable provisions of the Charter of the Town of Trappe.

Attest: _____
Joedy Cecil, Clerk/Treasurer
Town of Trappe

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ATTACHMENT TO ORDINANCE NO. 6-2009
TOWN OF TRAPPE – DEFINITIONS RELATING TO ADULT
ORIENTED BUSINESS

The Trappe Zoning Ordinance, Title III, Section 2, is hereby amended to include the following definitions:

“Adult Oriented Business” means any business, operation, or activity, a significant amount of which consists of:

- a. the conduct, promotion, delivery, provision, or performance of adult entertainment or material; including, but not limited to, that occurring in, at, or in connection with a cabaret, lounge, night club, modeling studio, bar restaurant, club or lodge, or other establishment; or
- b. the sale, provision, rental, or promotion of adult entertainment or material, in any format, form, or medium, including, but not limited to, books, magazines, videos, DVDs, CDs, movies, photographs, and/or coin operated or pay-per-view viewing devices, including, but not limited to, the operation of an adult book or video store or viewing booth.

c. *Definitions relating to Adult Oriented Business.* The following definitions apply to Adult Oriented Business:

“Adult entertainment or material” means any performance or depiction or text that is intended to cause or provide, or which reasonably may be expected to cause or provide, sexual stimulation, sexual excitement, or sexual gratification; and

(i) in which an individual or individuals appear in a state of nudity or partial nudity; or

(ii) that consists, in whole or in part, of action, activity, poses, portrayal, depiction, or description of:

(a) human genitalia in a discernable state of sexual stimulation or arousal; or

(b) any act, whether real or simulated, of masturbation, sexual intercourse, anal intercourse, sodomy, fellatio, cunnilingus, fondling of the buttocks, anus, female breasts, pubic area, or genital area, sadomasochistic activity, physical contact or attempted contact with clothed or unclothed genitalia, pubic areas, buttocks, anus, or

female breasts; or

(iii) consists of contact with animals or inanimate objects.

“Nudity” means:

(i) the showing of the human male or female genitalia, pubic area, or buttocks with less than fully opaque covering;

(ii) the showing of the female breast with less than a fully opaque covering over any part below the top or uppermost part of the areola; or

(iii) the depiction of covered male genitalia in a discernibly turgid or erect state.

“Partial nudity” means a state of dress which reveals:

(i) the human male or female buttocks; or

(ii) the female breasts below the top or uppermost part of the areola, excluding portions of the human female cleavage exhibited by a dress, or other apparel, provided the areola is not exposed in whole or in part.

“Adult book or video store” means an activity a principal purpose or use of which is the selling, renting, transferring, loaning, disseminating, or distributing of adult entertainment or material, including but not limited to, any book, magazine, newspaper, video, DVD, CD, or sound recording.

“Sadomasochistic activity” means

(i) flagellation or torture, whether real or simulated, by or upon an individual;

(ii) the condition of being, or causing oneself or another to be, fettered, bound, or otherwise physically restrained.

“Significant amount” means

(i) at least 20% of the stock in the establishment or on display consists of adult entertainment material or houses or contains devices depicting, describing, or relating to adult entertainment or material; or

(ii) at least 20% of the usable floor area is used for the display or storage of adult entertainment or material or houses or contains devices depicting, describing, or relating to adult entertainment or material; or

(iii) at least 20% of the gross revenue is, or may reasonably be expected to be, derived from the provision of adult entertainment or material; or

(iv) any provision of live adult entertainment or material.

“Viewing booth” means a space or area in which a display device is located for purposes of viewing pictures, films, videotapes, or other images.

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