

ORDINANCE NO. 2012-21

ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY
AMENDING AND SUPPLEMENTING CHAPTER 490 PLANNING AND DEVELOPMENT REGULATIONS, ARTICLE II,
DEFINITIONS AND ARTICLE X, ZONING, TO DEFINE ADULT ORIENTED BUSINESS AS A CATEGORY OF LAND
USE AND TO PERMIT ADULT ORIENTED BUSINESS AS A USE OF THE HB HIGHWAY BUSINESS ZONE DISTRICT

Mr. DuPont offered the following ordinance and moved its adoption on final reading:

BE IT ORDAINED by the Governing Body of the Borough of Red Bank that Chapter 490 of the Revised General Ordinances of the Borough of Red Bank, Monmouth County, "Planning and Development Regulations", is hereby amended and supplemented to define adult oriented business as a category of land use and to permit adult oriented business as a use of the HB Highway Business zone district.

SECTION ONE: Article II, Terminology, §490-6, Definitions, is revised to include the following definitions of adult oriented business, sexually oriented business, specified anatomical area, and specified sexual activity (underlined text denotes additions):

Adult Oriented Business

A commercial establishment which as one of its principal business purposes offers for sale, rental, or display any of the following:

(1) Books, magazines, periodicals or other printed material, or photographs, films, motion pictures, video cassettes, slides or other visual representations which depict or describe a specified sexual activity or specified anatomical area; or still or motion picture machines, projectors or other image-producing devices which show images to one person per machine at any one time, and where the images so displayed are characterized by the depiction of a specified sexual activity or specified anatomical area; or instruments, devices, or paraphernalia which are designed for use in connection with a specified sexual activity; or

(2) A commercial establishment which regularly features live performances characterized by the exposure of a specified anatomical area or by a specified sexual activity, or which regularly shows films, motion pictures, video cassettes, slides, or other photographic representations which depict or describe a specified sexual activity or specified anatomical area.

Sexually Oriented Business

Means the same as adult oriented business.

Specified Anatomical Area

(1) Less than completely and opaquely covered human genitals, pubic region, buttock or female breasts below a point immediately above the top of the areola; or

(2) Human male genitals in a discernibly turgid state, even if covered.

Specified Sexual Activity

(1) The fondling or other erotic touching of covered or uncovered human genitals, pubic region, buttock or female breast; or

(2) Any actual or simulated act of human masturbation, sexual intercourse or deviate sexual intercourse.

SECTION TWO: Article X, Zoning, §490-143, Highway Business Zone District, paragraph A, Permitted uses, is revised to include adult oriented business as a permitted use of the zone district (underlined text denotes additions):

A. Permitted uses:

- (1) Professional office.
- (2) Business office.
- (3) Retail commercial uses.
- (4) Personal service uses.
- (5) Banks, trust companies and deposit institutions.

- (6) Primary food-service establishments.
- (7) Fast-food-service establishments (pedestrians or automobile oriented).
- (8) Theaters, auditoriums and exhibit halls.
- (9) Nightclubs, adult oriented businesses, and lounges, limited to that portion of the Highway Business Zone District located along Newman Springs Road and bounded on both the east and west by the rights-of-way of the Consolidated Rail Corporation, and further provided that the site does not abut residential property.
- (10) Motor vehicle sales and leasing agencies.
- (11) Motor vehicle diagnostic and service facilities.
- (12) Motor vehicle washing facilities.
- (13) Hotels and motels.
- (14) Mortuary and funeral homes.
- (15) Government offices, including federal, state, county or municipal buildings and grounds, but excluding schools.
- (16) Lodges, clubs and fraternal organizations.
- (17) Essential services.

SECTION THREE: Any ordinances or portions thereof which are inconsistent with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance. All other provisions of the Revised General Ordinances are ratified and remain in full force and effect.

SECTION FOUR: If any provision of this Ordinance or the application of such provision to any person or circumstance is declared invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect, and to this end, the provisions of this Ordinance are declared to be severable.

SECTION FIVE: This Ordinance shall take effect immediately upon its passage and adoption according to law.

Seconded by Ms. Lee and adopted on roll call by the following vote:

	Yes	No	Abstain	Absent
Ms. Lewis	(x)	()	()	()
Mr. Zipprich	(x)	()	()	()
Mr. DuPont	(x)	()	()	()
Ms. Horgan	(x)	()	()	()
Ms. Lee	(x)	()	()	()
Mr. Murphy	(x)	()	()	()

Dated: December 19, 2012

Pasquale Menna, Mayor

Pamela Borghi, Municipal Clerk

First Reading: November 20, 2012

Final Reading: December 19, 2012