

Withdrawn

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JUL 08 2013

CITY CLERK

GENERAL ORDINANCE NO. 7, 2013

AN ORDINANCE TO AMEND *TERRE HAUTE CITY CODE* CHAPTER 10, DIVISION XVI. ADULT ORIENTED BUSINESSES.

SECTION 1. *Terre Haute City Code* Chapter 10, Division XVI. Adult Oriented Businesses is hereby amended by deleting the stricken text and inserting the underlined text as follows:

**Sec. 10-272 Purpose and Intent.**

a. The Common Council finds there is substantial evidence from other communities that an adult oriented business may result in increased crime in the vicinity; there may be harmful effects on minors exposed to the adult oriented business resulting in a deterioration of family values; there may be a deterioration of the quality of surrounding businesses; there may be a decrease in property values of the surrounding area; there may be increased parking problems, litter and general urban blight in the surrounding area; and dispersal of such adult oriented businesses is necessary to prevent intensification of negative secondary effects and harmful effects upon minors.

b. The Common Council finds that there is substantial evidence to suggest that any establishment who offers for sale drug and tobacco related paraphernalia represents an adult oriented business in that paraphernalia used for the ingestion of drugs is illegal under I.C. 35-48-8 et seq. and paraphernalia used for the ingestion of tobacco is restricted to persons of age eighteen (18) years or older.

cb. The Common Council finds that use of its zoning authority is a reasonable, legal, and legitimate use of its police powers to minimize these adverse effects while not unreasonably denying access by adults to adult oriented materials or the distribution of such materials.

de. It is the intent of this ordinance to regulate adult oriented businesses to promote the health, safety, and general welfare of the citizens of the City. (Gen. Ord. No. 8, 2006, 6-8-06)

**Sec. 10-273 Definitions.**

n. **Drug and Tobacco Paraphernalia.** Shall mean:

(1) Any device designed primarily for use by individuals for the smoking or ingestion of tobacco, marijuana, hashish, hashish oil, cocaine, methamphetamine or any other "controlled substance" as defined by Indiana Criminal Code.

(2) Any device designed primarily for the smoking or ingestion of those items set forth in subsection (1) above, or any device which has been fabricated, constructed, altered, adjusted, or marked especially for use in the smoking or ingestion of tobacco, marijuana, hashish, hashish oil,

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cocaine, methamphetamine or any other "controlled substance," and is peculiarly adapted to that purpose by virtue of a distinctive feature or combination of features associated with tobacco or drug paraphernalia, notwithstanding that it might also be possible to use the device for some other purpose.

(3) Drug and tobacco paraphernalia shall include, but not be limited to the following described items:

- (A) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes, with or without screens or filters, permanent or otherwise, heads of punctured metal bowls;
- (B) A device constructed so as to prevent the escape of smoke into the air and to channel smoke into a chamber where it may be accumulated to permit inhalation or ingestion of larger quantities of smoke that would otherwise be possible, whether the device is commonly known as a "bong" or otherwise;
- (C) A smokable pipe constructed with a receptacle or container in which water or other liquid may be placed into which smoke passes and is cooled in the process of being inhaled or ingested.
- (D) A smokable pipe that contains a heating unit, whether the device is known as an "electric pipe," or otherwise;
- (E) A device constructed so as to permit the simultaneous mixing and ingestion of smoke and nitrous oxide or other compressed gas, whether the device is known as a "buzz bomb," or otherwise;
- (F) A device constructed so as to permit the inhalation and/or ingestion of nitrous oxide (N<sub>2</sub>O), whether known as "whippets," or otherwise;
- (G) A canister, container or other device with a tube, nozzle or other similar arrangement attached and so constructed as to permit the forcing of accumulated smoke into the user's lungs under pressure;
- (H) A device for holding burning material, such as a cigarette that has become too small or too short to be held in hand, whether the device is known as a "roach clip," or otherwise;

(4) Lighters and matches are specifically excluded from the definition of tobacco and drug paraphernalia.

o. Drug and Tobacco Paraphernalia Establishment. Any establishment where drug and tobacco paraphernalia is displayed for sale, offered for sale or sold, and which devotes more than a two foot by four foot by two foot (2' x 4' x 2') (two feet (2') in depth maximum) section of

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shelf space for drug and tobacco paraphernalia.

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## **Sec. 10-274-1 Parking Regulations.**

b. Required Parking Spaces.

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9. Drug and Tobacco Paraphernalia Establishment. One (1) parking space for each two hundred feet (200') of floor space plus one (1) parking space for each employee of the largest working shift.

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## **Sec. 10-274-2 Permit Required.**

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c. Permit Application. All applications for such permit shall be on forms designated by the Board of Public Works and Safety and shall include the following information:

- (1) The full name and address of business;
- (2) The full name, business address and home address of business owner and business manager;
- (3) A telephone number at which the City of Terre Haute can reach the manager and/or owner during business hours of operation.
- (4) Statement of the manager and or owner that the business is in full compliance with all federal, state and local laws, including zoning regulations.
- (5) Authorization for the City, its agents and employees to seek information and to conduct an investigation into the truth of the statements set forth in the application.
- (6) Authorization for the City, its agents, and employees to enter the business during any normal business hours to conduct an inspection of the premises to determine compliance with all applicable regulations.

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SECTION 2. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

WHEREAS, an emergency exists for the immediate taking effect of the Ordinance, the same shall be in full force and effect from and after its passage by the Common Council of Terre Haute, Indiana and its approval by the Mayor and publication as required by law.

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Introduced by: \_\_\_\_\_ Norman Loudermilk, Councilman

Passed in open Council this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_ Norman Loudermilk, President

ATTEST: \_\_\_\_\_ Charles P. Hanley, City Clerk

Presented by me to the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_ Charles P. Hanley, City Clerk

Approved by me, the Mayor, this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_ Duke A. Bennett, Mayor

ATTEST: \_\_\_\_\_ Charles P. Hanley, City Clerk