

ARTICLE EIGHT - Transitional Use District

SECTION 801 TRANSITIONAL-DISTRICT REGULATIONS SECTION-802 DISPERSING SEXUALLY ORIENTED BUSINESSES

SECTION 801 TRANSITIONAL-DISTRICT REGULATIONS

- 801.01 District Regulations
- 801.02 Purpose
- 801.03 Location of Mixed Use District
- 801.04 Permitted Uses
- 801.05 Building Height Requirements
- 801.06 Building Height Exceptions
- 801.07 Required Lot Area
- 801.08 Required Yards
- 801.09 Lot Coverage Requirements
- 801.10 Permitted Signs
- 801.11 Off-Street Parking and Loading
- 801.12 Certificate of Occupancy
- 801.13 Submission of Plans

801.01 TRANSITIONAL USE DISTRICT REGULATIONS

This Article Eight shall apply to the location, maintenance and regulation of Transitional Use Districts, as herein defined.

801.02 PURPOSE

The purpose of this Article is to promote the public health, safety, comfort and general welfare; to conserve and protect property and property values; to secure the most appropriate use of land and to facilitate adequate provisions for public improvements, all in accordance with the municipal comprehensive plan, and to ensure the orderly planned development of parcels and land areas in the Municipality. It is intended by these Regulations that the community as a whole benefit by providing for the orderly and aesthetic development of land, a blending of institutional, office and light commercial uses. This area should be utilized as a buffer between single family resident and more intense commercial and light industrial uses.

801.03 LOCATION OF TRANSITIONAL USE DISTRICT

Upon the approval of the Municipal Council, an area shall be designated a Transitional Use Zoning District. Upon approval, the Official Zoning Plan Shall be so annotated for the land area affected, and the district name shall be appropriately amended.

801.04 PERMITTED USES

- A. Supervised nursing care, assisted' living and physical rehabilitation facilities and associated hospitality suites.
- B. Professional Offices.
- C. Banks and other financial institutions.
- D. Outpatient medical and surgical hospitals, medical centers, clinics,
- E. Accessory uses customarily incidental to any of the above uses including accessory retail establishments less than 5,000 square feet in gross floor area and warehousing incidental to a permitted use.
- F. Schools, colleges, universities, and other institutions of learning, adjacent dormitories, and adjacent play and recreational grounds or facilities.
- G. Art galleries, museums, libraries, community centers and government buildings, YMCA or YWCA
- H. Child care center

801.05 BUILDING HEIGHT

No principal or accessory building or structure shall be erected or structurally altered to a height exceeding forty (40) feet measured from finished grade at the front of the building to the average height between eaves and ridge for gable, hip and gambrel roofs, the highest point of the roof for a flat roof and to the deck line for a mansard roof.

801.06 EXCEPTIONS OF HEIGHT LIMITS

The height limitations of this ordinance shall not apply to cupolas, and domes not intended for human occupancy, monuments, flagpoles, and radio towers used for governmental purposes. Such uses and height limitations shall be approved by the Zoning Board of Appeals.

801.07 REQUIRED LOT AREA

Lot area and lot width - shall be determined by yard setback requirements, size of building, required parking area and proposed use.

801.08 YARDS

A. Front Yards: Setback of 60 feet from the road right-of-way line. A 10-foot-deep unobstructed open buffer strip shall be provided next to the right-of-way. The buffer strip must be landscaped with trees and random plantings or shrubs or other plant material. Parking in this strip shall be prohibited.

B. Rear Yards: There shall be a rear yard of not less than fifty (50) feet- Rear yards abutting any residential district shall be appropriately landscaped and maintained and shall remain open and unoccupied by any principal or accessory building.

C. Side Yards: Minimum side - 12 feet where there is no rear access to the property.

Abutting a side street - see Article I, Section 103 - corner lot.

Abutting a residential zone - 50-foot unobstructed buffer strip suitably landscaped.

D, Distance Between Buildings on the Same Lot:

No principal building shall be closer to any other principal building than the average of the heights of said buildings and the minimum separation shall be twenty feet (20 ft.).

801.9 PERCENTAGE OF LOT COVERAGE

All buildings, including accessory buildings and enclosed structures shall not cover more than 30% of the gross area of the lot.

801.10 PERMITTED SIGNS

The provisions of Article Nine, Section 901 shall not apply in this district.

801.11 OFF-STREET PARKING AND LOADING

The provisions of Article Nine, Section 902 shall apply in this district.

801.12 CERTIFICATE OF OCCUPANCY

The provisions of Article Ten, Section 1001 shall apply in this district.

801.13 SUBMISSION OF PLANS

The provisions of Article Ten, Section 1006 "Site Plan Review" shall apply in this district.

ORIGINAL

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ORDINANCE NO. 2004- 2049

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE MUNICIPALITY OF LAGRANGE BY ENACTING NEW SECTION **802** DISPERSING SEXUALLY ORIENTED BUSINESSES AND LIMITING THEM TO A SPECIFIED ZONING DISTRICT.

WHEREAS, numerous cities have studied the effects of sexually oriented businesses on the neighborhoods and areas in which those businesses are located;

WHEREAS, the members of Village Planning Commission and the Village Council have been provided with copies of the "Adult Entertainment Study" dated November 1994 conducted by the New York City Department of Planning; "Adult Entertainment Businesses in Indianapolis, An Analysis" dated February 1984, conducted by the Department of Metropolitan Development of the City of Indianapolis; and the "Report Of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses" dated June 6, 1989, conducted by the Attorney General for the State of Minnesota and the "Report to: the American Center for law and Justice on the" Secondary Impacts of Sex Oriented Business" dated March 31, 1996, produced by Peter H. Hecht, Ph.D, ERG/Environmental research Group, 124 North Third Street, Philadelphia, PA, 19106.

"WHEREAS, these numerous studies conclude, based on documented evidence, that sexually oriented businesses have negative secondary effects such as increased crime rates, decreased property values, curtailed retail trade and deterioration of the quality of urban life;

WHEREAS, the adverse effects of sexually oriented businesses are compounded when such businesses are located in close proximity to each other, and have the tendency to create "dead zones";

WHEREAS, Village Council desires to minimize and control these adverse effects and thereby protect and promote the public health, safety, convenience, comfort, prosperity and general welfare of the citizenry, protect the citizens from increased crime, preserve the quality of life, preserve the property values and character of surrounding neighborhoods, and deter the spread of urban blight;

WHEREAS, sexually oriented businesses require special supervision from the public safety agencies of the Village in order to protect and preserve, protect and promote" the public health, safety, convenience, comfort, prosperity and general welfare of the citizens of the Village of LaGrange and of the patrons of such businesses; and .

WHEREAS, the Village Council finds that sexually oriented businesses are frequently used for unlawful sexual activities, including prostitution and sexual liaisons of a casual nature; and

WHEREAS, the concern over sexually transmitted diseases is a legitimate health concern of the Village which demands reasonable regulation of sexually oriented businesses in order to protect the health and well-

being of the citizens; and

WHEREAS, there is convincing documented evidence that sexually oriented businesses, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, causing increased crime and the downgrading of property values; and

"WHEREAS, it is recognized that sexually oriented businesses, due to their nature, have serious objectionable operational characteristics, particularly when they are located in close proximity to each other, thereby contributing to urban blight and downgrading the quality of life in the adjacent area; and

WHEREAS, the Village Council desires to minimize and control these adverse effects and thereby protect and promote the public health, safety, convenience, comfort, prosperity and general welfare of the citizenry; protect the citizens from increased crime; protect juveniles from the harmful effects of exposure to sexually oriented materials, to preserve the quality of life; preserve the property values and character of surrounding neighborhoods, deter the spread of urban blight; and prevent the diminution of the use of public facilities, and especially those facilities used for religious purposes or those which are frequented by children

WHEREAS, the Village Council has determined that locational criteria alone do not adequately protect the health, safety, and general welfare of the people of this Village; and

WHEREAS, it is not the intent of this ordinance to suppress any speech activities protected by the First Amendment, but to enact a content neutral ordinance which addresses the secondary effects of sexually oriented businesses; and

WHEREAS, it is not the intent of the Village Council to condone or legitimize the distribution of obscene material, and the Council recognizes that state and federal law prohibits the distribution of obscene materials and expects and encourages state law enforcement officials to enforce state obscenity statutes against any such illegal activities in the Village.

NOW, THEREFORE, be it ordained by the Council of the Village of LaGrange, County of Lorain, State of Ohio;

SECTION 1. PURPOSE AND FINDINGS.

- (A) **Purpose.** It is the purpose of this ordinance to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the Village, to assure the protection of juveniles from the harmful effects of exposure to sexually oriented materials, to reduce or eliminate the negative impact that adult uses have on property values and the character and quality of residential neighborhoods, to prevent sexually oriented business from diminishing or destroying the use of public facilities expected to be used by children or for religious purposes. 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 nor 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 nor effect of this ordinance to condone or legitimize the distribution of obscene material.

- (B) **Findings.** Based on evidence concerning the adverse secondary effects of adult uses on the community presented in the reports made available to the Council, and on findings incorporated in the cases of City of Renton v. Playtime Theatres, Inc., 475 U.S. 41 (1986), Young v. American Mini Theatres, 426 U.S. 50 (1976), Barnes v. Glen Theatre, Inc., 501 U.S. 560 (1991), City of Erie v. Pap's A.M., TDA "Kandvland", 529 U.S. 277 (2000), and City of Los Angeles v. Alameda Books, Inc. 121 S. Ct.1223 (2001) and on studies in other communities including, but not limited to, Phoenix, Arizona; Minneapolis, Minnesota; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas; Seattle, Washington; Oklahoma City, Oklahoma; Cleveland, Ohio; and Beaumont, Texas; and also on findings from the Report of the Attorney General's Working Group on The Regulation of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota), Council finds:
- (1) Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities.
 - (2) Employees of sexually oriented businesses engage in higher incidence of certain types of specified criminal sexual activity than employees of other establishments.
 - (3) Specified sexual activities, including masturbation, and oral and anal sex, occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows.
 - (4) Offering and providing such space encourages such activities, which creates unhealthy conditions.
 - (5) Persons frequent certain sexually oriented cabarets, sexually oriented booths, and other sexually oriented businesses for the purpose of engaging in specified criminal sexual activity within the premises of such sexually oriented businesses.
 - (6) At least 50 communicable diseases may be spread by activities occurring in sexually oriented businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV -AIDS), genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infections and shigella infections.
 - (7) The surgeon general of the United States in his report of October 22, 1986, has advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug abuse, exposure to infected blood and blood components, and from an infected mother to her newborn.
 - (8) Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to selfregulate those activities and maintain those facilities.
 - (9) Numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where persons view "adult" oriented films.

(10) Secondary harm to the community, residents and children would occur if sexually oriented business are permitted to operate in close proximity to municipal facilities where members of the public, including juveniles, regularly appear to transact public business.

(11) Sexually oriented businesses have negative secondary effects such as (1) increased crime rates, (2) decreased property values, (3) curtailed retail trade (2) deterioration of the quality of urban life; and

(12) The adverse effects of sexually oriented businesses are compounded when such businesses are located in close proximity to each other, and have the tendency to create "dead zones";

(13) Sexually oriented businesses, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, causing increased crime and the downgrading of property values; and

(14) Sexually oriented businesses, have serious objectionable operational characteristics, particularly when they are located in close proximity to each other, thereby contributing to urban blight and downgrading the quality of life in the adjacent area; and

(15) Exposure to sexually oriented materials is harmful to juveniles if it is offensive to prevailing standards in the adult community with respect to what is suitable for juveniles, and if any of the following apply:

- (a) the material tends to appeal to the prurient interest of juveniles;
- (b) the material contains a display, description, or representation of specified sexual anatomical areas or specified sexual activities;
- (c) the material 'makes repeated use of foul language;
- (d) the material contains a display, description, or representation in lurid detail of the violent physical torture, dismemberment, destruction, or death of a human being;
- (e) the material contains a display, description, or representation of criminal activity that tends to glorify or glamorize the activity, and that, with respect to juveniles, has a dominant tendency to corrupt. and

(16) The findings noted in paragraphs number 1 through 15 raise substantial governmental concerns.

(17) Sexually oriented businesses have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.

(18) The protection and promotion of the public health, safety, convenience, comfort, prosperity and general welfare of the citizens of the Village will be promoted by the enactment of this ordinance.

SECTION 2. LOCATION OF SEXUALLY ORIENTED BUSINESSES.

(A) Notwithstanding any other provision of this Zoning Code, no sexually oriented business shall be operated or maintained except within a GI -1 General Industrial District. A person commits a misdemeanor of the first degree if that person operates or causes to be operated a sexually oriented

business in any zoning district other than a GI-1 General Industrial District as defined and described in the Village of LaGrange Zoning Code.

802
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(B) A person commits a misdemeanor of the first degree if the person operates or causes to be operated a sexually oriented business within Seven Hundred Fifty Feet (750') of:

(1) A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;

(2) A public or private educational facility including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities; school includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;

(3) A boundary of a residential district or a property line of a lot devoted to a residential use as defined in the zoning code;

(4) A public park or recreational area which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land Within the Village which is under the control, operation, or management of the Village park and recreation authorities;

(5) An entertainment business which is oriented primarily towards children or family entertainment; or

(6) Municipal buildings where members of the public regularly appear and transact public business

(7) Funeral homes

(8) Banquet facilities

(9) Premises, licensed pursuant to the alcoholic beverage control regulations of the State of Ohio and which provides live entertainment.

(C) A person commits a misdemeanor of the first degree if that person causes or permits the operation, establishment or substantial enlargement of a sexually oriented business, within one thousand five hundred (1,500) feet of another sexually oriented business.

(D) A sexually oriented business may not be an accessory use. A person commits a misdemeanor of the first degree if such person permits two or more sexually oriented businesses to be located on the same premises or on the same lot

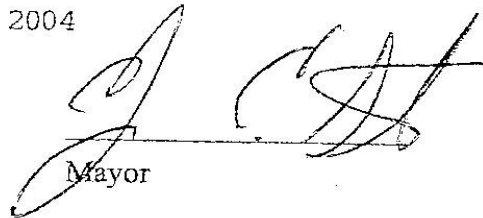
(E) For the purpose of subsection B of this Section, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a use listed in subsection B. Presence of a Village, county or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements- of this Section

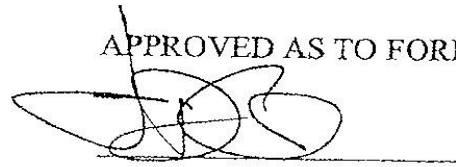
(F) For purposes of subsection C of this Section, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the closest exterior wall of the structure in which each business is located.

SECTION 3: That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meeting open to the public and in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

PASSED: 1st reading August 26, 2004
2nd reading September 9, 2004
3rd reading September 23, 2004

ATTEST: Lita K. Luot
Clerk-Treasurer


Mayor

APPROVED AS TO FORM:

Jon D. Clark, Assistant Solicitor

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