

ORDINANCE NO. 30-1002

AN ORDINANCE TO AMEND APPENDIX A OF THE CODE OF ORDINANCES OF THE CITY OF WARREN RELATING TO ZONING AND SEXUALLY ORIENTED BUSINESSES.

THE CITY OF WARREN ORDAINS:

SECTION 1. That the findings and materials regarding the negative secondary effects of sexually oriented businesses, documented in numerous judicial decisions, studies, and reports, as set forth in the Resolution attached hereto as Exhibit 1, are hereby adopted and incorporated by reference. This zoning text amendment, and the Zoning Ordinance itself, shall be construed as necessary to satisfy constitutional standards requiring adequate locations for sexually oriented businesses.

SECTION 2. That the table of required off-street parking that follows Section 4.32(h) in Appendix A, Article IV of the Code of Ordinances of the City of Warren, is hereby amended to add a row (27) to read as follows:

Use	Required Parking Space
(27) Sexually oriented businesses	One (1) parking space for each three hundred fifty (350) square feet of net floor area, as defined in Section 6-77 of the Warren Code of Ordinances

SECTION 3. That Appendix A, Article XIV, Section 14.01(s) of the Code of Ordinances of the City of Warren, which presently reads as follows:

- (s) *Sexually oriented business as regulated in this subsection.*
1. Sexually oriented business includes an adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theatre, semi-nude model studio, sexual device shop, or sexual encounter center as defined in Chapter 6 of the Warren Code of Ordinances.
 2. To be consistent with the objectives and stated purpose of the Downtown Development Authority Ordinance, Section 2-108 et seq.,

and the Tax Increment Financing Authority mission statement, sexually oriented businesses as defined in Chapter 6 of the Code of Ordinances shall be prohibited from locating within the Downtown District boundaries as described in Chapter 2 of the Code of Ordinances and from the Van Dyke TIFA Authority District as described in Exhibit A of the Resolution Establishing Tax Increment Finance Authority adopted September 23, 1986.

3. Location criteria for sexually oriented businesses. Any sexually oriented business shall be permitted if all of the following location criteria are met:
 - a. The site for the sexually oriented business must be located more than seven hundred fifty (750) feet from the nearest lot line any of the following zoning districts: R-1-A, R-1-B, R-1-C, R-1-P, R-2, R-3, R-3-A, R-4, R-5, any mixed residential zone such as Planned Unit Development or the Downtown District.
 - b. The site for the sexually oriented business must be located more than one thousand (1,000) feet from the nearest lot line of any of the following:
 - i. Any public or private educational institution providing instruction for any grade level, including but not limited to nursery schools, preschools, elementary schools, middle schools, junior high schools, high schools, special education schools, vocational schools, continuation schools, junior colleges, and universities; school includes the school grounds;
 - ii. Any public or private child day care facility licensed by the State of Michigan;
 - iii. Any public library;
 - iv. Any church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;
 - v. Any public park or public recreational area under the control, operation, or management of the department of parks and recreations of the city or any other federal, state, or local municipality, which has been designated for park or recreational activities including but not limited to recreation centers, parks, playgrounds, nature trails, swimming pools, athletic fields, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public lands.

- c. The site for the sexually oriented business must be located more than one thousand (1,000) feet from the nearest lot line of any site having a sexually oriented business designation under this ordinance.
 - d. Measurement: Measurement shall be made in a straight line from the nearest point on the lot line of the premises where a sexually oriented business is conducted, including but not limited to any auxiliary buildings and areas designated for parking, to the nearest point specified in subsection "a", "b", or "c". Presence of intervening structures or objects or a city, county, or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this section.
4. Nonconforming uses. Any sexually oriented business operating on the date this section takes effect that is in violation section 3, "locational criteria", shall be deemed a nonconforming use.
- a. The nonconforming use shall be permitted to continue as provided in Section 4.17 of this ordinance.
 - b. If two (2) or more sexually oriented businesses are within one thousand (1,000) feet of one another and otherwise in a permissible location, the sexually oriented business which was first established and continually operating at a particular location is the conforming use and the later established business(es) is/are nonconforming.
 - c. A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the subsequent location of a use listed in subsection 14.01(s)(3)(a) or 14.01(s)(3)(b) of this chapter within one thousand (1,000) feet of the sexually oriented business.

Is hereby amended to read as follows:

- (s) *Sexually oriented business as regulated in this subsection.*
 - 1. Sexually oriented business includes an adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theatre, semi-nude model studio, sexual device shop, or sexual encounter center as defined in Chapter 6 of the Warren Code of Ordinances.
 - 2. To be consistent with the objectives and stated purpose of the Downtown Development Authority Ordinance, Section 2-108 et seq.,

and the Tax Increment Financing Authority mission statement, sexually oriented businesses as defined in Chapter 6 of the Code of Ordinances shall be prohibited from locating within the Downtown District boundaries as described in Chapter 2 of the Code of Ordinances and from the Van Dyke TIFA Authority District as described in Exhibit A of the Resolution Establishing Tax Increment Finance Authority adopted September 23, 1986.

3. Location criteria for sexually oriented businesses. Any sexually oriented business shall be permitted if all of the following location criteria are met:
 - a. The site for the sexually oriented business must be located more than seven hundred fifty (750) feet from the nearest lot line **of** any of the following zoning districts **within the City of Warren**: R-1-A, R-1-B, R-1-C, R-1-P, R-2, R-3, R-3-A, R-4, R-5, any mixed residential zone such as Planned Unit Development or the Downtown District.
 - b. The site for the sexually oriented business must be located more than one thousand (1,000) feet from the nearest lot line of any of the following **land uses within the City of Warren**:
 - i. Any public or private ~~educational institution providing instruction for any grade level, including but not limited to nursery schools, preschools, elementary schools, middle schools, junior high schools, or high schools, special education schools, vocational schools, continuation schools, junior colleges, and universities; school includes the school grounds;~~
 - ii. Any public or private child day care facility licensed by the State of Michigan;
 - iii. Any public library;
 - iv. Any church, synagogue, mosque, temple or building which is used primarily for religious worship ~~and related religious activities,~~ **provided that buildings containing food banks, homeless shelters, emergency shelters, and similar uses shall not be considered a "church, synagogue, mosque, temple or building which is used *primarily* for religious worship" notwithstanding the fact that worship services may also occur on the property;**

- v. Any public park or public recreational area under the control, operation, or management of the department of parks and recreations of the city or any other federal, state, or local municipality, which has been designated for park or recreational activities including ~~but not limited to~~ recreation centers, parks, playgrounds, nature trails, swimming pools, athletic fields, basketball or tennis courts, pedestrian/bicycle paths, **or** wilderness areas, ~~or other similar public lands.~~
 - c. ~~The site for the sexually oriented business~~ **structure** must be located more than one thousand (1,000) feet from the nearest ~~lot line of any site having structure used for a sexually oriented business designation under this ordinance.~~
 - d. Measurement: **For subsections "a" and "b",** ~~m~~Measurement shall be made in a straight line from the nearest point on the lot line of the premises **containing the principal structure used for the** ~~where a sexually oriented business is conducted, including but not limited to any auxiliary buildings and areas designated for parking,~~ to the nearest point specified in subsection "a"; **or** "b"; ~~or "c".~~ **For subsection "c", measurement shall be made in a straight line between the nearest points of the structures used for sexually oriented businesses.** Presence of intervening structures or objects ~~or a city, county, or other political subdivision boundary~~ shall be irrelevant for purposes of calculating and applying the distance requirements of this section.
4. Nonconforming uses. Any sexually oriented business **lawfully** operating on the date this section takes effect that is in violation **of** section 3, "locational criteria", shall be deemed a nonconforming use.
- a. The nonconforming use shall be permitted to continue as provided in Section 4.17 of this ordinance.
 - b. If two (2) or more sexually oriented businesses are within one thousand (1,000) feet of one another and otherwise in a permissible location, the sexually oriented business which was first established and continually operating at a particular location is the conforming use and the later established business(es) is/are nonconforming.
 - c. A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the subsequent location of a use listed in subsection 14.01(s)(3)(a) or 14.01(s)(3)(b) of this chapter within one thousand (1,000) feet of the sexually oriented business.

SECTION 4. That Appendix A, Article XVII, Section 17.02 of the Code of Ordinances of the City of Warren, is hereby amended to add a row (z) to read as follows:

	M-1	M-2	M-3	M-4
(z) Sexually oriented businesses	Sexually oriented businesses, as defined in and regulated by Chapter 6 of the Warren Code of Ordinances, are allowed in all Industrial Districts. Sexually oriented businesses may use any industrial lot, without regard to the lot area and lot width provisions in Section 17.04. Within 45 days of receiving an application to split a lot, subdivide a parcel, or combine lots or parcels, in order to facilitate the siting of a sexually oriented business, the Planning Director shall grant the application, provided that the application: (1) is accompanied by the required application fee; and (2) contains maps of the proposed resulting parcel(s) showing that the proposed location of the sexually oriented business satisfies the location criteria of Section 14.01(s)(3).			

SECTION 5. This ordinance shall take effect on November 11, 2013.

I HEREBY CERTIFY that the foregoing Ordinance No. 30-1002 was adopted by the Council of the City of Warren at its meeting held on October 22, 2013.

Paul Wojno
City Clerk

Published: November 6, 2013