

ORDINANCE C-77-05

AN ORDINANCE TO AMEND SECTION 1135.12(J)(2) OF THE CODIFIED ORDINANCES OF GROVE CITY, OHIO, TITLED NONRESIDENTIAL DISTRICT REQUIREMENTS

WHEREAS, sexually oriented businesses require special supervision in order to preserve the health, safety and welfare of the patrons of such businesses, as well as the citizens of the communities where they locate; and

WHEREAS, it has been found 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 city that demands reasonable regulation of sexually oriented businesses in order to protect the health and well-being of the citizens; and

WHEREAS, licensing is a legitimate means of accountability to ensure that operators of sexually oriented businesses comply with reasonable regulations, and to ensure that operators do not allow establishments to be used as places of illegal sexual activity or solicitation; 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 area 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 proximity to each other, thereby contributing to urban blight and downgrading the quality of life in the adjacent area; and

WHEREAS, this City Council desires to minimize and control these adverse effects and thereby protect the health, safety and 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; and

WHEREAS, it is not the intent to suppress any speech activities protected by the First Amendment, but to enact a content neutral ordinance that addresses the secondary effects of sexually oriented businesses as well as the health problems associated with such businesses; and

WHEREAS, it is not the intent of the community to condone or legitimize the distribution of obscene materials, and it is recognized that state and federal law prohibits the distribution of obscene materials and expects and encourages state enforcement officials to enforce state and federal obscenity statute against any such illegal activities in our community; and

WHEREAS, it is the purpose of this ordinance to regulate sexually oriented businesses and related activities to promote the health, safety, morals, and general welfare of the citizens of this community, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within this community. 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 materials; and

WHEREAS, based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings and in reports available to the City Council, and on findings incorporated in the various court cases (*City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 426 U.S. 50 (1976); and *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *Arcara v. Cloud Books, Inc.*, 478 U.S. 697, (1986); *California v. LaRue*, 409 U.S. 109 (1972); *Iacobucci v. City of Newport, KY*, 479 U.S. 92 (1986); *United States v. O'Brien*, 391 U.S. 367 (1968); *DLS, Inc. v. City of Chattanooga*, 107 F.3d 403 (6th Cir. 1997); *Dev, Inc. v. Kitsap County*, 793 F.2d 1053 (9th Cir. 1986); *Hang On, Inc. v City of Arlington*, 65 F.3d 1248 (5th Cir. 1995); and *South Florida Free Beaches, Inc. v. City of Miami*, 734 F.2d 608 (11th Cir. 1984); as well as studies conducted in other cities including, but not limited to,

1. National Law Center for Children & Families Summaries of Sexually Oriented Business Studies – Crime Impact Studies by Municipal and State Governments on Harmful Effects of Sexually Oriented Businesses. (32 report summaries, copyright 2000). (33 pages)
2. Report to the American Center for Law and Justice on the Secondary Impact to Sex Oriented Business, March 31, 1996. (20 pages)
3. Analysis of the Effects on Sexually Oriented Business on the surrounding neighborhoods in Dallas, Texas April, 1997. (30 pages)
4. Report by the Special Investigation Unit, Cleveland Police Department, August 24, 1997. (3 pages)
5. Houston City Council Sexually oriented Business Ordinance Revision Committee Legislative Report January 7, 1997 (30 pages)
6. Adult Use Study – Newport News, Virginia March 1996 (29 pages)
7. Site Visit Analysis. Sexually Oriented Businesses in Renton and Campbell County, Kentucky. August, 2003. Eric Damian Kelly and Connie Cooper, Ph.D.

WHEREAS, the United States Supreme Court in *Renton* and other cases had held that a local government may regulate such uses through content-neutral, time, place and manner restrictions, so long as said regulations are designed to serve the government interest and not unreasonably omit avenues of communications, and are aimed not at the content of protected speech within said establishments but rather at the secondary effects of said establishments in the surrounding communities; and

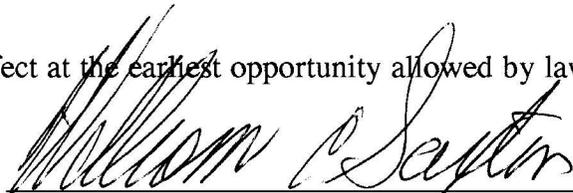
WHEREAS, based upon the past experiences of cities that varied offenses have occurred in and around the sexually oriented businesses and based upon the documented experiences of other governmental units within Ohio and Kentucky and elsewhere in dealing with the impact of sexually oriented businesses, that such businesses can, if not properly regulated, be deleterious to said community.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GROVE CITY, STATE OF OHIO, THAT:

SECTION 1. Section 1135.12(j)(2) is hereby amended as follows:

Upon special permit by the Planning Commission and Council, an adult bookstore, adult motion picture theater, or an adult film and video tape sales and/or rental store may be located within a C-1 or C-2 District, subject to the provision that no adult bookstore, adult motion picture theater, or adult film and video tape sales and/or rental store shall be established within ~~500~~ **1,000** feet or less of any ~~R-1 [single family residence], R-2 [single family residence], R-3 [modified single family residence], D-1 [residential/double occupancy], D-2 [residential/double occupancy], A-1 [residential/multi family], A-2 [residential/multi family],~~ **single-family or multi-family residential zoning classification**, PUD-R [Planned Unit Development-Residential], PSO [Professional Services] or SD-1 [Educational] Districts or residential use and no adult bookstore, adult motion picture theater, or adult film and video tape sales and/or rental store shall be established within 1,000 feet of another adult bookstore, adult motion picture theater, or an adult film and video store.

SECTION 2. This ordinance shall take effect at the earliest opportunity allowed by law.



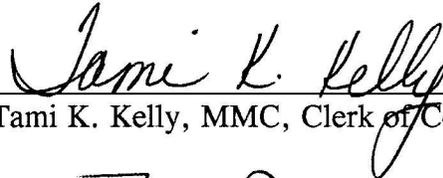
William E. Saxton, President of Council



Cheryl L. Grossman, Mayor

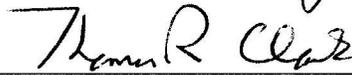
Passed: 08-01-05
Effective: 08-31-05

Attest:



Tami K. Kelly, MMC, Clerk of Council

I certify that this resolution is correct as to form.



Thomas R. Clark, Director of Law