

RESOLUTION NO. 25 - 2016

RESOLUTION INITIATING PROPOSED TEXT AMENDMENTS TO THE WEST CHESTER TOWNSHIP ZONING RESOLUTION CONCERNING AND GOVERNING VARIOUS COMMUNITY MATTERS

WHEREAS, West Chester Township adopted local zoning and the f/k/a Union Township Zoning Resolution in November 1989; and,

WHEREAS, West Chester Township adopted changes and text amendments to the originally enacted zoning resolution in November 1990, April 1991, January 1993, January 1994, April 1995, September 1996, November 1997, September 1999, September 2001, August 2003, July 2004, April 2005, May 2005, September 2011 and June 2015; and,

WHEREAS, recent issues have surfaced, bringing to light significant community matters which may be addressed through changes and amendments to the West Chester Township Zoning Resolution; and,

WHEREAS, the West Chester Township Board of Trustees discussed these community matters at several regularly scheduled Board of Trustees' meetings and received a presentation on possible amendments to the West Chester Township Zoning Resolution at the Board's regularly scheduled meeting on August 9, 2016; and,

WHEREAS, the West Chester Township Board of Trustees determines the best way to address these critical community matters is by initiating a process to amend the West Chester Township Zoning Resolution; and

NOW THEREFORE BE IT RESOLVED, the West Chester Township Board of Trustees hereby agrees to:

SECTION 1. Initiate a 2016 Zoning Resolution text amendment process in accordance with R.C. 519.12 and the West Chester Township Zoning Resolution by authorizing the Township Administrator to complete, execute, and file the West Chester Township, Butler County, Ohio Community Development Department application: Submission Requirements and Instructions for Text Amendments to the Zoning Resolution and take any and all other action necessary to initiate and pursue this process.

SECTION 2. Propose and consider a variety of amendments to the West Chester Township Zoning Resolution through the 2016 Zoning Resolution amendment process in accordance with the West Chester Township Zoning Resolution and the Ohio Revised Code, in order to address several significant community matters, including:

- A. Variance standards: the West Chester Township Board of Trustees finds amendments to the accepted variance standards are advisable to better comply with applicable case law.
- B. Permissible uses by district table: the West Chester Township Board of Trustees finds the current permissible uses by district table does not include all possible zoning districts or

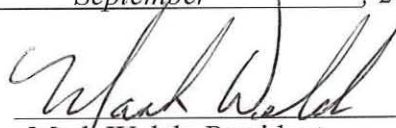
related uses within the Township; and the West Chester Board of Trustees seeks to include all districts in the permissible uses by district table.

- C. Cellular wireless telecommunication towers: the West Chester Township Board of Trustees finds new technology has resulted in a market desire to expand the use and placement of types of cellular wireless telecommunication towers arguably not considered under the existing West Chester Township Zoning Resolution and determines amendments to the West Chester Township Zoning Resolution are necessary to place additional conditions on the location, size, and appearance of these types of cellular wireless telecommunication towers within residentially zoned districts.
- D. Sexually oriented businesses: the West Chester Township Board of Trustees previously passed Resolution 32-2015 and subsequent Resolution 24-2016, thereby declaring and approving and extending a moratorium respectively on the issuance of a zoning certificate or license for a sexual encounter establishment or related uses.
- E. The West Chester Township Board of Trustees finds sexual encounter establishments, sexual encounter centers, swingers clubs, and similar uses are not entitled to certain First Amendment free speech protections while sexually oriented businesses can be regulated by the Township only through the enactment of content-neutral regulations.
- F. Institutional care facilities: the West Chester Township Board of Trustees previously passed Resolution 09-2016, thereby declaring and approving a moratorium on the issuance of a zoning certificate or other approvals for treatment or professional services, uses, or facilities for addiction or similar services, uses, or facilities.
- G. The West Chester Township Board of Trustees researched and reviewed the discernible and distinguishable differences and similarities between types of care facilities and wishes to categorize and define some of these care facilities as institutional care facilities and conditionally permit such uses in appropriately zoned districts under appropriately permitted processes to protect the public health, safety, morals and general welfare of the community.

SECTION 3. Propose amendments to the West Chester Township Zoning Resolution pursuant to the West Chester Township Zoning Resolution and the Ohio Revised Code as documented and demonstrated in Attachment A and further indicated with the below key:

Key: **language** – bold and red language indicates new language
~~language~~ – strike through language indicates removed language

Adopted this 13th day of September, 2016.



Mark Welch, President

YES

Yes/No

ATTEST:

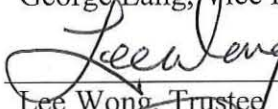


Bruce Jones, Fiscal Officer

Excused Early Departure

George Lang, Vice President

Yes/No




Lee Wong, Trustee

YES

Yes/No

APPROVED AS TO FORM:



Donald L. Crain, Law Director

8.053 Standards for Variances. ~~The Practical Difficulties test as set forth in *Duncan v. Middlefield* (1986), 23 Ohio St.3d 83, 491 N.E.2d 692, or as this standard may be amended by the Ohio Supreme Court or the state legislature, will apply to determine if an area variance shall be granted. An area variance may be granted where a literal enforcement of the zoning resolution will result in unnecessary hardship.~~ The factors to be considered and weighed in determining whether a property owner seeking an area variance has encountered ~~practical difficulties unnecessary hardship~~ in the use of the property include, but are not limited to:

- a) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without a variance.
- b) Whether the variance is substantial.
- c) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance.
- d) Whether the variance would adversely affect the delivery of governmental services.
- e) Whether the property owner purchased the property with knowledge of the zoning restriction.
- f) Whether the property owner's predicament feasibly can be obviated through some method other than a variance.
- g) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

~~No single factor listed above may control, and not all factors may be applicable in each case. Each case shall be determined on its own facts.~~

PERMISSIBLE USES BY DISTRICT

P* = Subject to Approval Process, Pursuant to Article 26

P+ = Subject to Special Conditions of District

P = Permitted Use

C = Conditional Use

Shaded, Blank or Unlisted = Prohibited Use

OFFICE, BUSINESS, INDUSTRIAL, RESIDENTIAL USES
PERMISSIBLE USES BY DISTRICT

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OFFICE, BUSINESS, INDUSTRIAL, USES

USE	O-1	O-2	B-1	B-2	M-1	M-2	C-PUD	I-PUD	SP-PUD	<u>R-PUD</u>	<u>CBD</u>	<u>R-1</u>	<u>R-1A</u>	<u>R-2</u>	<u>R-3</u>	<u>R-4</u>	<u>A-1</u>
office uses	P	P	P	P	<u>P+</u>	<u>P+</u>	P*	P*	P*		<u>P</u>						
banks/financial institutions including drive thru and pick-up windows	P	P	P	P	<u>P++</u>	<u>P++</u>	P*	P*	P*		<u>P</u>						
day care centers	P	P	P	P	<u>P++</u>	<u>P++</u>	P*	P*	P*	<u>P*</u>	<u>P</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>
bed & breakfast	P+	P+	P+	P+	P+	P+	P*	P*	P*	<u>P*</u>	<u>P+</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>
churches/places of worship	P	P	P	P	P	P	P*	P*	P*	<u>P*</u>	<u>P</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>
public/private elementary & high schools	P	P	P	P	P	P	P*	P*	P*	<u>P*</u>	<u>P</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>
public buildings & properties of administrative, cultural, recreational, or service type including such buildings used to house not-for-profit organizations	P	P	P	P	P	P	P*	P*	P*	<u>P*</u>	<u>P</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>
wireless and cellular telecommunication facilities	P	P	P	P	P	P	P*	P*	P*		<u>P</u>						
funeral homes		P	P	P	<u>P++</u>	<u>P++</u>	P*	P*	P*		<u>P</u>						
radio/television studios		P	P	P	<u>P++</u>	<u>P++</u>	P*	P*	P*		<u>P</u>						
art galleries & studios		P	P	P	<u>P++</u>	<u>P++</u>	P*	P*	P*		<u>P</u>						
veterinarian offices & clinics w/ no breeding or boarding		P+	P+	P+	P+	P+	P*	P*	P*								
hospital & medical centers		P	P	P	<u>P++</u>	<u>P++</u>	P*	P*	P*		<u>P</u>						
rest homes/nursing homes	-	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P*</u>	<u>P*</u>	<u>P*</u>								
convenience business which cater to adjacent residential neighborhood	<u>C</u>	<u>C</u>	P	P	P+	P+	P*	P*	P*		<u>P</u>						
personal service establishments		C	P	P	P+	P+	P*	P*	P*		<u>P</u>						
restaurants - no drive-thru		C	P	P	P+	P+	P*	P*	P*		<u>P</u>						

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OFFICE, BUSINESS, INDUSTRIAL, RESIDENTIAL USES

<u>USE</u>	<u>O-1</u>	<u>O-2</u>	<u>B-1</u>	<u>B-2</u>	<u>M-1</u>	<u>M-2</u>	<u>C-PUD</u>	<u>I-PUD</u>	<u>SP-PUD</u>	<u>R-PUD</u>	<u>CBD</u>	<u>R-1</u>	<u>R-1A</u>	<u>R-2</u>	<u>R-3</u>	<u>R-4</u>	<u>A-1</u>
<u>animal slaughtering, stock yards</u>	-	-	-	-	-	<u>C</u>	-	<u>P*</u>									
<u>any use which conducts, as its principal activity, the production, processing, storing, or similar industrial action of solids, liquids, or gases, that have a degree of hazard rating in health, flammability, or reactivity of 2, 3, or 4 as ranked by the National Fire Protection Association 704</u>	-	-	-	-	-	<u>C</u>	-	<u>P*</u>									
<u>any use which involves incineration, processing, reduction, storage of garbage, debris, infectious or medical waste, dead animals, or other types of refuse</u>	-	-	-	-	-	<u>C</u>	-	<u>P*</u>									
<u>airports</u>	-	-	-	-	-	-	-	-	<u>P*</u>								
<u>amusement centers/parks</u>	-	-	-	-	-	-	-	-	<u>P*</u>		<u>P+</u>						
<u>community centers & recreation areas</u>	-	-	-	-	-	-	-	-	<u>P*</u>		<u>P+</u>						
<u>museum & cultural centers, including outdoor theaters</u>	-	-	-	-	-	-	-	-	<u>P*</u>		<u>P+</u>						
<u>stadium & sports arenas</u>	-	-	-	-	-	-	-	-	<u>P*</u>								
<u>mass transit terminals</u>									<u>P*</u>								
<u>zoos</u>									<u>P*</u>								
<u>internet cafes</u>			<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P*</u>	<u>P*</u>	<u>P*</u>		<u>P</u>						
<u>internet sweepstakes establishments</u>																	
<u>non-therapeutic massage establishment</u>																	
<u>one family detached dwellings</u>										<u>P*</u>	<u>C</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>two family dwellings</u>										<u>P*</u>					<u>P</u>	<u>P</u>	
<u>multi-family dwellings, row dwellings and townhouses</u>										<u>P*</u>	<u>C</u>					<u>P</u>	
<u>agriculture and farm uses, including and customary agricultural use, building or structure for farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture, greenhouses and nurseries, not including garden stores or supply centers</u>										<u>P*</u>		<u>P+</u>	<u>P+</u>	<u>P+</u>	<u>P+</u>	<u>P+</u>	<u>P</u>
<u>animal and poultry husbandry or the keeping of farm animals</u>										<u>P*</u>		<u>P+</u>	<u>P+</u>	<u>P+</u>	<u>P+</u>	<u>P+</u>	<u>P+</u>
<u>public and non-profit parks and recreational facilities.</u>										<u>P*</u>		<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>in-law suite in principal structure</u>										<u>P*</u>		<u>P+</u>	<u>P+</u>	<u>P+</u>			<u>P+</u>

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OFFICE, BUSINESS, INDUSTRIAL, RESIDENTIAL USES

<u>country clubs, golf courses (excluding driving ranges which are not a part of a golf course or miniature golf course) and other private, profit oriented, non-commercial recreation areas and facilities including swimming pools, cemeteries</u>											<u>P*</u>		<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>
<u>PERMISSIBLE USES BY DISTRICT</u>																			
											<u>P*</u>		<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>

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OFFICE, BUSINESS, INDUSTRIAL, USES

<u>USE</u>	<u>O-1</u>	<u>O-2</u>	<u>B-1</u>	<u>B-2</u>	<u>M-1</u>	<u>M-2</u>	<u>C-PUD</u>	<u>I-PUD</u>	<u>SP-PUD</u>
<u>theaters including drive-ins</u>	-	-	-	<u>C</u>	<u>P+</u>	<u>P+</u>	<u>P*</u>	<u>P*</u>	<u>P*</u>
<u>contractors equipment storage yard or plant</u>	-	-	-	<u>C</u>	<u>P+</u>	<u>P+</u>	<u>P*</u>	<u>P*</u>	<u>P*</u>
<u>trucking & motor freight station or terminal; carting express or hauling establishments; the storage of vehicles</u>	-	-	-	<u>C</u>	<u>P+</u>	<u>P+</u>	<u>P*</u>	<u>P*</u>	<u>P*</u>
<u>storage & sales of grain, livestock feed</u>	-	-	-	<u>C</u>	<u>P+</u>	<u>P+</u>	<u>P*</u>	<u>P*</u>	<u>P*</u>
<u>sexually oriented businesses</u>				<u>P+</u>	<u>P+</u>				
<u>methadone and similar high volume drug treatment centers</u>				<u>C</u>	<u>C</u>				
<u>research & development facilities, distribution warehouses, wholesale warehouses, package delivery companies, bottling & packaging, manufacturing including: minor assembly, altering, fabricating, finishing, processing, treatment, storage and incidental sales</u>	-	-	-	-	<u>P+</u>	<u>P+</u>	-	<u>P*</u>	<u>P*</u>
<u>bdg material sales yards incl concrete mixing; retail lumber yards including mill work, landscape businesses</u>	-	-	-	-	<u>P+</u>	<u>P+</u>	-	<u>P*</u>	<u>P*</u>
<u>outdoor storage yards</u>					<u>C</u>	<u>C</u>		<u>P*</u>	

11.13

ZONING AUTHORITY FOR CELLULAR WIRELESS

TELECOMMUNICATION TOWERS. The maximum allowable height for any free standing or attached structure proposed to have attached to it radio frequency transmission or reception equipment, which is located in a residential district and owned or to be principally used by a public utility engaged in the provision of telecommunications services, is five (5) feet. A cellular wireless telecommunication tower or pole may be greater than five (5) feet in height if it is otherwise in compliance with all of the regulations of this Section 11.13.

Any cellular wireless telecommunication tower or pole, as defined in Ohio Revised Code Section 519.211 B(1), proposed to be located within a right-of-way, utility easement or on private property in any residential district, recorded residential subdivision or within one hundred (100) feet of a residential dwelling shall be required to receive conditional use approval by the Board of Zoning Appeals. Pursuant to Article 8, the Board of Zoning Appeals shall have the power to hear and decide whether the proposed tower or pole is in keeping with the intent of this Resolution and policy established by the Board of Trustees to maintain the public health, safety and general welfare of the residents of West Chester Township. In addition to the standards for a conditional use, in considering an application for a cellular wireless telecommunication tower or pole, the Board shall give due regard to the nature and condition of all adjacent uses ~~and~~ structures, and existing utility infrastructure and ensure that the height and location of the tower or pole has been approved by all other governmental agencies charged with the responsibility of maintaining air ~~safety~~ or traffic safety. The Board shall also consider the availability of other locations in the right of way, the impact of the proposed location on the public health, safety, and welfare, and the degree of disruption to residents that may result from the use of that portion of the right of way. The Board shall also ensure that no other structure is located within a distance from the base of the tower or pole that is less than the height of the tower or pole itself. If the application is approved, the Board of Zoning Appeals may impose conditions and requirements as deemed necessary for the protection of adjacent properties and the public interest. In those areas where utilities are underground, telecommunication towers, poles, and accessory equipment must also be located underground.

When the Board of Zoning Appeals is considering telecommunication towers or poles in the right of way or front yard, the following minimum conditions are to be met: In areas where overhead utilities exist, the telecommunication provider shall first make every effort to co-locate on an existing pole or structure. If it is proven this cannot be accomplished, the provider may install a "stealth" tower or pole of satisfactory aesthetic design and material at a height not to exceed the height of the existing utility poles or twenty-five (25) feet, whichever is less. This telecommunication tower or pole must be located on the same side of the street as the existing utility poles or the provider shall demonstrate why that is not feasible. Only then can a new telecommunication tower or pole be considered for installation on the opposite side of the street from the existing utility poles. In no

instance shall overhead power or utility lines be permitted to extend across the street to the newly installed telecommunication tower or pole. All lines shall be underground.

Any person or company proposing to construct a cellular wireless telecommunication tower or pole within a right-of-way, utility easement or on private property in a residential district, recorded residential subdivision or within one hundred (100) feet of a residential dwelling shall provide written notice by certified mail to property owners whose land is contiguous to or directly across the street from the property where the tower or pole is proposed to be located and to the Community Development Director, on behalf of the Township Board of Trustees, of its intention to construct a tower or pole. Notices to property owners and the Community Development Director must state the intention to construct a tower or pole, provide an identifiable description of the property, and advise owners that they have 15 days to give notice to the Community Development Director requesting that the tower or pole be subject to township zoning. If either an affected property owner or a Township Trustee has an objection to the location of the tower or pole, the Fiscal Officer or the Community Development Director, on behalf of the Fiscal Officer, must provide written notice to the person or company within 20 days of the mailing date of the notice to affected property owners and to the Township Trustees advising that the person or company will be subject to Subsection 8.04 of this Resolution. However, failure of this notice shall not be grounds to deprive the Board of Zoning Appeals of jurisdiction over the application. If no notice is received from a property owner and no objection is filed by a Township Trustee-then the Board of Zoning Appeals shall not exercise jurisdiction over the application as described in the preceding paragraph and the Community Development Department shall issue a Zoning Certificate authorizing the construction of the tower or pole.

11.14 IN-LAW SUITE, In-Law Suites are permitted in all R-Districts provided:

- a) Each parcel shall be limited to one (1) In-Law Suite, which shall be clearly subordinate to the principal dwelling unit.
- b) The property owner shall be required to live in the principal dwelling unit or the In-Law Suite. If the property owner lives in the In-Law Suite, the limitations in (c) and (d) below shall apply to the principal dwelling unit.
- c) The residents of the In-Law Suite shall be limited to the parents, sons, daughters, legal dependent, grandchildren, grandparents, brothers, sisters, aunts, and uncles of the property owner.
- d) A nurse, homemaker, nanny or similar individual shall also be permitted to reside in the In-Law Suite if documentation can be provided that demonstrates that they are providing care for a legal resident.
- e) Shall be accessible only through common entrances of the principal dwelling unit, and shall maintain an interior common pass through to the principal dwelling unit. A separate entrance may not be added for the In-Law Suite.

- f) Shall be limited to two (2) bedrooms.
- g) A separate address may not be created for the In-Law Suite and mail shall be delivered to one common mailbox with the principal dwelling unit.
- h) Common meters for electric, water, gas and other utilities shall be shared with the principal dwelling unit.
- i) At no time shall the In-Law Suite be permitted to be deeded separately from the principal dwelling unit.

11.15

DAY CARE HOME. Day Care Homes are permitted in all R-Districts as defined in this resolution and regulated by the State of Ohio as a “type B family day-care home”.

ARTICLE 32
SEXUALLY ORIENTED BUSINESSES

32.01

DEFINITIONS

a) As used in this Article:

~~2) “ADULT ARCADE,” “ADULT BOOKSTORE,” “ADULT VIDEO STORE,” “ADULT CABARET,” “ADULT MOTION PICTURE THEATER,” “ADULT VIDEO STORE THEATER,” “LIVE SEX ACT BUSINESS,” “SEMINUDE MODEL STUDIO,” “SEXUAL DEVICE SHOP,” AND “SEXUAL ENCOUNTER CENTER” have the same meanings as in Section 2907.40 of the Revised Code; and~~

~~3) — “ADULT ARCADE,” “ADULT ENTERTAINMENT,” “ADULT ENTERTAINMENT ESTABLISHMENT,” “ADULT NOVELTY STORE,” “ADULT THEATER,” “NUDE OR SEMINUDE MODEL STUDIO,” AND, ” “SEXUAL ENCOUNTER ESTABLISHMENT,” and “SEXUALLY ORIENTED BUSINESS” have the same meanings as in Section 2907.39 of the Revised Code the West Chester Township Resolution Governing Sexually Oriented Businesses and Employees Pursuant to Sections 503.51 and 503.52 of the Ohio Revised Code and as Authorized by the Township Limited Home Rule Provisions of Ohio Revised Code Chapter 504, as such resolution may be amended from time to time.~~

a) “ESTABLISHED” means and includes any of the following:

- 1) The opening or commencement of any Sexually Oriented Business as a new business; or
- 2) The conversion of an existing business, whether or not a Sexually Oriented Business, to any Sexually Oriented Business; or
- 3) The addition of any Sexually Oriented Business to any other existing Sexually Oriented Business; or
- 4) The relocation of any Sexually Oriented Business.

~~d) “PREMISES” means the real property on which the Sexually Oriented Business is located and all appurtenances to the real property, including, but not limited, to the Sexually Oriented Business, the grounds, private walkways, and parking lots or parking garages adjacent to the real property under the ownership, control, or supervision of the owner or operator of the Sexually Oriented Business.~~

~~e) “SEXUALLY ORIENTED BUSINESS” means an adult arcade, adult bookstore, adult cabaret, adult entertainment establishment, adult motion picture theater, adult novelty store, adult theater, adult video store, nude or~~

~~semi-nude model studio, sexual device shop, sexual encounter center, and sexual encounter establishment, as defined by Section 32.01, sub-section a) of this Article, but does not include a business solely by reason of its showing, selling, or renting materials that may depict sex.~~

⌘ “SUBSTANTIALLY ENLARGED” means an increase in the floor area occupied by a Sexually Oriented Business by twenty-five percent (25%) or more. For a Sexually Oriented Business that is lawfully operating on the date this Resolution takes effect, the increase shall be measured from the floor area that is lawfully occupied by the Sexually Oriented Business on the date this Resolution takes effect. For a Sexually Oriented Business that begins operating as a lawful Sexually Oriented Business after the date this Resolution takes effect, the increase shall be measured from the floor area that is occupied by the Sexually Oriented Business on the date the Sexually Oriented Business receives its initial license zoning certificate under this Resolution.

32.02

LOCATION OF SEXUALLY ORIENTED BUSINESSES.

- a) A Sexually Oriented Business may be located only in accordance with the restrictions contained in ~~b) through l) below this Section.~~
- b) A Sexually Oriented Business may be located only in a Sexually Oriented Business Overlay District.
- c) A Sexually Oriented Business Overlay District is hereby ~~established~~created comprising those portions of the B-2 and M-1 Zoning Districts located south of the centerline of Port Union Road and West of the centerline of Princeton-Glendale Road (SR 747).
- d) No Sexually Oriented Business may be established within 500 feet 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 kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, public vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities which have students regularly attending classes and which either teach an elementary education or secondary education curriculum that is the same as or comparable to that commonly taught in the public schools of the state of Ohio, or regularly confer Associate, Baccalaureate, Master, or Doctorate degrees to graduates; school includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;
 - 3) Child day care facilities, nursery schools and preschools, where children from the age of one (1) year old or less to twelve (12) years old are regularly in attendance;

- 4) A boundary of a residential district as shown on the Zoning Map;
 - 5) 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 Township which is under the control, operation, or management of either the Township or which is operated or managed by another public entity.
- e) No Sexually Oriented Business may be established within 500 feet of the property line of a lot regulated as a lawful non-conforming residential use as defined in the Zoning Resolution.
 - f) No Sexually Oriented Business may be established on a parcel any portion of which is within one hundred fifty (150) feet of the right-of-way line of Princeton-Glendale Road (SR 747).
 - g) No Sexually Oriented Business may be established on a parcel any portion of which is within one hundred fifty (150) feet of the right-of-way line of Port Union Road.
 - h) No Sexually Oriented Business may be established, operated or substantially enlarged within 500 feet of another Sexually Oriented Business.
 - i) Not more than one Sexually Oriented Business shall be established or operated in the same building, structure, or portion thereof, and the floor area of any Sexually Oriented Business in any building, structure, or portion thereof containing another Sexually Oriented business may not be increased.
 - j) For the purpose of subsections d) and e) 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 principal building or structure, or tenant space if located in a multi-tenant building, used as the part of the premises where a Sexually Oriented Business is operated, to the nearest property line of the premises of a use listed in subsection d) and e).
 - k) For the purpose of subsection f) and g) of this Section, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the right-of-way line of Princeton-Glendale Road (SR 747) to the nearest property line of the parcel containing the proposed Sexually Oriented Business.
 - l) For purposes of subsection gh) 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, from the closest exterior wall of the structure, or tenant space if located in a multi-tenant building, in which each business is located.
 - m) No ~~sexually oriented business~~ Sexually Oriented Business that was in compliance with the above locational restrictions at the time that it received a zoning certificate will be subsequently found not to be in compliance if,

subsequent to the ~~sexually-oriented-business~~ Sexually Oriented Business receiving a zoning certificate, a use listed in subsection d) is newly established or expands so as to be within 500 feet of the ~~sexually-oriented business~~ Sexually Oriented Business.

32.03

~~ADDITIONAL REGULATIONS CONCERNING LOT, YARD, HEIGHT, PARKING, BUILDING AND SITE DESIGN STANDARDS, AND SITE DEVELOPMENT PLAN REQUIREMENTS.~~

- a) Lot area and width, setbacks, buffering, yard area, height provisions and other site development requirements for a Sexually Oriented Business are those specified in the "M-1" and "B-2" districts of the Zoning Resolution.
- b) Parking requirements for ~~an Adult Cabaret or any other~~ Sexually Oriented Business ~~that features live entertainment shall be those provided for~~ undershall be dictated by the parking requirements for the closest analogous use identified elsewhere in this Zoning Resolution Article 20 "Restaurant."
- c) ~~Parking requirements for all other Sexually Oriented Businesses shall be those provided for under Zoning Resolution Article 20 "Convenience and Personal Services Uses."~~ The only permitted uses of property as a Sexually Oriented Business will be those identified on a valid license issued by the West Chester Township Community Development Department to an applicant or owner pursuant to the West Chester Township Resolution Governing Sexually Oriented Businesses and Employees Pursuant to Sections 503.51 and 503.52 of the Ohio Revised Code and as Authorized by the Township Limited Home Rule Provisions of Ohio Revised Code Chapter 504, as such resolution may be amended from time to time. Notwithstanding any other provision of this Zoning Resolution, no zoning certificate shall be issued for any Sexually Oriented Business unless the Sexually Oriented Business is also found to be entitled to a valid license under that same Resolution.
- d) Live Sex Act Businesses are prohibited.
- e) A final finding that a Sexually Oriented Business is no longer entitled to a Sexually Oriented Business license for any reason (including expiration of an existing license after failure to renew, failure to appeal a decision of the Community Development Department to revoke or deny a license, or the receipt of a final ruling on any appeal by the license holder from revocation or denial of a license) shall constitute immediate grounds to revoke a zoning certificate previously issued to a Sexually Oriented Business, and no zoning certificate will be reissued for the Premises to be used as a Sexually Oriented Business until such time as a Sexually Oriented Business license may be reissued for the Premises.

32.04

SIGN REGULATIONS FOR SEXUALLY ORIENTED BUSINESSES.

a) ~~All signs shall be “building signs” as defined and regulated in the Zoning Resolution, but in no event shall the maximum allowable sign area exceed 40 square feet. Any address sign area shall be included in the maximum sign area calculation.~~

b) Review and approval procedures for a sign permit for a Sexually Oriented Business, as well as the types of signs and maximum allowable sign area for Sexually Oriented Business signs, shall be in accordance with the applicable sign regulations elsewhere in this Zoning Resolution except as modified herein.

c) No merchandise or pictures of the products or entertainment on the premises shall be displayed in window areas or any area where they can be viewed from the sidewalk or street in front of the building exterior of the premises.

d) Window areas shall not be covered or made opaque in any way. ~~No signs shall be placed in any window. A one square foot sign may be placed on the door to state hours of operation and admittance to adults only~~

DEFINITIONS THAT NEED TO BE ADDED (AND THEN ADDED TO THE USE TABLE):

HOSPITAL OR MEDICAL CENTER: A facility providing physical and mental health services, outpatient, inpatient, or overnight stays of a predominantly short term nature, and medical or surgical care of the sick or injured.

INSTITUTIONAL CARE FACILITY: Any facility for the elderly, infirm, or individuals requiring rehabilitation or treatment for addiction, mental health disorders, or physical infirmities, in which three or more unrelated individuals may stay on a predominantly intermediate or long term basis, and where inpatient care and living accommodations are provided in exchange for compensation from any source. Institutional care facilities include, but are not limited to, nursing homes, assisted living facilities, hospices, addiction treatment facilities, mental health treatment facilities, inpatient physical rehabilitation facilities, convalescent homes, or similar uses. Institutional care facilities shall not include hospitals, medical offices, medical or dental clinics, urgent care centers, outpatient physical rehabilitation centers, or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured without a component of predominantly intermediate or long-term stays.

~~16.038 — Rest homes or nursing homes for convalescent patients.~~

~~19.029 — Rest homes or nursing homes for convalescent patients.~~

19.033 Institutional care facilities.

~~21.0292 — Hospitals, rest homes or nursing homes for convalescent patients.~~

21.033 Institutional care facilities.

22.038 Institutional care facilities.

24.033 Institutional care facilities.

25.035 Institutional care facilities.

RELEVANT EXISTING DEFINITION:

9.86 NURSING HOME. A privately operated State licensed place of domicile or other facility which provides skilled nursing and dietary care for persons who are ill or incapacitated, or service for the rehabilitation of persons who are convalescing from illness or incapacitation