

RESOLUTION NO. 24 - 2016

RESOLUTION DECLARING AND AUTHORIZING AN EXTENSION TO A MORATORIUM UNTIL DECEMBER 31, 2016 ON THE ISSUANCE OF A ZONING CERTIFICATE OR LICENSE FOR A “SEXUAL ENCOUNTER ESTABLISHMENT” OR RELATED USES INITIALLY ENACTED BY WEST CHESTER BOARD OF TRUSTEE RESOLUTION 32-2015 AND DECLARING AN EMERGENCY AND DISPENSING WITH THE SECOND READING

WHEREAS, pursuant to Sections 503.51 and 503.52 of the Ohio Revised Code, the West Chester Township Board of Trustees on August 23, 2011 passed resolution 15-2011, which established regulations regarding the licensing of sexually oriented businesses within the Township; and,

WHEREAS, pursuant to Section 2(n) of that resolution, a sexually oriented business includes “an adult arcade, adult bookstore, adult cabaret, adult entertainment establishment, adult motion picture theater, adult novelty store, adult theater, adult video store, sexual device shop, sexual encounter center, and sexual encounter establishment”; and,

WHEREAS, a “sexual encounter establishment” is defined in the Ohio Revised Code as “a business or commercial establishment that, as one of its principal business purposes, offers for any form of consideration a place where either of the following occur: (i) Two or more persons may congregate, associate, or consort for the purpose of engaging in specified sexual activities; (ii) Two or more persons appear nude or seminude for the purpose of displaying their nude or seminude bodies for their receipt of consideration or compensation in any type or form”; and,

WHEREAS, a “sexual encounter center” is defined in the Ohio Revised Code as “a business or commercial enterprise that, as one of its principal business purposes, purports to offer for any form of consideration physical contact in the form of wrestling or tumbling between individuals of the opposite sex when one or more of the individuals is nude or seminude”; and,

WHEREAS, some sexually oriented businesses are entitled by law to certain First Amendment free speech protections and may be regulated by the Township only through the enactment of content-neutral regulations addressing the secondary effects of such establishments; and,

WHEREAS, it has come to the Township’s attention that sexual encounter establishments, sexual encounter centers, swingers clubs, and similar uses may not be entitled to the same protections; and,

WHEREAS, on November 20, 2015, the West Chester Township Board of Trustees approved Resolution 32-2015 declaring and authorizing a moratorium on the issuance of a zoning certificate or license for a “sexual encounter establishment” or related uses until August 17, 2016; and,

WHEREAS, the West Chester Township Board of Trustees desires to extend this moratorium until December 31, 2016 on the issuance of a zoning certificate or license for a “sexual encounter establishment” or related uses to allow additional time for review of existing Township regulations and to process revisions to those existing applicable Township regulations if necessary; and,

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

SECTION 1. Extend the previously adopted moratorium enacted by West Chester Board of Trustee Resolution 32-2015 to suspend the issuance of any zoning certificate or license for operation of a sexual encounter establishment, sexual encounter center, swingers club, or similar use (together, "Sexual Encounter Use") until December 31, 2016.

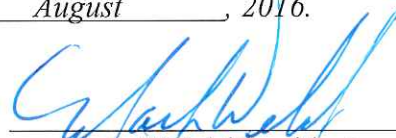
SECTION 2. Direct the Community Development Director and the Law Director to continue to investigate and review the law applicable to Sexual Encounter Uses and the secondary effects of such uses on the Township as a whole; if modifications to the regulations governing such uses are recommended, the Community Development Director and Law Director are directed to prepare legislation or zoning amendments properly regulating or prohibiting the operation of Sexual Encounter Uses in conjunction with the Purpose, Spirit, and Intent of the West Chester Township Zoning Resolution and West Chester Township Comprehensive Land Use Plan.

SECTION 3. Prohibit the Community Development Director and any designated subordinates, until December 31, 2016, or such other date as may be determined by the Board of Trustees, from issuing a zoning certificate or license for the operation of a Sexual Encounter Use; if a zoning certificate application or application for a license for the operation of a Sexual Encounter Use is submitted, the Community Development Director and any designated subordinates are directed to hold such applications for later consideration after this moratorium expires.

SECTION 4. Find and determine all formal actions of the Board of Trustees concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Board and that all deliberations of this Board of Trustees and of any of its committees that resulted in formal action were in meetings open to the public in compliance with all legal requirements, including 121.22 of the Ohio Revised Code.

SECTION 5. Constitute this resolution as an emergency measure necessary for the immediate preservation of the public health, safety and general welfare, and for the further reason that the Board desires to prevent the proliferation of Sexual Encounter Uses within the unincorporated territory of the Township until the legal requirements governing such establishments and the probable effects of such business enterprises on West Chester Township is reviewed, and for these reasons, this resolution shall be effective upon its passage per Ohio Revised Code Section 504.11.

Adopted this 9th day of August, 2016.



Mark Welch, President

YES

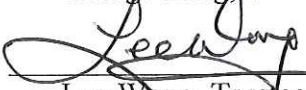
Yes/No



George Lang, Vice President

YES

Yes/No



Lee Wong, Trustee

Yes

Yes/No

ATTEST:



Bruce Jones, Fiscal Officer

APPROVED AS TO FORM:



Donald L. Crain, Law Director