

## ***Record of Ordinances***

**Ordinance No.: 2008-04**

**Passed: February 25, 2008**

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### **ORDINANCE ESTABLISHING CHAPTER 662, SEXUALLY ORIENTED BUSINESSES, OF THE CODIFIED ORDINANCES OF THE VILLAGE OF WEST LAFAYETTE, OHIO**

#### **CHAPTER 662. SEXUALLY ORIENTED BUSINESSES AND EMPLOYEES**

NOW THEREFORE BE IT ORDAINED by the Council of the Village of West Lafayette, State of Ohio as follows:

##### **SECTION 662.01 PURPOSE AND INTENT.**

It is the purpose of this chapter to regulate sexually oriented businesses to promote the health, safety, morals and general welfare to the citizens of the Village of West Lafayette, Ohio, and to establish reasonable and uniform regulations to prevent the concentration of sexually oriented businesses with the Village of West Lafayette, Ohio. The provisions of this chapter 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 chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment.

##### **SECTION 662.02 DEFINITION**

A sexually oriented business is a business that provides adult entertainment by appealing to the sexual interests of its customers. Sexually oriented businesses usually include without limitation, nude or semi-nude entertainment businesses, sexually oriented out call businesses, semi-nude dancing restaurants, and semi-nude dancing agencies.

##### **SECTION 662.03 LOCATION OF SEXUALLY ORIENTED BUSINESSES.**

(a) A person commits an offense if he operates or causes to be operated a sexually oriented business within 1,000 feet of:

(1) A church or permanently established place of religious services.

(2) A public or private elementary or secondary school, nursery or state licensed daycare facility.

(3) A boundary of a residential district as defined in the Code of Ordinances for the Village of West Lafayette, Ohio

(4) A public park or recreational facility attended by persons under 18 years.

(5) The property line of a lot included within a residential district as defined in the Code of Ordinances for the Village of West Lafayette, Ohio

(b) A person commits an offense if he causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within 1,000 feet of another sexually oriented business.

(c) For the purposes of subsection (a) hereof, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a church or public or private elementary or secondary school, or to the nearest boundary of an affected public park, residential district, or residential lot.

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

(e) Any sexually oriented business lawfully in operation on February 11, 2008, that is in violation of subsection (a), (b), or (c) hereof shall be deemed a nonconforming use. The nonconforming use will be permitted to continue unless terminated for any reason or voluntarily discontinued for a period of two years or more. Such nonconforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use.

(f) A person commits an offense if, in a business establishment open to persons under the age of eighteen years, he displays a book, pamphlet, newspaper, magazine, film or video cassette, the cover of which depicts, in a manner calculated to arouse sexual lust or passion for commercial gain or to exploit sexual lust or perversion for commercial gain, any of the following:

- (1) Human sexual intercourse, masturbation, or sodomy;
- (2) Fondling or other erotic touching of human genital, pubic region, buttocks, or female breasts;
- (3) Less than completely and opaquely covered human genitals; buttocks or that portion of the female breast below the top of the areola; or
- (4) Human male genitals in a discernibly turgid state, whether covered or uncovered.

(g) In this section “display” means to locate an item in such a manner that, without obtaining assistance from an employee of the business establishment.

(1) It is available to the general public for handling and inspection;  
or

(2) The cover or outside packaging on the item is visible to members of the general public..

(h) Penalty. Violation of this section is a first degree misdemeanor.

(i) Penalties and enforcement. The West Lafayette Village Solicitor is hereby authorized to institute civil proceedings necessary for the enforcement of this Chapter 662 to restrain or correct violations hereof. Such civil proceedings, including injunction, shall be brought in the name of the Village, provide, however, that nothing in this section and no action taken thereunder, shall be held to exclude such criminal proceedings as may be authorized by this code, or any of the laws or ordinances in force in the Village or to exempt anyone violating this code or any part of the said laws from any penalty which may be incurred.

That this Ordinance shall be and is hereby declared to be an emergency measure necessary to preserve the health, welfare, and safety of the citizens of the Village of West Lafayette, Ohio, and shall take effect immediately upon passage by Council.

PASSED IN COUNCIL THIS 25th day of February, 2008

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Jack L. Patterson, Mayor

ATTEST:

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Lisa Derr, Fiscal Officer

APPROVED AS TO FORM:

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William M. Owens, Solicitor for the Village of West Lafayette, Ohio