

**TOWN OF DAVIE  
TOWN COUNCIL AGENDA REPORT**

**TO:** Mayor and Councilmembers

**FROM/PHONE:** Marcie Nolan, Acting Development Services Director / (954) 797-1101

**PREPARED BY:** David Abramson, Deputy Planning and Zoning Manager

**SUBJECT:** Text Code Amendment: ZB(TXT) 5-1-08/Sexually Oriented Businesses

**AFFECTED DISTRICT:** Townwide

**ITEM REQUEST:** **Schedule for Council Meeting**

**TITLE OF AGENDA ITEM:**

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE CODE OF ORDINANCES, CHAPTER 12, LAND DEVELOPMENT CODE, ARTICLE III. USE REGULATIONS, DIVISION 1. PERMITTED USES, SECTION 12-32 TABLE OF PERMITTED USES AND DIVISION 3. DETAILED USE REGULATIONS, SECTION 12-34. STANDARDS ENUMERATED; RELATING TO SEXUALLY ORIENTED BUSINESSES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

**REPORT IN BRIEF:**

At the May 3, 2006 Town Council meeting, ordinance no. 2006-012 was adopted substantially amending the regulations for sexually oriented businesses. The Town's goal for this ordinance was to determine where sexually oriented businesses were permitted without relying on variances or other special approvals. Among other things, this amendment stated that sexually oriented businesses shall not be permitted within one thousand (1,000) feet of any parcel of land that is designated residential single-family, residential multi-family, or mobile home district"; a religious institution, child care center, school (pre-school and grades kindergarten through twelfth grade), public park or playground; a public library, college/university or federal, state, county, or municipal government building; or another sexually oriented business use. This distance separation as applied raised concerns as to which parcels were available, as of right for this use. Therefore, on the advice of legal council, in order to ensure that a reasonable amount of parcels in the Town are eligible for sexually oriented business use (without relying on variances or similar discretionary actions) the Planning and Zoning Division (staff) is recommending that the distance requirements be changed from one thousand (1,000) to

four hundred and fifty (450) feet. This change would result in at least seven (7) eligible parcels (see attached map).

Additionally, ordinance No. 2006-012 provided regulations within Code of Ordinances, Chapter 13, Licenses and Business Regulations. This code regulated the inner operations of sexually oriented businesses but not the physical appearance (design standards). As a result of the reduced distance requirements, staff is also proposing new standards for site and building design of sexually oriented businesses through screening, parking, displays, and lighting.

The overall purpose of this code is to regulate sexually oriented businesses while ensuring that such regulations are legally defensible.

**PREVIOUS ACTIONS:** n/a

**CONCURRENCES:** This text code amendment is being scheduled for a Local Planning Agency (LPA) meeting on May 28, 2008.

**FISCAL IMPACT:** not applicable

Has request been budgeted? n/a

**RECOMMENDATION(S):** Staff recommends approval of this ordinance.

**Attachment(s):** Ordinance

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE CODE OF ORDINANCES, CHAPTER 12, LAND DEVELOPMENT CODE, ARTICLE III. USE REGULATIONS, DIVISION 1. PERMITTED USES, SECTION 12-32 TABLE OF PERMITTED USES AND DIVISION 3. DETAILED USE REGULATIONS, SECTION 12-34. STANDARDS ENUMERATED; RELATING TO SEXUALLY ORIENTED BUSINESSES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council desires that sexually oriented businesses not be a permitted use in the M-3, Planned Industrial Park District; and

WHEREAS, the Town Council desires to amend the Land Development Code that would reduce the distance separation requirement of sexually oriented business uses from other uses in the Town of Davie; and

WHEREAS, the Town Council requires the distance separation requirement of sexually oriented business uses be from any parcel of land in the Town which a publicly owned park, publicly owned library, or publicly owned playground is located; and

WHEREAS, the Town Council desires to provide design standards for buildings that are being used as a sexually oriented business; and

WHEREAS, the Town Council has determined that locational criteria and design standards for sexually oriented businesses does adequately protect the health, safety, and general welfare of the people of this Town; and

WHEREAS, it is not the of the intent of Town Council by this ordinance to suppress any speech activities protected by the United States Constitution and the Florida Constitution, but to enact a content neutral ordinance which addresses the secondary effects of sexually oriented businesses; and

WHEREAS, the adverse secondary effects of sexually oriented businesses have been demonstrated in studies by the City of Dallas, Texas, the City of Newport News, Virginia, and Manatee County, Florida; and

WHEREAS, it is not the intent of the Town Council to condone or legitimize the distribution of obscene material, and the Town Council recognizes that state and federal law prohibits the distribution of obscene materials and expects and encourages state law enforcement officials to enforce state obscenity statutes against any such illegal activities in the Town; and

WHEREAS, the Local Planning Agency of the Town of Davie held a public hearing on May 28, 2008; and

WHEREAS, the Town Council of the Town of Davie held two (2) public hearings duly advertised as required by State Statutes.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA.

SECTION 1. That the above foregoing whereas clauses are hereby incorporated.

SECTION 2. That Section 12-32, Standards enumerated, of the Land Development Code of the Town of Davie, Florida (the “Town”), is hereby amended to read as follows:

(C) *Business Park and Industrial:*

BUSINESS PARK AND INDUSTRIAL				
GENERAL USE	DISTRICTS			
	BP	M-1	M-2	M-3
Acid, Explosives	N	N	N	N
Agriculture, Commercial Agriculture	*	*	*	*
Animal Kennel	N	*	*	*
Auction House	*	N	N	N
Brewing/Distilling of Malt Beverages or Liquors	N	N	N	N
Business Uses	P	*	*	*
Cement, Concrete, Lime	N	N	P	P
Educational (Adult)	*	*	*	*
Food Processing Facility	N	N	N	P
Foundry, Drop Forging	N	N	N	N
Gravel, Rock Mining	N	N	N	N
Incinerator (Medical, Solid Waste, Biohazardous)	N	N	N	N
Landfill/Trash, Garbage Disposal	N	N	N	N
Light Manufacturing	P	P	P	P
Machine Shop	N	N	P	P
Marina	N	N	*	*
Medium Manufacturing	*	N	P	P
Mixed Use	N	*	*	*
Motor Freight Terminal	N	N	*	*
Motorcycle Shop	*	*	*	*
Movers	N	P	P	P
Office, Professional	P	*	*	*
Petroleum Storage, Refining, Distribution, etc.	N	N	N	N
Recycling, Scrap Metal Processing, and Automobile Wrecking Yard	N	N	N	*
Retail Sales	P	*	*	*
Sales of Construction Equipment	N	N	P	P
Sandblasting	N	N	N	P
Sexually Oriented Business	N	N	N	<del>P</del> N
Slaughter Yards	N	N	N	N
Soaps, Detergent, Cleansing Materials Manufacturing	N	N	N	N
Stockyards, Rendering, Glue	N	N	N	N
Storage Yards	N	N	P	P
Taxi Service, Dispatch	N	P	P	P
Trash Transfer Station	N	N	N	N
Truck Stop	N	N	N	N
Vehicle, Boat, Truck, Repair, Major or Minor	N	P	P	P

Vehicle Towing/Storage	N	P	P	P
Vehicle Sales and Rental	*	*	*	*
Warehouse, Storage	*	*	*	*
Watchman's Apartment	*	*	*	*
Wholesale	P	P	P	P
Yacht Manufacturing and Repairs	N	N	*	N

P = Permitted by right in this district.

N = Not permitted in this district.

\* = Conditionally permitted subject to detailed use regulations (section 12-34).

Permitted uses, specified under each zoning district, are intended to express the intent and purpose of that district. All uses are subject to General Regulations, section 12-33 and Detailed Use Regulations, section 12-34 of this article.

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SECTION 3. Section 12-34, Standards enumerated, of the Town code is amended to read as follows:

In addition to compliance with other regulations imposed by this chapter, the following standards are required of the specific uses enumerated below:

- (A) *Location of Designated Sexually Oriented Business Uses:* Notwithstanding anything to the contrary in this chapter, sexually oriented business shall be treated as permitted uses and shall not be subject to the standards particular to special permits. Sexually oriented business uses shall be permitted only in the ~~following districts:~~ B-3 (Planned Business Center); and UC (Urban Commercial) districts and M-3 Planned Industrial Park, subject to the requirements listed in subsections (1) through (5) listed below.

(1) No sexually oriented business uses are permitted on a parcel of land located:

- a. ~~Within one thousand (1,000) feet of any parcel of land which is designated in a the Town as a residential single family, residential multi family, or mobile home district";~~ four hundred and fifty (450) feet of any parcel of land which is designated in a the Town as a residential single family, residential multi family, or mobile home district";
- b. ~~Within one thousand (1,000) feet of any parcel of land upon in the Town which is used for a religious institution, child care center, school (pre-school and grades kindergarten through twelfth grade), publicly owned park, publicly owned library, or publicly owned playground is located.~~ four hundred and fifty (450) feet of any parcel of land upon in the Town which is used for a religious institution, child care center, school (pre-school and grades kindergarten through twelfth grade), publicly owned park, publicly owned library, or publicly owned playground is located.
- e. ~~Within one thousand (1,000) feet of any parcel of land wherein a public library,~~

~~college/university or federal, state, county, or municipal government building is located.~~

- d. Within ~~one thousand (1,000)~~ four hundred and fifty (450) of any parcel of land ~~upon~~ in the Town which another sexually oriented business use is located.
- (2) For purposes of this section, distance shall be by airline measurement from property line to property line, using the closest property lines of the parcels of land involved.
  - (3) Sexually oriented business uses. The following uses are declared to be sexually oriented business uses as defined by this chapter:
    - a. Adult arcades.
    - b. Adult bookstores/adult novelty.
    - c. Adult cabaret.
    - d. Adult motels.
    - e. Adult motion picture theaters.
    - f. Semi-nude model studios.
    - g. Adult sexual encounter establishments.
  - (4) Where a sexually oriented use is located in conformity with the provisions of this chapter, the subsequent location of a residential use, religious institution, child care center, school, publicly owned park or publicly owned playground, or publicly owned library, college/university or government within ~~one thousand (1,000)~~ four hundred and fifty (450) feet of such sexually oriented use shall not be construed to cause such sexually oriented business use to be in violation of this chapter.
  - (5) Sexually oriented business design standards.
    - a. Site: For free-standing sexually oriented business building(s), a minimum eight (8) foot high solid concrete wall shall be provided along the side and rear property line(s).
    - b. Building design: The design of all sexually oriented business building(s) shall employ only earth tone color(s) and natural element(s) such as stone, brick, wood siding, etc. If a sexually oriented business is located in a multi-tenant building, the design of the exterior tenant space shall be consistent with the multi-tenant building architectural design.
    - c. Screening: All sexually oriented business building exterior opening(s), entries, and window(s) shall be opaque to prevent visual access of the public to the interior of the business except as otherwise required by statute or building code.

- d. Parking: Vehicular parking for sexually oriented business building(s) shall be provided only in side or rear yard area(s).
- e. Display(s): No signs, graphics, pictures, publications, videotapes, movies, covers, merchandise or other implements, items or advertising, depicting, describing or relating to sexual conduct shall be displayed.
- f. Lighting: Exterior lighting with an average three (3) foot-candle at grade measurement shall be provided at all building access opening(s) for patron(s).

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SECTION 4. All Ordinances or parts of Ordinances in conflict herewith are to the extent of such conflict hereby repealed.

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SECTION 5. If any section, subsection, sentence, clause, phrase, title, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of this Ordinance.

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SECTION 6. This ordinance shall take effect immediately upon its passage and adoption.

PASSED ON FIRST READING THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2008.

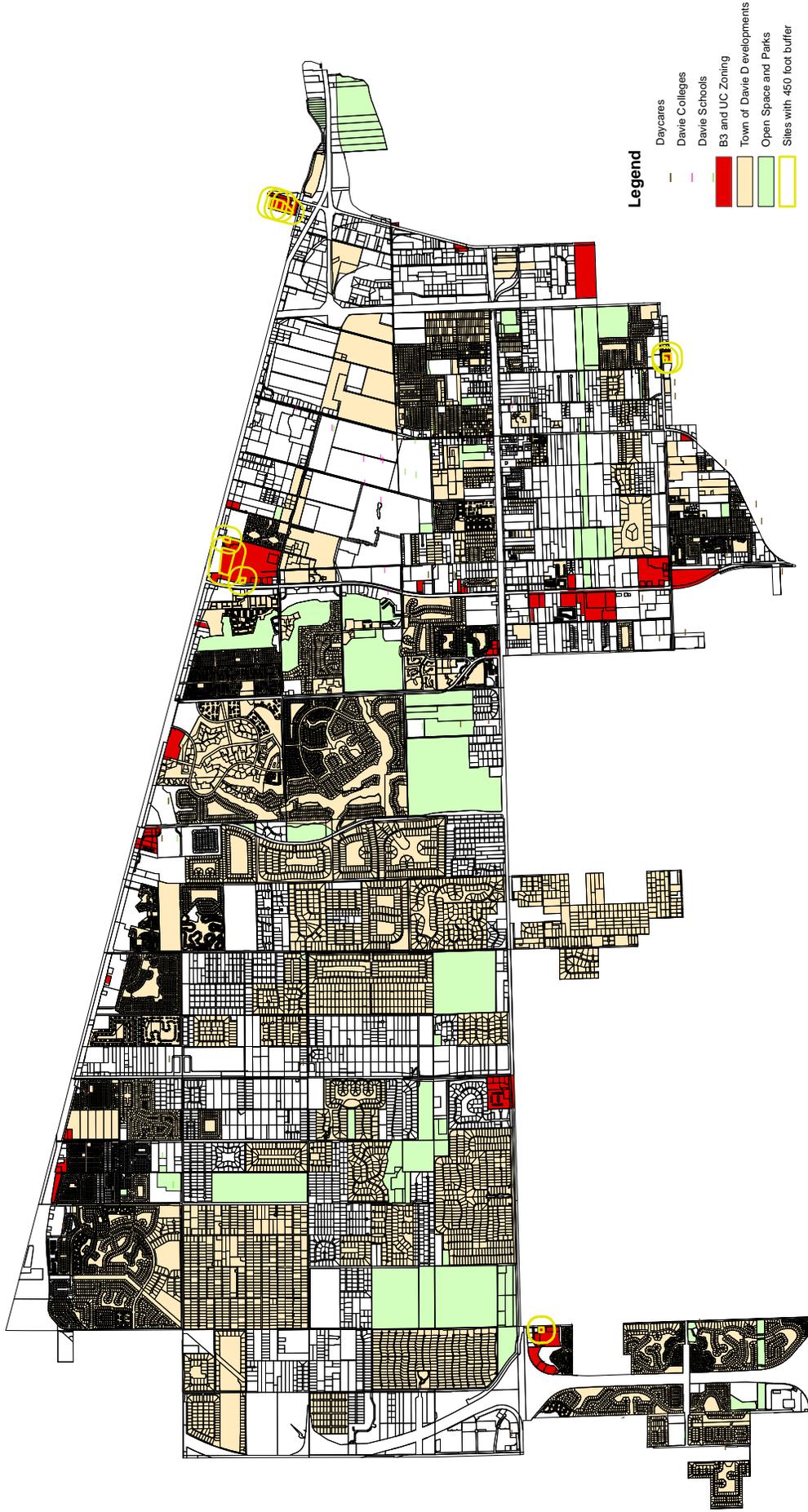
PASSED ON SECOND READING THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2008.

\_\_\_\_\_  
MAYOR/COUNCILMEMBER

ATTEST:

\_\_\_\_\_  
TOWN CLERK

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2008.



**Legend**

- Daycares
- Davie Colleges
- Davie Schools
- B3 and UC Zoning
- Town of Davie D developments
- Open Space and Parks
- Sites with 450 foot buffer

