

TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Mark A. Kutney, AICP, Development Services Director
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PREPARED BY: Mark A. Kutney, AICP, Development Services Director

SUBJECT: Ordinance

AFFECTED DISTRICT: Townwide

TITLE OF AGENDA ITEM: AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA EXTENDING THE PRESENT MORATORIUM ON THE FILING OF APPLICATIONS FOR ADULT ENTERTAINMENT FACILITIES OR APPLICATIONS RELATED TO THE USE OF ANY BUILDING FOR THE OPERATION OF AN ADULT ENTERTAINMENT FACILITY FOR A PERIOD OF ONE HUNDRED AND EIGHTY (180) DAYS COMMENCING UPON THE ADOPTION OF THIS ORDINANCE; PROVIDING FOR FINDINGS; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

REPORT IN BRIEF: On August 3, 2005 Town Council adopted Ordinance No. 2005-16 which declared that a moratorium shall exist for one hundred and eighty (180) days. During this time staff has been conducting research relative to drafting appropriate regulations and amendments pertaining to the Land Development Code (Chapter 12) and Licenses and Business Regulations (Chapter 13). However, due to the time constraints imposed by Hurricane Wilma, additional time is necessary for the drafting and adoption process portions of the effort. Therefore, the moratorium extension is imperative to complete all aspects of this effort.

PREVIOUS ACTIONS: Ordinance No. 2005-016 was adopted on second reading, August 3, 2005.

FISCAL IMPACT: Yes.

Has request been budgeted? No

If yes, expected cost: Unknown, dependent upon if consultants or some combination of consultants/staff is utilized.

Account Name: Unknown

RECOMMENDATION(S): Suitable for Town Council's review and deliberation

Attachment(s): Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA EXTENDING THE PRESENT MORATORIUM ON THE FILING OF APPLICATIONS FOR ADULT ENTERTAINMENT FACILITIES OR APPLICATIONS RELATED TO THE USE OF ANY BUILDING FOR THE OPERATION OF AN ADULT ENTERTAINMENT FACILITY FOR A PERIOD OF ONE HUNDRED AND EIGHTY (180) DAYS COMMENCING UPON THE ADOPTION OF THIS ORDINANCE; PROVIDING FOR FINDINGS; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE

WHEREAS, the Development Services Department of the Town of Davie within its ongoing review of the Davie Town Code has identified specific defects within the Davie Town Code of Ordinances which have the effect of impeding the Town's ability to regulate Adult Entertainment Facilities through its inherent Zoning and Police Powers; and

WHEREAS, after providing for two duly noticed public hearings, the Town Council adopted Ordinance No. 2005-16 on August 3, 2005, which established a moratorium on applications for Adult Entertainment Facilities and applications relating to the use of any building for the operation of an Adult Entertainment Facility for a period of one hundred and eighty (180) days; and

WHEREAS, the Town Council adopted Ordinance No. 2005-16 in order to provide the Town's Development Services Department with an opportunity to study, review and make amendments to the Town Code of Ordinances while assessing the impacts of Adult Entertainment Facilities, strengthening existing ordinances and creating new regulations to correct any defects within the Town Code relative to the Town's ability to regulate Adult Entertainment Facilities; and

WHEREAS, the Development Services Department requires an extension of the moratorium period in order to complete a comprehensive assessment of the impacts of Adult Entertainment Facilities and prepare revisions to those applicable provisions of the Code of Ordinances as contemplated within Ordinance No. 2005-16; and

WHEREAS, sufficient time is required to allow the Town to conduct public meetings to obtain public input as to any amendments to the Code of Ordinances that may be implemented pursuant to the Moratorium Ordinance; and

WHEREAS, the Davie Town Council recognizes that allowing the present moratorium established within Ordinance No. 2005-16 to expire prior to the completion of a comprehensive assessment and amendment to the Town Code would be detrimental to the public health, safety and welfare of Davie's residents; and

WHEREAS, Article VIII, Section 2(b) of the Florida Constitution and §166.021, Florida Statutes grant the Town the authority to protect the health, safety and welfare of its residents.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1: FINDINGS

1) The Town of Davie finds and declares that there is a significant need to extend the period of the present moratorium on applications related to Adult Entertainment Facilities in order for the Development Services Department to complete a comprehensive assessment of the possible effects of Adult Entertainment Facilities upon the community and prepare all appropriate amendments to the Town Code of Ordinances to correct defects within the Town Code relative to the Town's ability to effectively regulate Adult Entertainment Facilities. The extension will provide sufficient time to allow the Town to conduct public meetings and obtain public input regarding any amendments to the Code of Ordinances that may be implemented by the Town.

2) Allowing Adult Entertainment Facilities to enter the Town of Davie without proper regulations will detrimentally affect the ability of the Town to protect the health and safety of the Town's residents, including the Town's ability to protect Davie's image as a suburban-rural community and the family-friendly atmosphere enjoyed by the Town's residents.

3) As such, failure to extend the moratorium may also result in significant and irreversible changes to the family-friendly, suburban-rural character of the Town.

4) In addition to detrimentally affecting the Town's ability to regulate Adult Entertainment Facilities, allowing these types of facilities unregulated within the Town may lead to secondary effects such as lewd public behavior and conduct that will detrimentally affect the health and safety of Davie's residents. Such conduct may include public nudity and prostitution.

5) The Town is also concerned that during the time required to conduct a comprehensive analysis of Adult Entertainment Facilities, the Town may receive an influx of applications from Applicants seeking to establish such facilities within the Town prior to the enactment of new regulations.

6) For the reasons stated herein, the Town Council of the Town of Davie finds that this extension of the moratorium is necessary to protect the public health, safety, and welfare while considering revisions to the Town Code related to the regulation of Adult Entertainment Facilities.

SECTION 2: MORATORIUM

The Town Council hereby extends the moratorium on the filing of any application for any Adult Entertainment Facility or any other application for the use of any building for the operation of an adult entertainment facility within the Town of Davie for a period of one hundred and eighty (180) days following the adoption of this ordinance.

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

SECTION 5: This Ordinance shall take effect immediately upon its passage.

PASSED ON FIRST READING THIS _____ DAY OF _____, 2005

PASSED ON SECOND READING THIS _____ DAY OF _____, 2006

MAYOR/COUNCILMEMBER

ATTEST:

TOWN CLERK

APPROVED THIS _____ DAY OF _____, 2006