

ARTICLE XII - ADDENDUM

Article I: Preamble to Article IV; Section 410.6 - (Adopted May 22, 2008)

BRUNSWICK HILLS TOWNSHIP SEXUALLY ORIENTED BUSINESS

Based on the findings of the Township Zoning Commission and the Board of Township Trustees regarding the adverse secondary effects of Sexually Oriented Businesses, it is the purpose of this Section to regulate sexually oriented businesses to promote the health, safety and welfare and/or for the public convenience, comfort, prosperity, and general welfare of the citizens of the Township as appropriate and authorized by law, and to establish reasonable and uniform regulations regarding sexually oriented businesses to prevent the deleterious location and concentration of sexually oriented businesses within the Township. The provisions of this Section 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 or effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this resolution to condone or legitimize the distribution of obscene materials.

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Article II: Findings

Based on evidence concerning the adverse secondary effects of Sexually Oriented Businesses on communities presented in hearings and in reports made available to the Brunswick Hills Township Board of Trustees, and on findings incorporated in the cases of *City of Littleton, Colorado v. Z.J. Gifts D-4, L.L.C.* (2004), 541 U.S. 774; *City of Los Angeles v. Alameda Books, Inc.* (2002), 535 U.S. 425; *City of Erie v. Pap's A.M.* (2000), 529 U.S. 277; *Barnes v. Glen Theatre, Inc.* (1991), 501 U.S. 560; *City of Renton v. Playtime Theatres, Inc.* (1986), 475 U.S. 41; *Arcara v. Cloud Books, Inc.* (1986), 478 U.S. 697; *Iacobucci v. City of Newport, Ky* (1986), 479 U.S. 92; *Young v. American Mini Theatres* (1976), 427 U.S. 50; *California v. LaRue* (1972), 409 U.S. 109; and *DLS, Inc. v. City of Chattanooga* (6th Cir., 1997), 107 F.3d 403; *East Brooks Books, Inc. v. City of Memphis* (6th Cir., 1995), 48 F.3d 220; *Harris v. Fitchville Township Trustees* (N.D. Ohio, 2000), 99 F. Supp. 837; *Bamon Corp. v. City of Dayton* (S.D. Ohio, 1990), 730 F. Supp. 90, *aff'd* (6th Cir., 1991), 923 F.2d 470; *Broadway Books v. Roberts* (E.D. Tenn., 1986), 642 F. Supp. 486; *Bright Lights, Inc. v. City of Newport* (E.D. Ky. 1993), 830 F. Supp. 378; *Richland Bookmart v. Nichols* (6th Cir. 1998), 137 F.3d 435; *Deja vu v. Metro Government* (6th Cir. 1999), 1999 U.S. App. LEXIS 535; *Threesome Entertainment v. Strittmather* (N.D. Ohio 1998), 4 F.Supp.2d 710; *J.L. Spoons, Inc. v. City of Brunswick* (N.D. Ohio 1999), 49 F. Supp.2d 1032; *Triplett Grille, Inc. v. City of Akron* (6th Cir. 1994), 40 F.3d 129; *Nightclubs, Inc. v. City of Paducah* (6th Cir. 2000), 202 F.3d 884; *O'Connor v. City and County of Denver* (10th Cir. 1990), 894 F.2d 1210; *Deja Vu of Nashville, Inc., et al. v. Metropolitan Government of Nashville and Davidson County* (6th Cir. 2001), 2001 U.S. App. LEXIS 26007; *State of Ohio ex rel. Rothal v. Smith* (Ohio C.P. 2002), Summit C.P. No. CV 01094594; *Z.J. Gifts D2, L. L. C. v. City of Aurora* (10th Cir. 1998), 136 F.3d 683; *Connection Distrib. Co. v. Reno* (6th Cir. 1998), 154 F.3d 281; *Sundance Assocs. v. Reno* (10th Cir. 1998), 139 F.3d 804; *American Library Association v. Reno* (D.C. Cir. 1994), 33 F.3d 78; *American Target Advertising, Inc. v. Giani* (10th Cir. 2000), 199 F.3d 1241: as well as studies conducted in other cities including, but not limited to, Cleveland, Ohio (1977); Phoenix, Arizona (1984); Minneapolis, Minnesota (1980); Houston, Texas (1983); Indianapolis, Indiana (1984); Amarillo, Texas (1977); Garden Grove, California (1991); Los Angeles, California (1977); Whittier, California (1978); Austin, Texas (1986); Seattle, Washington (1989); Oklahoma City, Oklahoma (1986 and 1992); Dallas, Texas (1997); St. Croix County, Wisconsin (1993); Bellevue, Washington (1998); Newport News, Virginia (1996); Tucson, Arizona (1990); St. Paul, Minnesota (1988); Beaumont, Texas (1982); New York, New York (1994); Ellicottville, New York (1998); Des Moines, Iowa (1984); Islip, New York (1980); Adams County, Colorado (1987); Manatee County, Florida (1987); New Hanover County, North Carolina (1989); Las Vegas, Nevada (1978); Cattaraugus County, New York (1998); Cleburne, Texas (1997); Dallas, Texas (1997); El Paso, Texas (1986); New York Times Square study (1994); Report to ACLJ on the Secondary Impacts of Sex Oriented Businesses (1996); findings from the Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses (June 6, 1989,

State of Minnesota); and on testimony to Congress in 136 Cong. Rec. S. 8987; 135 Cong. Rec. S. 14519; 135 Cong. Rec. S. 5636, 134 Cong. Rec. E. 3750; and also on findings from the paper entitled "Stripclubs According to Strippers: Exposing Workplace Sexual Violence," by Kelly Holsopple, Program Director, Freedom and Justice Center for Prostitution Resources, Minneapolis, Minnesota; and from "Sexually Oriented Businesses: An Insider's View," by David Sherman, presented to the Michigan House Committee on Ethics and Constitutional Law, Jan. 12, 2000; and from various other police reports,

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testimony, newspaper reports, and other documentary evidence, and the Brunswick Hills Board of Trustees' independent review of the same, the Brunswick Hills Township Board of Trustees makes the following findings:

1. Sexually Oriented Businesses can cause or contribute significantly to increases in criminal activity in areas in which they are located or take place, thereby taxing law enforcement and public health services.
2. Crime statistics show that all types of crimes, especially sex related crimes, occur with more frequency in neighborhoods where Sexually Oriented Businesses are located.
3. Sexually Oriented Businesses have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, causing increased crime and the downgrading of property values.
4. Nude dancing and other similar conduct provided by Sexually Oriented Businesses encourages prostitution, increases the frequency of sexual assaults, attracts or encourages other related criminal activity, increases the public health and safety risks associated with Sexually Oriented Businesses, and otherwise causes or contributes significantly to the adverse impacts and secondary effects of Sexually Oriented Businesses on the areas in which such businesses are located, or take place.
5. Sexually Oriented Businesses can cause or contribute significantly to the deterioration of residential neighborhoods, can impair the character and quality of such neighborhoods and the housing located therein, and can inhibit the proper maintenance and growth of such neighborhoods, limiting or reducing the availability or quality of affordable housing for area residents, and reducing the value of property in such areas.
6. Sexually Oriented Businesses can undermine the stability of other established business and commercial uses in the areas in which Sexually Oriented Businesses are located or take place and cause or contribute significantly to the deterioration of such other business and commercial uses, thereby causing or contributing to a decline in such uses and an inhibition on business and commercial growth resulting in adverse impact on local government revenues and property values.
7. Sexually Oriented Businesses can have a dehumanizing and distracting influence on young people and students attending schools, can diminish or destroy the enjoyment and family atmosphere of persons using parks, playgrounds, forest preserves, and other public recreational areas, can interfere with or even destroy the spiritual experience of persons attending church, synagogue, or other places of worship, and can interfere with or even destroy the opportunity for solemn and respectful contemplation at cemeteries and similar facilities.
8. The presence of Sexually Oriented Businesses is perceived by the public generally and by neighboring business owners and residents as an indication that the area in which such businesses occur or take place is in decline and deteriorating, a perception that can quickly lead to such decline and deterioration, prompting businesses and residents to flee the affected area to avoid the consequences of such decline and deterioration.
9. The exterior appearance, including signage, of Sexually Oriented Businesses can have an adverse impact on young people and students, can contribute to the decline in property values associated with Sexually Oriented Business activities, and can otherwise cause or contribute significantly to the adverse impacts and secondary effects of Sexually Oriented Businesses on the areas in which such businesses are located or take place.
10. Sexual acts, including masturbation and oral and anal sex, occur at Sexually Oriented Businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows. The "couch dances" or "lap dances" that frequently occur in Sexually Oriented Businesses featuring live nude or seminude dancers constitute or may constitute the offense of "engaging in prostitution" under section 2907.25 of the Revised Code.
11. Offering and providing such booths and/or cubicles encourages such activities, which creates unhealthy conditions. .
12. Persons frequent certain Sexually Oriented Businesses for the purpose of engaging in sex within the premises of those Sexually Oriented Businesses.
13. Certain employees of certain Sexually Oriented Businesses, including adult theaters and adult cabarets, engage in a higher incidence of certain types of illicit sexual behavior that employees of other businesses and establishments.

- 14._ Numerous communicable diseases may be spread by activities occurring in Sexually Oriented Businesses including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infections, campylobacter infections, shigella infections, chlamydial infections, myoplasmal infections, ureoplasmal infections, trichomoniasis, and chancroid.
15. Since 1981 and to the present, there has been an increasing cumulative number of reported cases of AIDS caused by the human immunodeficiency virus (HIV) in the United States: 600 in 1982; 2,200 in 1983; 4,600 in 1984; 8,555 in 1985; and 253,448 through December 31, 1992.
16. A total of 10,255 AIDS cases had been reported in Ohio as of January, 1999. Ohio has required HIV case reporting since 1990, and the reported information shows 7,969 people living with HIV (4,213) and AIDS (3,756) in the state.
17. Since 1981 and to the present, there have been an increasing cumulative number of persons testing positive for the HIV antibody test in Ohio.
18. The Surgeon General of the United States in his report of October 22, 1986, has advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug abuse, and exposure to infected blood and blood components, and from an infected mother to her newborn.
19. The number of cases of early (less than one year) syphilis in the United States reported annually has risen: 33,613 cases were reported in 1982 and 45,200 cases were reported through November 1990.
20. The number of cases of gonorrhea in the United States reported annually remains at a high level, with over one-half million cases being reported in 1990.
21. According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.
22. Numerous studies and reports have determined that bodily fluids, including semen and urine, are found in the areas of Sexually Oriented Businesses.
23. Sanitary conditions in some Sexually Oriented Businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.
24. Sexually Oriented Businesses lend themselves to ancillary unlawful and unhealthy activities that are uncontrolled by the operators of the establishments. Further, there is presently no mechanism to make owners of these establishments responsible for the activities that occur on their premises.
25. Concentrations of multiple Sexually Oriented Businesses are associated with higher rates of prostitution, robbery assaults, and thefts in the surrounding neighborhood and dispersing Sexually Oriented Businesses causes a reduction in the adverse impact and secondary effects of such businesses.
26. The findings noted in Paragraphs 1 through 25 of this Article raise substantial governmental concerns.
27. The enactment of these zoning resolutions will promote the general welfare, health, morals, and/or safety of the citizens of Brunswick Hills Township.