



Planning Commission Memorandum

To: Karla Richards, Clerk of Council
From: Pat Ryan, Interim Boards & Commissions Secretary *PR*
Date: 11-10-2010
Re: Approved/Signed Planning Commission Minutes:
Tuesday, September 28, 2010

Attached you will find a copy of the approved/signed Planning Commission minutes from Tuesday, September 28, 2010.

The original document has been forwarded to, and will be on file with the Clerk of Council as the official record.

E-mail: Mayor (per Admin. Sec.)
Administrative Officer
Finance Director
Planning Commission
Fire Chief
Council
Engineer
Capital One
Supt. of Building & Zoning

cc: App. File/Posting

City of Norton
PLANNING COMMISSION
Tuesday, September 28, 2010

The Planning Commission of the City of Norton, Ohio, convened for a public meeting in Council Chambers at the Safety Administration Building. Chairman Spisak called the meeting to order at 6:00p.m.

I. ATTENDANCE:

PRESENT: Todd Houser, Ralph Dowling, Mark Spisak and John Conklin

ABSENT: Janet Jacobs

ALSO PRESENT: Pat Ryan- Zoning Inspector, Ken Braman-Councilperson

II. PUBLIC APPLICATIONS: None

III. OLD BUSINESS: None

IV. NEW BUSINESS:

Discusson on:
Text Amendment
Proposing a Text Amendment to
Chapter 1290 - Non-Conforming Uses

Chairman Spisak asked Ms. Ryan for comments. Ms. Ryan stated that the draft text she created for both Chapters was submitted to the Law Director's office and after meeting with Attorney Stephen Funk, associate of the Law Director, this text has been revised and returned for the Commission's review. Ms. Ryan stated they are very similar to the drafts she submitted and summarized the changes made. Ms. Ryan stated per the Commission's concerns the new text for Non-Conforming Uses does reflect a totally or partially clause for non-conforming 1 or 2 family residences that are damaged instead of a percentage of replacement value.

Mr. Conklin and Mr. Dowling brought up questions regarding foreclosures and how they would be dealt with. Ms. Ryan stated that this has not changed. Ms. Ryan explained that if a non-conforming residence were vacant for more than 6 months, for any reason, the future use would need to conform to the current zoning. Ms. Ryan said these situations would be handled under Section 1290.02(b), abandonment.

Ms. Ryan stated there appears to be an error in Section 1290.04(b) and she has contacted Attorney Funk to confirm the title should read Non-Residential. Ms. Ryan said she has questions on Section 1290.04(c) and would like to discuss this with Attorney Funk.

Ms. Ryan said she would also like to ask Attorney Funk about a reference to the permit issuance in Section 1290.05(a)(1), (2) and (3) since a permit is easier to track than the start of construction. MAS

Ms. Ryan stated the non-conforming signs section has a reference to abandoned signs in the Building and Housing Code so that unused non-conforming signs can be ordered to be taken down and replaced with a conforming sign as necessary.

There was discussion on Section 1290.02(d), if this allows for accessory structures for non-conforming uses, and Section 1290.03(c) as it relates to expansion of land for a non-conforming use. Ms. Ryan said she would get clarification on these.

Chairman Spisak said this appears to have a few areas needing clarification so they will revisit this after Ms. Ryan speaks with Attorney Funk.

Chairman Spisak asked to review Chapter 1292, Adult Use Regulations. Ms. Ryan said not much changed here. The major changes were the title, adding definitions for a few additional uses and bringing them up to date with current technology, adding the findings, changing the districts by deleting B-3 as a permitted district, making the distances a consistent 1000 feet and adding C-REC under 1292.04(5), not including a distance from B-3 district, adding number 6 under 1292.04 for lawful non-conforming residences and adding limits for signage in Section 1292.05.

Ms. Ryan said the new text changes are mostly updating the existing text to be more current.

Chairman Spisak stated there were still some questions on the Chapter 1290 proposed text but the Commission feels Chapter 1292 can go forward tonight. Chairman Spisak called for a motion. **Mr. Dowling made a motion to approve the Text Amendment for Chapter 1292-Adult Use Regulations. Ms. Jacobs seconded the motion. ROLL CALL: Mr. Conklin-Yes, Ms. Jacobs-Yes, Mr. Dowling-Yes, Mr. Spisak-Yes. Motion passed 4-0.**

IV. MINUTES: None

V. ADJOURNMENT:

Chairman Spisak said the next meeting would be October 13, 2010.

With no further business before the Commission, Chairman Spisak adjourned the meeting at 7:09pm.

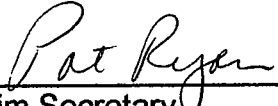


Planning Commission Chair/Vice-Chair



Planning Commission Vice-Chair/Member

11/9/10
Date



Interim Secretary

CHAPTER 1290
Non-Conforming Uses

1290.01	Purpose
1290.02	General Provisions
1290.03	Non-Conforming Uses
1290.04	Non-Conforming Lots
1290.05	Non-Conforming Structures
1290.06	Non-Conforming Signs

1290.01 PURPOSE.

In the provisions established by this Code, there exist uses of land, structures, lots of record, towers, and signs that were lawfully established before this Code was adopted or amended, that now do not conform to its terms and requirements. The purpose and intent of this section is to regulate the continued existence of those uses, structures, and lots of record that do not conform to the provisions of this Code, or any amendments thereto.

1290.02 GENERAL PROVISIONS.

(a) Authority To Continue. The lawful use of any dwelling or structure and of any land or premises existing and lawful at the time of the enactment of this Code, or any amendment thereto, may continue, although such use does not conform to the provisions of this Code or amendment thereto. Nevertheless, while it is the intent of this Code that such nonconformities be allowed to continue until removed, they should not be encouraged to survive. Therefore, no nonconformity may be moved, extended, altered, expanded or used as grounds for any other use or structure prohibited elsewhere in the district, except as specifically provided for in this Code.

(b) Conditional Uses. Any use which is permitted as a conditional use in a district under the terms of this Code shall not be deemed a nonconforming use in such district, but shall without further action be considered a conforming use provided the use meets all approval criteria and conditions established by the Zoning Code, the Planning Commission, or the Board of Zoning and Building Appeals for the conditional use.

(c) Accessory Uses. A nonconforming use that is accessory to a principal use shall not make the principal use nonconforming.

(d) Determination Of Nonconformity Status. The burden of establishing that a nonconformity lawfully exists shall be on the owner of the land on which the purported nonconformity is located.

(e) Additional Structures Or Uses. The existence of a nonconforming use or structure shall not be grounds for the establishment of additional structures or uses not otherwise permitted in the district in which the non-conformity is located.

1290.03 NON-CONFORMING USES.

(a) Substitution of Uses. A legal, non-conforming use of a building may be changed to another non-conforming use of the same or a less intensive and more restricted type or classification, as approved by the Board of Zoning and Building Appeals. The Board of Zoning and Building Appeals shall not authorize a change or substitution of use unless it determines that the proposed use is more appropriate to the applicable zoning district than the existing nonconforming use and that the proposed use is less in conflict with the character of the uses permitted in the applicable zoning district than the existing non conforming use. In permitting such a change, the Board of Zoning and Building Appeals may prescribe appropriate conditions and safeguards in accordance with other provisions of this Zoning Code. Violations of any conditions and/or safeguards prescribed by the Board of Zoning and Building Appeals shall be deemed a violation of this Zoning Code. Whenever a non-conforming use has been changed to a less intensive use under this sub-section, such use shall not thereafter be changed to a more intensive non-conforming use.

(b) Abandonment. A legal, non-conforming use may be continued as long as it remains otherwise lawful, provided, however, that if any legal non-conforming use of land ceases for any reason, for a period of more than six (6) consecutive months, any subsequent use of such land shall conform to the regulations specified by this Zoning Code for the district in which such land is located. When a legal, non-conforming use is replaced by a permitted use under terms of this Zoning Code, such permitted use shall thereafter conform to the regulations for the district, and the non-conforming use may not thereafter be resumed.

(c) Expansion of Area of Use. Subject to approval of the Board of Zoning and Building Appeals, a legal non-conforming use may be extended, enlarged or altered so as to permit additions to such structure or land for the purpose of continuing the same non-conforming use as that carried on in such structure or on such land sought be to extended, enlarged or altered, provided, however, that no such extension, enlargement, alteration or addition shall exceed twenty-five percent (25%) of the existing square feet of such structure, or square feet of such land area, and provided further that only one such extension, enlargement, alteration or addition involving the same premises shall ever be permitted.

(d) Completion. Any use for which zoning approval has been issued prior to the adoption of this Zoning Code or subsequent amendments, and which, when established, would not conform to the provisions of this Zoning Code for the district in which it is located, may be established and maintained as a non-conforming use provided that the use is established within twelve (12) months after the date of approval.

1290.04 NON-CONFORMING LOTS.

(a) Vacant Non-Conforming Lot In A Residential District. In any district in which one-family or two-family dwellings are permitted, a one-family dwelling or two-family dwelling, along with any customary accessory buildings, may be erected on any single lot of record which was made non-conforming by newly-enacted dimensional requirements on the effective date of adoption or any amendment of this Zoning Code, provided that such lot must be in separate ownership from contiguous lots and not of continued frontage with other lots in the same

ownership. If such permitted structures do not comply with minimum yard requirements for the district, then the yard requirements may be reduced in a manner approved by the Board of Zoning and Building Appeals. Variances and special exceptions to yard requirements shall be obtained only through action of the Board of Zoning and Building Appeals.

(b) Vacant Non-Conforming Lots In Multi-Family and Residential District. A vacant non-conforming lot in a multi-family district or non-residential district may be used for any use permitted in the district in which it is located when the development of such lot meets all development requirements of the district in which it is located, except for the minimum lot area and lot width requirements.

(c) Exception for Adjacent Vacant Lots Of Single Ownership. A vacant lot of record shall not be deemed a non-conforming lot under this Zoning Code if at the time of the adoption of the Zoning Code or any amendment thereto, the lot was adjacent to or abutted another vacant lot, or any part of another vacant lot, with continuous frontage in single ownership that, if consolidated, would have created one or more conforming lots that complied with the lot size and lot width requirements of this Zoning Code. No subdivision of any parcel or lot shall be made, which shall create a lot with frontage, width, depth or area below the requirements stated in this Zoning Code.

(d) Existing Buildings on Non-Conforming Lots. If a non-conforming lot is occupied by a building, such building shall be maintained and may be repaired, modernized or altered, provided that the building shall not be enlarged in floor area unless the enlarged section(s) comply with all regulations of this Zoning Code, except the lot area and lot width regulations of the district in which the lot is located.

1290.05 NON-CONFORMING STRUCTURES.

(a) Maintenance and Repair. Routine maintenance and repair of non-conforming structures shall be permitted. Nothing in this Chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof declared to be unsafe by any official charged with protecting the public safety, on order of such official.

(1) Principal Building. If a non-conforming structure, or use thereof, is damaged by fire or other causes to the extent of less than sixty percent (60%) of its replacement value at the time of the damage, then such non-conforming structure may be restored, repaired, or reconstructed and used as before the time of damage, provided that work commences within six (6) months of the date of damage and the work is completed within eighteen (18) months of the date of the damage. The repaired structure, when completed, shall not differ in location or size from the previously existing structure. If the damage or destruction to said structure is to the extent of sixty percent (60%) or more of its replacement value at the time of destruction or damage, it shall not be restored except in conformity with the regulations of the district in which the structure is situated.

(2) Accessory Structure. Any accessory structure, except a sign (which is regulated by Section 1290.06), existing on or before the effective date of this Zoning Code

and which does not conform to the provisions of this Zoning Code for the district in which it is located, and which has been or may hereafter be damaged by fire or other causes to the extent of less than sixty percent (60%) of its replacement value at the time of damage may be restored, repaired or reconstructed and used as before the time of damage, provided that such structure, when completed, will not differ in location or size from the previously existing structure (except to the extent that such difference may be in greater conformity with this Zoning Code) and provided such repairs or reconstruction are commenced within six (6) months of the date of the damage and completed within eighteen (18) months of the date of the damage. However, when the damage or destruction to said structure is to the extent of sixty percent (60%) or more of its replacement value at the time of destruction or damage, it shall not be restored except in conformity with the regulations of the district in which the structure is situated.

- (3) One-Family or Two-Family Residential Dwelling. If a non-conforming one-family or two-family residential dwelling is destroyed or damaged, in whole or in part, as a result of fire or other causes, then such non-conforming residential dwelling may be restored, repaired, or reconstructed and used as before the time of damage, provided that work commences within six (6) months of the date of damage and the work is completed within eighteen (18) months of the date of the damage. The repaired structure, when completed, shall not differ in location or size from the previously existing structure.

(c) Completion. Any partially completed building or structure, the actual construction of which has commenced on or before the effective date of this Zoning Code, which building or its intended use, when completed, would not conform to the provisions of this Zoning Code for the district in which it is located, may be completed and used as a non-conforming use only for the purpose for which it was originally designed and approved, provided that the building is completed and/or put to use within two (2) years after the adoption of this Zoning Code.

(d) Alteration. Except as provided in Section 1290.03(c), no nonconforming structure shall be extended or enlarged. Should such structure be moved for any reason, for any distance whatever, it shall thereafter conform to the yard and location regulations for the district in which it is located after it is moved.

1290.06 NONCONFORMING SIGNS.

(a) Any sign legally existing on the effective date of this Zoning Code, and which remains or becomes non-conforming upon the adoption of this Code or any subsequent amendment hereto, may be continued as a matter of right provided that the sign complies with all requirements for safety, maintenance, and repair.

(b) Repairs. Ordinary repairs and non-structural alterations may be made to a nonconforming sign. No structural alterations shall be made in, to or upon such non-conforming sign, except those required by law to make the sign conform to the provisions of this code.

(c) Additions and Enlargements. A non-conforming sign shall not be added to or enlarged in any manner, except to make the sign conform to the regulations of this Code.

(d) Moving. No non-conforming sign shall be moved in whole or in part to any other location unless the sign is made to conform to all regulations of this Code.

(e) Restoration of damaged non-conforming signs. A non-conforming sign which is destroyed or damaged by fire or other cause to the extent that the cost of restoration will exceed sixty percent (60%) of the value of the sign at the time of damage, shall not be restored unless it is made to conform to all the regulations of this Chapter, or any subsequent amendment thereto. In the event that such damage or destruction is less than sixty percent (60%) of the value of the sign at the time of damage, no repairs or construction shall be made unless such restoration is started within sixty (60) days from the date of the damage and is diligently pursued to completion.

(f) Removal of Abandoned Signs. All non-conforming signs shall be subject to the removal requirements of Section 1454.07 of the Building and Housing Code.

SECTION 1454.07(a) OF THE BUILDING AND HOUSING CODE SHALL BE AMENDED AS FOLLOWS:

1454.07 REMOVAL OF ABANDONED SIGNS.

(a) Whenever a property owner or tenant ~~or use~~ vacates a premises or discontinues the use of the premises for any reason, ~~except for a gasoline station,~~ the owner of the property such premise shall, within thirty ten-days after such vacation of the premises or discontinuance of use, remove all signs that pertaining ed to or relating to the former tenant or use. If the new tenant or use occupies or re-occupies the premises within the thirtyten-day period, the signs may remain, provided a permit is secured to relate the sign to the new tenant or use in conformity with the Zoning Code.

CHAPTER 1292
Adult Use Regulations

1292.01	Purpose and Findings	1292.06	Severability
1292.02	Definitions.		
1292.03	Sexually Oriented Businesses.		
1292.04	Location of Sexually Oriented Businesses.		
1292.05	Additional Regulations for Sexually Oriented Businesses		

1292.01 PURPOSE AND FINDINGS.

(a) Purpose. It is the purpose of this ordinance to regulate sexually oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the City. The provisions of this Chapter do not have the purpose or effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Further, it is not the intent 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 Chapter to condone or legitimize the distribution of obscene material.

(b) Findings. The City Council has received substantial evidence concerning the association of negative secondary effects with sexually oriented businesses in the cases of *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986), *Young v. American Mini Theatres*, 426 U.S. 50 (1976), and *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991), and on studies in other communities including but not limited to studies that have been conducted for the City of New York, New York, Denver, Colorado, and Minneapolis, Minnesota.

1292.02 DEFINITIONS.

(a) "ADULT ARCADE" means any place to which the public is permitted or invited where either or both (i) motion picture machines, projectors, video or laser disc players, or (ii) other video or image-producing devices are available, run via coin, token, or any form of consideration, to show images to five or fewer persons at one time; and where the images shown and/or live entertainment presented are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(b) "ADULT BOOKSTORE, ADULT NOVELTY STORE OR ADULT VIDEO STORE" means a commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

- (1) books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, digital video discs, or any other video

reproductions, slides, or other visual representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; or

- (2) instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities."

(c) "ADULT CABARET" means a nightclub, bar, restaurant, or similar commercial establishment which regularly features:

- (1) persons who appear in a "state of nudity" or "state of semi-nudity"; or
- (2) live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or
- (3) live entertainment of an erotic nature including exotic dancers, strippers, male or female impersonators, or similar entertainment; or
- (4) films, motion pictures, video cassettes, digital video discs, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(d) "ADULT HOTEL OR MOTEL" means a hotel, motel, or similar commercial establishment that:

- (1) Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, digital video discs, or any other video reproductions, slides, or other visual representations which are distinguished or characterized by an emphasis upon exhibiting, depicting, describing or displaying "specified sexual activities" or "specified anatomical areas" and has a sign visible from the public right of way that advertises the availability of this adult type of photographic reproductions; or
- (2) Offers a sleeping room for rent for a period of time that is less than eight (8) continuous hours; or
- (3) Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than eight (8) continuous hours.

(e) "ADULT MOTION PICTURE THEATER" means a commercial establishment where, for any form of consideration, films, motion pictures, digital video discs, video cassettes, slides, or similar photographic or video reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas" and that take place outside the context of some larger form of expression.

(f) "ADULT THEATER" means a theater, concert hall, auditorium, or similar commercial establishment that regularly or commonly features persons who appear in a state of

nudity or semi-nudity, or live performances which are characterized by the depiction or description of "specified anatomical areas," "specified sexual activities" or live entertainment of an erotic nature including exotic dancers, strippers, male or female impersonators, or similar entertainment and which for each of the previously mentioned categories, take place outside the context of some larger form of expression.

(g) "COVERING" means any clothing or wearing apparel, including pasties, but does not include any substance that can be washed off the skin, such as paint or make-up, or any substance designed to simulate the appearance of the anatomical area beneath it.

(h) "ESCORT" means a person who, for any form of consideration, agrees or offers to act as a companion or date for another person and who agrees or offers to appear in a state of nudity or who agrees or offers to privately model lingerie or privately perform a striptease for another person.

(i) "ESCORT AGENCY" means a person, business association, or other commercial establishment who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

(j) "ESTABLISHMENT" means and includes any of the following

- (1) the opening or commencement of any sexually oriented business as a new business;
- (2) the conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
- (3) the additions of any sexually oriented business to any other existing sexually oriented business; or
- (4) the relocation of any sexually oriented business.

(k) "MASSAGE PARLOR" means a commercial establishment where, for any form of consideration, massage, alcohol rub, electric or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist, or similar profession persons licensed by the state. This definition shall not include an athletic club, health club, school, gymnasium, reducing salon, spa, or similar establishments where massage or similar manipulation of the human body is offered as an incidental or accessory use.

(l) "NUDE MODEL STUDIO" means any place where a person who appears nude or semi-nude or who displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. Nude Model Studio shall not include:

- (1) a proprietary school licensed by the State of Ohio, or a college, junior college or university supported entirely or in part by public taxation.

- (2) a private college or university that offers educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
- (3) an establishment holding classes in a structure that has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; where in order to participate in a class a student must enroll at least three (3) days in advance of the class; and where no more than one semi-nude model is on the premises at any one time.

(m) "NUDITY" or a "STATE OF NUDITY" or "NUDE" means exposing to view the genitals, pubic area, vulva, perineum, anus, anal cleft or cleavage, or pubic hair with less than a fully opaque covering; exposing to view any portion of the areola of the female breast with less than a fully opaque covering; exposing to view male genitals in a discernibly turgid state, even if entirely covered by an opaque covering; or exposing to view any device, costume, or covering that gives the appearance of or simulates any of these anatomical areas.

(n) "PERSON" means an individual, proprietorship, partnership, firm, association, joint stock company, corporation or combination of individuals of whatever form or character.

(o) "SEMI-NUDITY" or "SEMI-NUDE CONDITION" or "SEMI-NUDE" means exposing to view, with less than a fully opaque covering, any portion of the female breast below the top of the areola or any portion of the buttocks. This definition shall include the entire lower portion of the female breast, but shall not include any portion of the cleavage of the female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other clothing, provided that the areola is not exposed in whole or in part.

(p) "SEXUAL ENCOUNTER CENTER" means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

- (1) physical contact in the form of wrestling or tumbling between persons of the opposite sex; or,
- (2) activities between male and female persons and/or persons of the same sex when one or more of the persons is semi-nude.

(q) "SEXUALLY ORIENTED BUSINESS" means an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult hotel or motel, adult motion picture theater, adult theater, escort agency, massage parlor, nude model studio, sexual encounter center, or any combination of the above-referenced businesses.

(r) "SPECIFIED ANATOMICAL AREAS" means:

- (1) the human male genitals in a discernibly turgid state, even if completely and opaquely covered; or

(2) less than completely and opaquely covered human genitals, pubic region, buttocks or a female breast below a point immediately above the top of the areola.

(s) "SPECIFIED SEXUAL ACTIVITIES": means any of the following:

(1) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;

(2) sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation, or sodomy; or

(3) excretory functions as part of or in connection with any of the activities set forth in (1) and (2) above.

(t) "SUBSTANTIAL ENLARGEMENT" of a sexually oriented business means the increase in floor areas occupied by the business by more than twenty-five percent (25%), as the floor areas exist on the date this adopting ordinance took effect.

1292.03 SEXUALLY ORIENTED BUSINESSES.

Sexually oriented businesses are classified as follows:

(a) adult arcades;

(b) adult bookstores, adult novelty stores, or adult video stores;

(c) adult cabarets;

(d) adult hotel or motel;

(e) adult motion picture theaters;

(f) adult theaters;

(g) escort agency;

(h) massage parlors;

(i) nude model studios;

(j) sexual encounter centers; and,

(k) any combination of classifications set forth in paragraphs (a) through (j) above.

1292.04 LOCATION OF SEXUALLY ORIENTED BUSINESSES.

(a) Sexually oriented businesses are permitted in the I-1 or I-2 District, as defined by this Zoning Code, if the Planning Commission determines that the provisions in subsections (b) through (d) below, and the other applicable standards in this Chapter and this Zoning Code have been satisfied.

(b) No sexually oriented business may be established within 1000 feet of:

- (1) A church, synagogue, mosque, temple or other building which is used primarily for religious worship and related religious activities;
- (2) A public or private educational facility including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities; school includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;
- (3) A public park or recreational area which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within the City which is under the control, operation, or management of either the City park and recreation authorities or which is operated or managed by any other governmental agency or non-profit corporation.
- (4) The boundary of any residential zoning districts as defined in the Zoning Code;
- (5) The boundary of any C-REC, B-1, or B-2 zoning districts as defined in the Zoning Code;
- (6) Any structure that constitutes a lawful non-conforming residential use as defined in the Zoning Code.
- (7) Of any other sexually oriented business.

(c) For the purpose of sub-section (b) of this Section, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a use listed in sub-section (b).

(d) Not more than one sexually oriented business shall be established or operated in the same building, structure, or portion thereof, and the floor area of any sexually oriented

business in any building, structure, or portion thereof containing another sexually oriented business shall not be increased.

**1292.05 ADDITIONAL REGULATIONS FOR SEXUAL ORIENTED
BUSINESSES.**

(a) Review and approval procedures for a development plan for a sexually oriented business shall be in accordance with the procedures specified in Chapter 1257.

(b) No advertisements, pictures, displays, or other promotional materials displaying or describing sexual activities anatomical areas shall be shown or exhibited in any manner visible from any roadways or streets, any pedestrian sidewalks or walkways, or any other public or semi-public areas.

(c) No merchandise or pictures of the products or entertainment on the premises of a sexually oriented business shall be displayed in window areas or any area where they can be viewed from any roadways or streets, any pedestrian sidewalks or walkways, or any other public or semi-public areas.

(d) All building openings, entries, and windows shall be located, serviced, or covered in such a manner as to prevent viewing into the interior from any roadways or streets, any pedestrian sidewalks or walkways, or any other public or semi-public areas.

(e) No screens, loudspeakers, or sound equipment shall be used if they can be viewed, heard, or otherwise discerned by the public from any roadways or streets, any pedestrian sidewalks or walkways, or any other public or semi-public areas.

(f) No signs shall be placed in any window. A one-square-foot sign may be placed on the door to state hours of operation and admittance to adults only.

1292.06 SEVERABILITY.

If any section, subsection, or clause of this Chapter shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, sub-sections, and clauses shall not be affected.



Planning Commission Memorandum

To: Karla Richards, Clerk of Council
Council

From: Pat Ryan, Interim Boards & Commissions Secretary *PR*

Date: 9-29-2010

Re: PC Resolution No. 14-2010

Text Amendment
Proposing a Text Amendment to
Chapter 1292-Adult Use Regulations.

Attached you will find a copy of PC Resolution No. 14-2010 Approving the above Amendment.

The original resolution has been forwarded to, and will be on file with the Clerk of Council as the official record.

E-Mail: Mayor (per Admin. Sec.)
Administrative Officer
Planning Commission
Board of Zoning & Building Appeals
Municipal Engineer
Supt. of Building & Zoning
Council

cc: PC Minutes
File

PLANNING COMMISSION
RESOLUTION

9-28-10

PC RESOLUTION NO.: 14-2010

RE: TEXT AMENDMENT
PROPOSING A TEXT AMENDMENT TO
CHAPTER 1292-ADULT USE REGULATIONS

The Planning Commission does hereby make the following ~~recommendation~~ ^{OK} recommendation(s) on the above:

RECOMMEND APPROVAL

Vote on Motion: FOR 4 AGAINST 0 ABSTAIN

Therefore PC Resolution No. 14-2010 is:

APPROVED DENIED TABLED

This resolution shall be sent to:

Administration for it's action or for it's information, and
Council for it's action or for it's information.

[Signature]
Planning Commission Chair/Vice-Chair

[Signature]
Planning Commission Vice Chair/Member

9/28/10
Date