

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CITY OF PFLUGERVILLE CODE OF ORDINANCES XI BUSINESS REGULATIONS, CHAPTER 112 SEXUALLY ORIENTED BUSINESSES AMENDING GENERAL PROVISIONS SECTION 112.02 DEFINITIONS; AMENDING ADMINISTRATIVE REGULATIONS SECTION 112.10 PROHIBITED LOCATIONS OF ANY TYPE OF SEXUALLY ORIENTED BUSINESS; AMENDING EMPLOYEE LICENSES SECTION 112.43 APPEAL; REPLACING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE; PROVIDING FOR SEVERABILITY; ESTABLISHING PENALTIES NOT TO EXCEED \$4,000.00 PER OFFENSE; AND PROVIDING AN EFFECTIVE DATE.

Whereas, the City of Pflugerville, Texas has previously adopted Title XI Business Regulations Chapter 112 Sexually Oriented Businesses; and

Whereas, the City of Pflugerville has identified amendments to Chapter 112 Sexually Oriented Businesses are necessary to ensure effective implementation of the Code; and

Whereas, the City of Pflugerville Planning and Zoning Commission recommended approval of these changes at their June 3, 2013 meeting.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PFLUGERVILLE, TEXAS:

THAT, the Code of Ordinances of the City of Pflugerville, Texas is hereby amended by adding or amending as applicable the following underlines Chapter 112 Sections 112.02, 112.10, and 112.43, of Business Regulations:

§ 112.02 DEFINITIONS.

PRINCIPAL BUSINESS OPERATION. For the purposes of determining whether a business is subject to regulation, this term means and includes any non-live, sexually oriented retail sale or rental business activity as defined herein that is 25% or more of the total business operation at a particular location. The 25% criteria may be determined by percentages of:

- -floor space utilized, inventory of items for sale or rental,
- display areas,
- presentation time of entertainment or performances, or
- gross revenue of the business as measured over any continuous 60-day period.

Since all live activity is subject to regulations as a Sexually Oriented Business, the 25% criteria does not apply to any Sexually Oriented Business featuring or offering any form of live performances, entertainment, modeling or other live activity,

RESIDENTIALLY ZONED LAND. Any residentially zoned land within the City of Pflugerville zoned RS1, RT1, RM1, RM2 or MH or a residential zone that is a successor to RS1, RT1, RM1, RM2, or MH or a primarily residential zone that may be created by the City Council after the passage of this ordinance or land located in another jurisdiction that bears a zoning district that permits residential uses, or land outside the City of Pflugerville that either allows residential uses or actually includes land used as residences.

§ 112.10 PROHIBITED LOCATIONS OF ANY TYPE OF SEXUALLY ORIENTED BUSINESS.

(A) Sexually Oriented Businesses are only allowed in General Industrial Districts (GI) subject to the limitations in this chapter. ~~Sexually Oriented Businesses are not allowed at all in zoning districts other than General Industrial Districts (GI).~~ If at such time there are no GI zoned properties that are outside of the areas outlined in 112.10(B) a Sexually Oriented Business is permitted in the Light Industrial District (LI) subject to the limitations outlined in this chapter. An Operator of a Sexually Oriented Business commits a violation if the Operator Operates or Causes to be Operated a Sexually Oriented Business in a zoning district that does not expressly permit that type of commercial use in the zoning district.

(B) In addition to being located in a proper zoning district, an Operator commits a violation if the Operator Operates or Causes to be operated a Sexually Oriented Business within 750 feet, ~~if located in the GI district, or within 1,000 feet when permitted to be located in the LI district,~~ of an existing:

- (1) Child Care Facility;
- (2) Church;
- (3) Dwelling;
- (4) Elder Care Facility;
- (5) Family Oriented Entertainment Site;
- (6) Hospital;
- (7) Public Building;
- (8) Public Park;
- (9) Other Sexually Oriented Business;
- (10) Residentially Zoned Land; or
- (11) School.

(C) For the purpose of [section 112.10\(B\)](#), measurement of the 750-foot distance, ~~or 1,000-foot distance when applicable,~~ will be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the property line of an existing Child Care Facility, Church, Elder Care Facility, Family Oriented Business, Hospital, Public Building, other Sexually Oriented Business, or School, from the boundary line of a Public Park or Residentially Zoned Land. For Dwellings, the 750-foot distance will be measured in a straight line from the nearest point of the foundation to the nearest property line of the property sought to be used as a Sexually Oriented Business.

(D) Also for the purposes of [section 112.10\(B\)](#) above, measurement of the 750-foot distance, ~~or 1,000 foot distance when applicable,~~ will also include Child Care Facilities, Churches, Dwellings, Elder Care Facilities, Family Oriented Businesses, Hospitals, Public Buildings, Public Parks, other Sexually Oriented Businesses, Residentially Zoned Land, or Schools that are located in an adjoining city, township or rural land area and that are within the 750-foot distance of the nearest property line of the property sought to be used as a Sexually Oriented Business within the city.

(E) ~~Sites that are eligible to be located within the LI zoning district must comply with the base development criteria established in Chapter 157 for LI zoned properties however are subject to the architectural standards established for office, retail, and commercial properties in lieu of compliance with the architectural standards established for industrial properties.~~

§ 112.43 APPEAL.

If the Building Official denies the issuance or renewal of a license, the Candidate may appeal to the Board of Adjustment as provided in ~~section 14 of the city's Zoning Code~~ [the Unified Development Code](#).

Severability.

If any provision of the Ordinance is illegal, invalid, or unenforceable under present or future laws, the remainder of the Ordinance will not be affected and, in lieu of each illegal, invalid, or unenforceable provision, a provision as similar in terms to the illegal, invalid, or unenforceable provision as is possible and is legal, valid, and enforceable will be added to this Ordinance.

III.

Effective Date.

This Ordinance will take effect upon its adoption by the City Council and publication of the caption hereof in accordance with Section 3.15(d) of the City Charter.

PASSED AND APPROVED this 11th day of June, 2013.

CITY OF PFLUGERVILLE, TEXAS

by: _____
JEFF COLEMAN, Mayor

ATTEST:

KAREN THOMPSON, City Secretary

APPROVED AS TO FORM:

City Attorney