

ORDINANCE 19-01

AN ORDINANCE AUTHORIZING AMENDMENTS TO ARTICLE 10—SEXUALLY ORIENTED BUSINESSES OF THE COUNTY OF LEXINGTON ZONING ORDINANCES.

WHEREAS, County Council finds that Sexually Oriented Businesses (SOBs) have a history of having adverse secondary effects, including, but not limited to, various crimes, prostitution, lewdness, public indecency, illegal drug use and drug trafficking, litter and sexual assault and exploitation;

WHEREAS, County Council finds that there is a substantial governmental interest in preventing or reducing these secondary effects of SOBs;

WHEREAS, County Council finds that it would help protect the public health, safety and welfare and reduce the secondary effects of SOBs by regulating the location of SOBs on properties that are within 100 feet of the county boundary line or are contiguous with and/or extend to adjoining counties;

WHEREAS, County Council finds the adjoining Counties have their own regulations of SOBs that may not be consistent with the regulation of SOBs in Lexington County;

WHEREAS, County Council finds that it would be in the best interest of the County to have a consistent place of measurement of the separation from protected properties on properties in which an SOB is located that are within 100 feet of the county boundary line or are contiguous with, and/or extend into adjoining Counties;

WHEREAS, County Council finds that it would be in the best interest of the County for properties that are within 100 feet of the county boundary line or are contiguous with/and or extend beyond the county boundary line, the property lines of the sexually oriented business should be used to measure separation distances for protected land uses located within Lexington County and the county boundary line should be used to measure separation distances for protected land uses in adjoining counties;

NOW, THEREFORE, be it ordained and enacted by Lexington County Council as follows:

Sections 102.00, 102.20 and 102.30 of the Lexington County Zoning Ordinance shall be amended to read as follows:

Section 102.00

Measurements of distance separation shall be in a straight line from the closest points of the buildings or outdoor areas in which the sexually oriented business activity takes place to either, except properties that are

within 100 feet of the county boundary line or are contiguous with and/or extend beyond the county boundary:

1. the closest point of the building in which the residential use, public library, motion picture establishment or other sexually oriented business is located, or
2. the closest point of the property line of a church, day care center, public or private elementary or secondary education school, public park, or cemetery.

e. For properties that are within 100 feet of the county boundary line or are contiguous with/and or extend beyond the county boundary line, the property lines of the sexually oriented business shall be used to measure separation distances for protected land uses located within Lexington County and the county boundary lines shall be used to measure separation distances for protected land uses in adjoining counties.

Section 102.20

c. Property owners where sexually oriented business are located may not sanction the selection of a lesser buffering restrictions as outlined in Section 23.60 to seek relief for the required separation distances from protected land uses.

102.30 Nonconformity for Sexually Oriented Businesses

a. Any sexually oriented business lawfully operating or which have previously permitting building construction in progress on Date of Enactment that is in violation of any of the requirements of Article 10 shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed 3 years, unless sooner terminated for any reason or voluntarily discontinued for a period of 30 days or more. Such nonconforming uses shall not be increased, enlarged, extended, or altered except that the use may be changed to a conforming use. If two sexually oriented businesses are within 2,000 feet of one another and otherwise in a permissible location, the sexually oriented business which is currently in longest continuous operation at a particular location is considered to be the conforming use and the other business is considered to be the nonconforming use.

c. All existing sexually oriented businesses must apply for a Sexually Oriented Business Zoning Permit within 6 months of the enactment of this Ordinance, for the purpose of establishing the extent of any nonconformity which must be corrected within 3 years as required in paragraph "a." The Permit will note the degree of nonconformity, if any, as determined by the circumstances at the time from which the sexually oriented business has been in continuous operation at that location. Sufficient information to make such a determination must be provided to the satisfaction of the Zoning Administrator.

d. In the event that the original investment expenses have not been recouped during the 3 year nonconformity period, the Board of Zoning Appeals may entertain a variance request to grant additional time. In the event a hardship is claimed, the burden of the proof relies solely upon the owner, operator, and/or developer to provide such documentation to support the hardship.

e. Nothing within this Article prohibits a nonconforming sexually oriented business from seeking relief of the required separation distances through the variance process. In the event a successful variance is

granted by the Board of Zoning Appeals, which provides relief for all nonconformities relating to buffering restrictions and/or separation distances, the sexually oriented business shall be considered a conforming use.

Effective Date: This amendment shall take effect upon its enactment.

DONE, RATIFIED AND ADOPTED this _____ day of _____, 2019.

LEXINGTON COUNTY, SOUTH CAROLINA

Scott R. Whetstone,
Chair of Lexington County Council

ATTEST:

By: _____
Diana W. Burnett
Clerk to Lexington County Council

First Reading: _____
Second Reading: _____
Public Hearing: _____
Third Reading: _____
Filed with Clerk of Court: _____