

STATE OF WISCONSIN VILLAGE OF OCONOMOWOC LAKE WAUKESHA COUNTY

ORDINANCE NO. 190

AN ORDINANCE TO CREATE
SECTION 17.33 OF THE ZONING CODE
ENTITLED FIRST AMENDMENT PROTECTED
ADULT-ORIENTED ESTABLISHMENTS

THE VILLAGE BOARD OF THE VILLAGE OF OCONOMOWOC LAKE,
WAUKESHA COUNTY, WISCONSIN, DOES ORDAIN AS FOLLOWS:

SECTION 1: ZONING REGULATIONS

Section 17.33 of the Village Zoning Code is created as follows:

FIRST AMENDMENT PROTECTED ADULT-ORIENTED ESTABLISHMENTS

I. FINDINGS OF FACT

1. The Board finds that Adult-Oriented Establishments, as defined and otherwise regulated by the Village in its Adult-Oriented Licensing and Regulation Ordinance, require special zoning in order to protect and preserve the health, safety, and welfare of the Village.
2. Based its review of studies conducted in Phoenix AZ, Garden Grove CA, Los Angeles CA, Whittier CA, Indianapolis IN, Minneapolis MN, St. Paul MN, Cleveland OH, Oklahoma City OK, Amarillo TX, Austin TX, Beaumont TX, Houston TX, Seattle WA, and the findings incorporated in *City of Renton v. Playtime Theaters, Inc.*, 475 U.S. 41 (1986), *Coleman A. Young v. American Mini-Theaters, Inc.*, 427 U.S. 50 (1976), the Board finds that there is convincing evidence that the secondary effects of Adult-Oriented Establishments include an increased risk of prostitution, high-risk sexual behavior, crime, and other deleterious effects upon existing businesses and surrounding residential areas, and decreased property values.
3. The Board intends to control the impact of these secondary effects in order to protect the health, safety, and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods and areas.

4. It is not the intent of the Board to suppress any speech activities protected by the First Amendment, but to enact a content-neutral ordinance which addresses the secondary effects of Adult-Oriented Establishments while providing an outlet for First Amendment protected activities.
5. In order to minimize and control the secondary effects of Adult-Oriented Establishments upon the Village, it is the intent of the Board to prevent the concentration of Adult-Oriented Establishments within a certain distance of each other and within a certain distance of other specified locations which are incompatible with and would suffer from the secondary effects of Adult-Oriented Establishments.
6. Based upon its review of materials linking alcohol consumption and high-risk sexual behavior and materials linking alcohol consumption and crimes such as sexual assault, the Board finds that a geographic separation of Adult-Oriented Establishments from alcohol beverage licensed premises is warranted.

II. LOCATION OF FIRST AMENDMENT PROTECTED ADULT-ORIENTED ESTABLISHMENTS

1. The First Amendment and other provisions of the United States Constitution, as interpreted by the United States Supreme Court and other courts, require that Adult-Oriented Establishments, as defined and otherwise regulated by the Village, are entitled to certain protections, including the opportunity to locate in the Village. Therefore, if an Adult-Oriented Establishment License has been granted by the Village, and if all the requirements of this Section of the Zoning Code are met, an Adult-Oriented Establishment shall be an allowed use in the I-1 Restricted Industrial zoning district and shall be a prohibited use in any other zoning district. No other requirements of the Zoning Code need be satisfied, but for those required in order to obtain an Adult-Oriented Entertainment License from the Village.
2. Adult-Oriented Establishments shall be located at least 600 feet from:
 - a. any residential district line, playground lot line, or public park lot line;
 - b. any structure used as a residence, place of religious worship, public or private school, or Youth Facility as defined in the Village's Adult-Oriented Establishment Licensing and Regulation

Ordinance;

- c. any other structure housing an Adult-Oriented Establishment;
 - d. any structure housing an establishment which holds an alcohol beverage license.
3. Distance requirements are to be measured in a straight line in any direction regardless of intervening structures, from the structure housing the Adult-Oriented Establishment to the above residential district boundary lines, to the lot line of any lot used for a park, playground, or the lot line of any structure listed in 2(b),(c) and (d), above.
 4. The measurements from a structure shall be taken from the farthest point a structure extends in the direction of the measurement, including overhanging roofs or similar projections.
 5. For Adult-Oriented Establishments located in conjunction with other buildings and clearly separate from other establishments such as in a shopping center, measurements shall be taken from the boundaries of the space occupied by the Adult-Oriented Establishment.
 6. For any Adult-Oriented Establishment located above ground level in a multi-story structure and clearly separate from other establishments within the structure, the distance measurements shall be taken from the ground floor public entrance/exit nearest the Adult-Oriented Establishment (excluding emergency exits).
 7. A licensed Adult-Oriented Establishment is not disqualified from holding an Adult-Oriented Establishment License by the location subsequent to the grant or renewal of its license of any of the establishments described in 2., above, within 600 feet of the licensed premises. This provision applies only to the renewal of an existing license and does not apply when an application for a license is submitted after a license for that location has not been renewed or has been revoked.

SECTION 2: SEVERABILITY

The sections of this Ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the

specific section or portion thereof directly specified in such decision, and shall not affect the validity of any other provisions, section or portions thereof of the Ordinance which shall remain in full force and effect.

SECTION 3: REPEAL OF INCONSISTENT ORDINANCES

All ordinances or parts of ordinances inconsistent or contravening this ordinance are hereby repealed.

SECTION 4: EFFECTIVE DATE

This ordinance shall take effect upon passage and posting or publication as provided by law.

This ordinance was passed and adopted by the Village Board this 21st day of August, 2000.

VILLAGE OF OCONOMOWOC LAKE

Raymond Foster Jr
Raymond Foster, Jr., Village President

ATTEST:

Barbara Stern
Barbara Stern, Village Clerk

Posted and published this 8th day of September, 2000.

STATE OF WISCONSIN)
)
COUNTY OF WAUKESHA)

AFFIDAVIT OF POSTING

ORD 190

The undersigned, being first duly sworn, on oath deposes and states that on 9-8, 2000, at the direction of the Clerk of the Village of Oconomowoc Lake, he posted copies of the foregoing proceedings of the Village Board in the following public places in said Village:

to-wit:

- (1) Opposite the entrance to the Oconomowoc Lake Club on the northern side of the road in front of the Club;
- (2) At the entrance to the Village Hall on West Pabst Road;
- (3) At the Village Boat Launch located at 35622 E. Wisconsin Avenue.

Deby Holly
Posting Officer

Subscribed and sworn to before me

This 9th day of September, 2000

Barbara Stern
Notary Public, Waukesha County, Wisconsin
My Commission expires: 4-20-03