

AN ORDINANCE TO ESTABLISH THE LEGISLATIVE RECORD OF THE
STONECREST CITY COUNCIL AND ITS FINDINGS RELATED TO THE ADVERSE
SECONDARY EFFECTS OF SEXUAL ORIENTED BUSINESSES

WHEREAS, the City Council of the City of Stonecrest in order promote the health, safety, and general welfare of the citizens of the city desires to establish reasonable and uniform regulations to prevent the negative secondary effects of adult entertainment establishments such as: (i) establishments having performances that are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas where there is physical contact between patrons and employees of the establishment; (ii) establishments that distribute materials and novelty items and other objects which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas or devoted to the sale or consisting of said printed material or novelty items which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas; and, (iii) establishments that present material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein; and

WHEREAS, the secondary effects associated with conduct of business by adult entertainment establishments been presented in hearings and in reports made available to the city council, and on findings, interpretations, and narrowing constructions incorporated in numerous cases, including, but not limited to the studies and cases listed in Exhibit A hereto.

NOW, THEREFORE, BE IT RESOLVED,

SECTION 1. That the City Council finds that the negative effects of the operation of adult entertainment establishments constitutes a harm which the city has a substantial government interest in preventing and/or abating.

SECTION 2. That the City Council further finds that there is substantial government interest in preventing such negative effects which exists independent of any comparative analysis between the regulated establishments and other, non-regulated establishments.

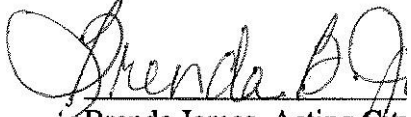
SECTION 3. That the City Council finds that the cases and secondary effects documentation are reasonably believed to be relevant to the city's interest in preventing illicit sexual behavior.

SECTION 4. That the City Council adopts and incorporates herein its stated findings and legislative record related to adverse secondary effects, including the judicial opinions and reports related to such secondary effects.

SECTION 4. That this Ordinance shall become effective upon its adoption.

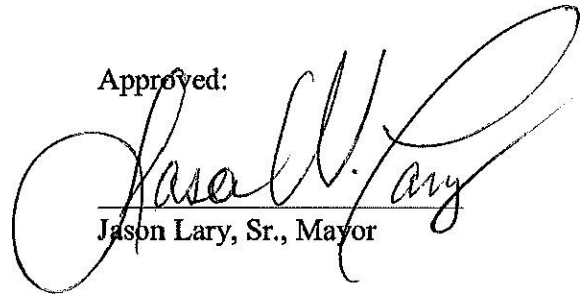
SO RESOLVED this day of June, 2017.

1st Reading 6/12/2017 Attest:



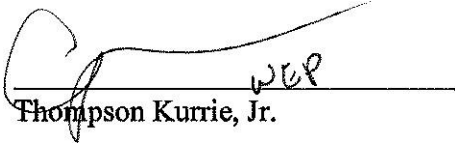
Brenda James, Acting City Clerk

Approved:



Jason Lary, Sr., Mayor

Approved as to form:
COLEMAN TALLEY LLP, City Attorney



By:

Thompson Kurrie, Jr.

EXHIBIT A SUMMARY OF STUDIES AND CASE LAW

SUMMARY OF CASES

- Renton v. Playtime Theatres, Inc. 475 U.S. 41 (1986).
 - The First Amendment does not require a city, before enacting such an ordinance, to conduct new studies or produce evidence independent of that already generated by other cities, so long as whatever evidence the city relies upon is reasonably believed to be relevant to the problem that the city addresses.
 - Upholding zoning restrictions on adult motion picture theatres based on secondary effects of such businesses in other cities. No new studies required if previous studies are relevant. Allowed zoning restrictions in certain areas.
 - Illinois One News, Inc. v. City of Marshall, 477 F.3d 860 (1 Ith Cir. 2007) o upholding location restriction on adult bookstore because land elsewhere in city provides adequate alternative)
 - Daytona Grand, Inc. v. City of Daytona Beach, 490 F.3d 860 (1 Ith Cir. 2007) o Upholding zoning adult businesses to industrial zone
 - Tollis, Inc. v. County of San Diego, 505 F.3d 935 (9th Cir. 2007) o upholding zoning that isolates adult businesses to industrial zones; reasonable to assume that will patrons would not be discouraged by inconvenience of having to travel to industrial zone
- Plaza Group Properties v. Spencer County, 877 N.E.2d 877 (Ind. Ct. App. 2007) o Upholding rule that sexually oriented businesses be at least 1,000 feet away from churches, schools, residences, and other sensitive land uses)
 - City of Erie v. Pap's A.M., 529 U.S. 277 (2000) o upholding prohibition on total nudity in sexually oriented businesses)
 - City of Littleton v. Z.J. Gifts 04, L.L.C., 541 U.S. 774 (2004) o upholding sexually oriented business licensing ordinance as applied to retail-only adult bookstore
- H & A Land Corp. v. City of Kennedale, 480 F.3d 336 (5th Cir. 2007) o holding that Indianapolis and Oklahoma City studies justify regulation of retail adult bookstore
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 - Richland Bookmart, Inc. v. Knox County, 555 F.3d 512 (6th Cir. 2009) o upholding secondary effects regulation of retail adult bookstore

- o High Five Investments, LLC v. Floyd County, No. 4:06-CV-190, R. 128 (N.D. Ga. Mar. 14, 2008) o upholding regulation of retail-only store (lm)ugh licensing with set-back provision

SUMMARIES OF CASE STUDIES

- o A Methodological Critique of the Linz-Yao Report: Report to the Greensboro City Attorney o Daniel Linz and Mike Yao, conclude "... that there is no support for the City of Greensboro's theory that adult businesses produce adverse secondary effects. The results of our study show that adult businesses are not associated with crime events." o When the actual numbers are examined, however, it is clear that Linz and Yao overstated the empirical basis of their strongly-worded conclusion and their numbers show a stark increase in crime rates
- Does the Presence of Sexually Oriented Businesses Relate to Increased Levels of Crime? An Examination Using Spatial Analyses o Presenting findings from three spatial analyses using varying-sized buffer zones of rates of violent, property, and public order offenses in the vicinity of sexually oriented businesses in Louisville, Kentucky. , Results show that sexually oriented businesses are associated with much higher rates of all types of offenses in the immediate vicinity of the business and continue to have significant effects on crime levels as one moves further from the business.
- o Correlates of Current Transactional Sex among a Sample of Female Exotic Dancers in Baltimore, MD o High levels of both drug use and transactional sex among this sample of exotic dancers were reported. These findings indicate that there are a number of drug and sex-related harms faced by exotic dancers in strip clubs, implicating the environment in the promotion of HIV/STI risk-taking behaviors
- o Summary of Review and Conclusions Regarding the City of St. Cloud's Regulation of Adult Businesses o There are numerous sites available for the establishment of an adult use business, consistent with the St. Cloud Adult Use Ordinances o A planning review commissioned by the owners of adult use establishments in St. Cloud had faulty assumptions and conclusions: including most importantly the conclusion that the ordinance results in too few available sites for adult use businesses. There are definitely adverse secondary effects associated with adult use businesses that are significant, and have been well documented.
- o Sexually Oriented Business Ordinance Revision Committee Legislative Report o Outlines issues with the current ordinance and issues with enforcing the ordinance as well as policing violations
- o Not all sexually oriented businesses are run illegally. With stronger regulations the inclination toward criminal activity will deteriorate.
- o Survey of Appraisers: Fort Worth & Dallas — Effects of Land Uses on Surrounding Property Values o Appraisers were nearly unanimous in responding that adult-oriented businesses of any kind (stores, arcades, or cabarets) would decrease single-family home

- o property values
 - o More than 70% of the appraisers judged the influence of adult-oriented businesses on property values to extend beyond 3000 feet (or approximately 6 block
- o An Analysis of the Effects of SOBs on the Surrounding Neighborhoods in Dallas Texas
 - o SOBs have both a real and perceived negative impact on the surrounding properties. In such areas crime rates are higher and property values are lower and/or properties take longer to lease or sell
 - o The higher the concentration of these businesses in one locale, the greater the impact on the neighborhood
- o Report on Adult Oriented Businesses in Austin: Prepared by Office of Land Development Services
 - o SOBs lead to a decrease in property values due to a decrease in desirability of property in the area by families with children and a decrease in "pride of ownership"
- o Strip Clubs According to Strippers — Exposing Workplace Sexual Violence
 - o Women in SOBs reported high rates of verbal, physical and sexual abuse, stalking and sexual exploitation by both patrons and management
- Rural Hot Spots: The Case of Adult Businesses
 - o When an adult entertainment business opens on an interstate highway off-ramp to a small rural village, total crime in the village rises by sixty percent. Two years later, when the business closes, total crime drops by sixty percent
- o Testimony of David Shen-nan — Sexually Oriented Businesses: An Insider's View
 - o "Having been involved in the Adult Entertainment Industry for fourteen years, I am very aware of the consequences this business can have on all involved. Over the years, I've seen friendships, families, and lives destroyed."
 - o Much of the activity of the adult entertainment industry is illegal and criminal. In addition, there are tremendous negative effects on entertainers, communities, local businesses, as well as families.
- o Study of the Effects of the Concentration of Adult Entertainment Establishments in the City of LA
 - o Crime rates in Hollywood (with the highest concentration of SOBS) are proportionally larger than rates in other parts of LA
 - o The general population all said that SOBs make a neighborhood less desirable
 - o Appraisers, realtors, lenders, etc. agree that SOBs have led to adverse effects on both business and residential property values
- o Committee on the Proposed Regulation of Sexually Oriented Businesses: A report on amending the ordinance that regulated SOBs
- o Summarizes complaints from the community used by the Committee to construct an effect and legal SOB regulatory ordinance
- o The Relationship Between Crime and Adult Business Operations on Garden Grove Boulevard
 - o statistical analyses for the legal requirement of basing zoning restrictions on adult businesses on their negative impact on the community in terms of crime, decreased property value and decreased quality of life
 - o Crime rises whenever an adult business opens or expands its operation and the change is statistically significant
 - o Architectural devices designed to ameliorate the nuisance of these businesses have no significant impact on crime.

- o When an adult business opens within 1000 feet of a tavern (or vice versa) the impact of the adult business on crime is aggravated substantially and significantly.
- o Staff Report: Amendment to Zoning Regulations — Adult Businesses in C-2 Zone with Conditional Use Permit
 - o The comparison of the totals of each four-year time period shows an increase of 102% in incidents of crime in the period 1974-77 over the period 1970-13, whereas, the City as a whole for the same period, experienced only an 8.3% increase in incidents of crime.
- o Concentration of adult businesses in the City of Whittier have had an adverse impact on the adjacent neighborhoods. The increases in crime and residential occupancy turnover are two of the key indications of neighborhoods beginning to decline and deteriorate
- o Report on the Secondary Effects of the Concentration of Adult Use Establishments in the Times Square Area
 - o The growing number and concentration of SOBs on 8th Avenue constitute a threat to the commercial prosperity and residential stability achieved in the past few years
 - o There were 118 complaints to police made on 8th Avenue between 45th and 48th compared to 50 complaints on the control blocks
 - o The rate of increase of total assessed values of the Eighth Avenue study blocks increased by 65 % between 1985 and 1993 compared to 91 % for the control blocks during the same period.
- o Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses
 - o Compelling evidence that sexually oriented businesses are associated with high crime rates and depression of property values.
- o Testimony that the character of a neighborhood can dramatically change when there is a concentration of sexually oriented businesses adjacent to residential property
- o Adult Entertainment Businesses in Oklahoma City: A Survey of Real Estate Appraisers
 - o The great majority of appraisers (about 75%) who responded to the survey felt that there is a negative impact on residential and commercial property values within one block of an adult bookstore.
 - o This negative impact dissipates as the distance from the site increases, so that at three blocks, half of the appraisers felt that there is a negative impact on residential property and less than half felt that there is a negative impact on commercial property.

● Does the Presence of Sexually Oriented Businesses Relate to Increased Levels of Crime?

An Examination Using Spatial Analyses

- o Presenting findings from three spatial analyses using varying-sized buffer zones of rates of violent, property, and public order offenses in the vicinity of sexually oriented businesses in Louisville, Kentucky. Results show that sexually oriented businesses are associated with much higher rates of all types of offenses in the immediate

vicinity of the business and continue to have significant effects on crime levels as one moves further from the business.

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- Lewd, Nude, and Under Review o Article describes the nature of the SOBs in the area, the stark increase in prostitution and violence, and the open violation of ordinances limiting sexual exposure

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Businesses o Compelling evidence that sexually oriented businesses are associated with high crime rates and depression of property values.

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- Zoning Adult Businesses: Evaluating the Secondary Effects Doctrine
 - Explores the benefits and drawbacks of two approaches to limiting secondary effects of SOBs: "packing" (consolidating SOBs to one zoning area) and "Cracking" (requiring that certain adult establishments not be permitted within 1,000 feet of another regulated establishment, or within 500 feet of a residential area)
 - Because most municipalities rely upon flawed and questionable research into the negative secondary effects of adult businesses to justify zoning ordinances regulating the presence of these establishments in their community, the fact that cracking has emerged as a consensus approach across United States jurisdictions should not be viewed as the definitive crowd-sourced answer to this inquiry.
- Crime-Related Secondary Effects of Sexually-Oriented Businesses: Report to the City Attorney
 - SOBs have large, significant crime-related secondary effects.
 - In the last thirty years, empirical studies employing a wide range of quasiexperimental designs have found that SOBs have large, significant crime-related secondary effects
 - Given that strong criminological theory predicts the effect, and given that the prediction is corroborated consistently by the empirical literature, it is a scientific fact that SOBs pose ambient crime risks
- Adult Use Study: City of Kingston Common Council Study prepared by GREENPLAN INC.
 - Uses findings of other studies
 - In community after community, the results of the studies are almost universally the same; adult uses are associated with secondary effects such as lower property values in the areas surrounding the uses and crime rates are higher than other similar areas where adult uses do not exist
- Crime Related Secondary Effects: Secondary Effects of "Off-Site" Sexually Oriented Businesses
 - More than 91 percent of Texas appraisers surveyed believe that gentleman's clubs/strip clubs, adult media/video stores (retail only), video peep booth businesses and lingerie & adult novelties stores have a negative effect on the market value of a single-family home located within 500 feet of such a use;
 - More than 71 percent believe that the negative effect on the market value of a singlefamily home due to the proximity of a sexually oriented business do not disappear until at least a half mile or more (2,640+ feet);
 - More than 80 percent believe that the concentration of two or more sexually oriented businesses increases the negative effect on market values of a single-family home
 - Cites three criminal effects studies that all find crime-rate increases with the presence of SOBs
 - All conclude that SOBs have severe negative secondary effects
- Adult Use Study: Newport News Department of Planning and Development
 - Studies in other cities indicate that having adult uses nearby leads to increased crime and declining property values.
 - In Newport News, the police calls for service indicate adult uses experience crime problems that impact on nearby neighborhoods or businesses.
 - Pairing comparisons of selected adult uses with restaurants that have ABC licenses but are not adult uses, indicate the adult uses have more police calls for service.
 - Control area comparisons suggest that police calls for service and crimes are higher in areas with concentrations of adult uses.

- A survey of Realtors indicates that adult uses will lessen nearby residential property values, and may lessen nearby commercial property values depending on the type of adult use and the amount of concentration,
- MRSC Local Government Success: Adult Entertainment Regulation ○ Cites and Summarizes cases and studies that have been used for other cities imposing
 - SOB restrictive ordinances
- Department of Planning and Development Director's Report: Adult Cabarets in Seattle ○ Recommendation to restrict adult cabaret uses to industrial zones ○ Compared with the potential land use impacts of adult cabarets in different areas of the City, adult cabaret uses would be least intrusive and have substantially fewer impacts in industrial areas.
 - The location of an adult cabaret use shares greater compatibility with surrounding uses in industrial areas, and would not have the same negative influence on property values, or contribute to an escalation of criminal activities in and around residential neighborhoods, and would result in the least negative impacts to pedestrians, particularly to children.
- Effects of Adult Entertainment Businesses on Residential Neighborhoods: Prepared for the Office of the City Attorney of El Paso
 - The housing base within a study area decreases substantially with the concentration of these commercial uses.
 - Properties located within a one-block radius of an adult entertainment business realize a decrease in property value (affecting both residential and commercial properties).
 - Properties located near adult entertainment businesses experience an increase in listings on the real estate market.
 - The presence of adult entertainment businesses result in a relative deterioration of the residential condition of a neighborhood.
 - A statistically significant increase in crime is found in areas where adult entertainment businesses are located.
 - The average crime rate in the study areas was seventy-two percent (72%) higher than that rate for control areas.
 - Sex-related crimes occurred more frequently within neighborhoods having at least one adult entertainment business than in those with no adult businesses.
 - The neighborhood residents within the study areas perceive far greater neighborhood problems than residents of the control areas.
 - Study area residents feared significantly more neighborhood deterioration and crime than residents of the control areas.
- The Association of Adult Businesses with Secondary Effects: Legal Doctrine, Social Theory and Empirical Evidence ○ Methodologically appropriate secondary effects studies confirm criminological theory's prediction that adult businesses are associated with heightened incidences of crime regardless of jurisdiction, business model or location
- Regulating Adult Entertainment Business: Zoning and First Amendment Limitations ○ Webinar handout that describes the background of the issue, recommendations on regulations and relevant studies and case law

- Report to: The American Center for Law and Justice on the Secondary Impacts of Sex Oriented Businesses
 - o Sex oriented businesses, although protected under First Amendment guarantees, can facilitate and support undesirable and detrimental patterns of activity in their vicinity.
 - o These secondary impacts are incompatible with activities and uses in residential areas, or near educational, recreational, and religious facilities.
 - o They also have negative impacts upon local businesses in their immediate neighborhood.
 - o When combined with additional sex oriented establishments or establishments serving alcoholic beverages, the evidence indicates that there are additional increases in undesirable and harmful patterns of activity