

Chapter 14.11

SEXUALLY ORIENTED BUSINESSES

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14.11.010 Purpose and Description. The purpose of this Chapter is to allow the reasonable location of sexually oriented businesses within the Town in a manner which will protect property values, neighborhoods and residents from the potential adverse secondary effects of sexually oriented businesses, while providing to those who desire to patronize sexually oriented businesses such opportunity in appropriate areas within the Town. It is not the intent of this Chapter to suppress any speech activities protected by the First Amendment to the United States Constitution but to impose content neutral regulations which address the adverse secondary effects that sexually oriented businesses may have on adjoining properties.

It has been determined, and reflected in the land use studies of various U.S. cities, that businesses which have as their primary purpose the selling, renting or showing of sexually explicit materials have negative secondary impacts upon surrounding businesses and residences. The experience in other U.S. cities is that the location of sexually oriented businesses significantly increases the incidence of crimes, especially sex offenses, including sexual assault, indecent exposure, lewd and lascivious behavior, and child molestation.

It has been determined, and reflected in the land use studies of various U.S. cities, that sexually oriented businesses in business districts which are immediately adjacent to and which serve residential neighborhoods have a deleterious effect on both the business and the residential segments of the neighborhood, causing blight and down-grading of property values.

It is the intent of these regulations to allow sexually oriented businesses to exist within the Town in various dispersed locations rather than to allow them to concentrate in any one business area. It is further the purpose of these regulations to require separation requirements between sexually oriented businesses and residential uses, churches, parks, and educational institutions in an effort to buffer these uses from the secondary impacts created by sexually oriented business activity.

14.11.020 Definitions.

A. Unless otherwise defined below, terms used in this Chapter pertaining to sexually oriented businesses shall be as defined in Section 5.14.020 of the De Beque Municipal Code.

B. **Business:** Means and includes a sexually oriented business as defined in subsection 5.14.020 (N) of Title 5 of the De Beque Municipal Code.

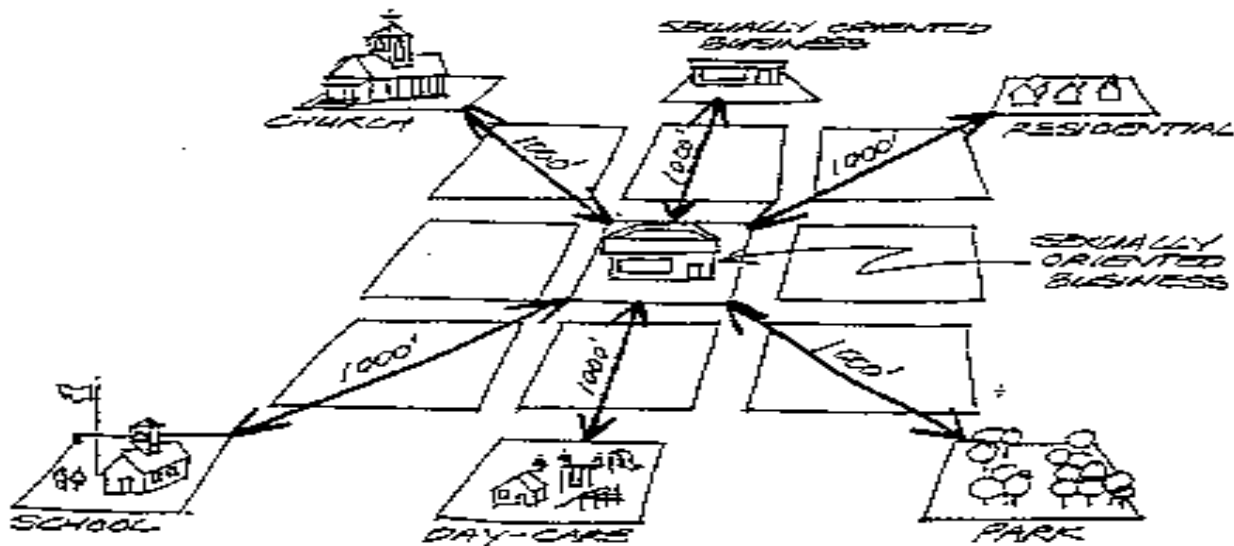
14.11.030 Special Review Use Permit Required. A Special Review Use permit is required for the operation of a sexually oriented business in the Industrial (I) Zone District. Additional requirements for the granting of a Special Review Use permit are found in Section 14.03.080, Special Review Uses.

14.11.040 Separation Requirements. No sexually oriented business shall be located within one thousand feet (1,000') of another sexually oriented business, residentially zoned or used property, church, day care center, park or educational institution (whether within or without the Town). A waiver of the foregoing restrictions may be applied for in accordance with subsection (B) of this Section.

A. Method of Measurement. The one thousand feet (1,000') separation measurement shall be made in a straight line without regard to intervening structures or objects from the nearest property line of the proposed sexually oriented business to the nearest property line of another sexually oriented business, residentially zoned or used property, church, park, day care center or educational institution.

B. Waiver Criteria. In establishing the provisions of this Section, the Town Board hereby finds and determines that there may be exceptional or extraordinary circumstances or conditions which are applicable to properties within the Town, or to the intended uses of properties within the Town that do not generally apply to the property or class of uses in the same zone district, and such that denial of an application for relief would result in an inability to reasonably utilize property. Therefore, it is necessary to provide for such extraordinary relief in the form of a waiver. In reviewing such applications for waivers, the burden shall be upon the applicant to meet the criteria set forth in this Section.

Sexually Oriented Business Establishment :



1. A waiver to the separation requirements set forth in this Section may be granted as a part of the Special Review Use review process if the presumptions in Section 14.11.010 of this Chapter are overcome by proof that the establishment of a sexually oriented business within one thousand feet (1,000') of another sexually oriented business establishment or establishment of a sexually oriented business within one thousand feet (1,000') of any residential zone district, residential use, park, church or educational institution as applicable, will not have a deleterious effect on surrounding residential and business areas by creating blight, downgrading of property values or tending to cause an increase in crime.

2. In granting a waiver to the separation requirements, the Planning Commission or Town Board may impose reasonable conditions relating to hours of operation, screening, buffering and signage as long as the conditions imposed are not designed to prohibit the dissemination of protected materials under the First Amendment to the United States Constitution.

14.11.050 Criteria for Permit Approval. It shall be unlawful for any person to conduct or establish any sexually oriented business activity or enterprise until a Special Review Use permit for a sexually oriented business has been approved by the Town Board. Such permits shall be approved if the criteria set forth in Section 14.03.080 and the following criteria are met:

- A. The subject property is zoned Industrial (I);
- B. The subject property meets the one thousand foot (1,000') separation requirements as set forth subsection (A) of Section 14.11.040 or a waiver has been granted pursuant to subsection (B)

of the same Section;

C. The subject property contains off-street parking in accordance with the requirements of Chapter 14.09; and

D. The proposed sexually oriented business building has a certificate of occupancy.

14.11.060 Review Process. Applicants for a Special Review Use permit for a sexually oriented business shall submit a completed Special Review Use application form which contains the information required by 14.03.080, and, in addition, distances to other sexually oriented businesses, residentially zoned or used property, churches, day care centers, and park or educational institutions. The application shall be reviewed pursuant to the Special Review Use permit process as outlined in Section 14.03.080.

(Ord. 329, §5(part), 2006)