

ZONING ORDINANCE
June 7, 2009
SEXUALLY ORIENTED BUSINESSES

ADDITIONS TO SECTION 202, DEFINITIONS:

Adult Arcade: Any place to which the public is permitted or invited herein coin-operated or slug-operated electronically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time and where the images so displayed are distinguished or characterized by depicting or describing of Specified Sexual Activities or Specified Anatomical Areas.

Adult Bookstore or Adult Video Store: A commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration one or more of the following:

- A. Books, magazines, periodicals or other printed matter or photographs, films, motion picture, video cassettes or video reproductions, slides or other visual representations or media which depict or describe Specified Sexual Activities or Specified Anatomical Areas; or
- B. Instruments, devices or paraphernalia that are designed for use in connection with Specified Sexual Activities.

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing Specified Sexual Activities or Specified Anatomical Areas and still be categorized as an Adult Bookstore or Adult Video Store. The sale of such material shall be deemed to constitute a principal business purpose of an establishment if it occupies 25% or more of the floor area or visible inventory within the establishment.

Adult Cabaret: A nightclub, bar, restaurant or similar commercial establishment that regularly features any of the following:

- A. Persons who appear in a state of nudity;
- B. Live performances that are characterized by the exposure of Specified Anatomical Areas or by Specified Sexual Activities;
- C. Films, motion pictures, video cassettes, slides other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas; or
- D. Persons who engage in lewd, or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

Adult Motel: A hotel, motel or similar commercial establishment that:

- A. Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas and has a sign visible from the public right of way that advertises the availability of any of the above;
- B. Offers a sleeping room for rent for a period of time that is less than twelve (12) hours; or
- C. Allows a tenant or occupant of a sleeping room to sub-rent for a period of time that is less than twelve (12) hours.

Adult Motion Picture Theater: A commercial establishment which for any form of consideration, regularly and primarily shows films, motion pictures, video cassettes, slides or other photographic reproductions or visual media that are characterized by depiction or description of Specified Sexual Activities or Specified Anatomical Areas.

Adult Theater: A theater, concert hall, auditorium or similar commercial establishment that regularly features a person or persons who appear in a state of nudity or live performances that are characterized by exposure of Specified Anatomical Areas or by Specified Sexual Activities.

Nude Model Studio: Any place where a person who displays Specified Anatomical Areas is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration, but does not include an educational institution funded, chartered or recognized by the State of Michigan.

Nudity or State of Nudity: Knowingly or intentionally displaying in a public place, or for payment or promise of payment by any person including, but not limited to payment of an admission fee, any individual's genitals or anus with less than a fully opaque covering, or a female individual's breast with less than a fully opaque covering of the nipple and areola. Public nudity does not include any of the following:

- A. A woman's breastfeeding of a baby whether or not the nipple or areola is exposed during or incidental to the feeding.
- B. Material as defined in Section 2 of Act No. 343 of the Public Acts of 1984, being Section 752.362 of the Michigan Compiled Laws.
- C. Sexually explicit visual material as defined in Section 3 of Act No. 33 of Public Acts of 1978, being Section 722.673 of the Michigan Compiled Laws.

Sexually Oriented Business: A business or commercial enterprise engaging in any of the following: (1) adult arcade; (2) adult bookstore or adult video store,

(3) adult cabaret; (4) adult motel; (5) adult motion picture theater; (6) adult theater; (7) escort agency; and (8) nude model studio.

Addition to SECTION 408, RESIDENTIAL/COMMERCIAL (RC) DISTRICT

Point 3. Special Land Uses

ADD sub-point n. Sexually Oriented Businesses.

Addition to Section 412, INDUSTRIAL (I) DISTRICT

Point 3. Special Land Uses

ADD sub-point g. Sexually Oriented Businesses.

SECTION 607, STANDARDS AND REQUIREMENTS FOR SPECIAL LAND USE PERMITS.

ADD POINT 43. Sexually-Oriented Businesses

The purpose and intent of this Point in the Ordinance pertaining to the regulation of sexually-oriented businesses is to regulate the location and operation of, but not to exclude, sexually-oriented businesses within the Township, and to minimize their negative secondary effects. It is recognized that sexually-oriented businesses, because of their very nature, have serious objectionable operational characteristics which cause negative secondary effects upon nearby residential, educational, religious and other similar public and private uses. The regulation of sexually-oriented businesses is necessary to ensure that their negative secondary effects will not contribute to the blighting and downgrading of surrounding areas and will not negatively impact the health, safety and general welfare of Township residents. The provisions of this Ordinance are not intended to offend the guarantees of the First Amendment to the United States Constitution or to deny adults access to sexually-oriented businesses and their products, or to deny sexually-oriented businesses access to their intended market. Neither is it the intent of this Ordinance to legitimize activities prohibited by Township ordinances, State or Federal law. If any portion of this Ordinance relating to the regulation of sexually-oriented businesses or referenced in those sections is found to be invalid or unconstitutional by a court of competent jurisdiction, the Township intends said portion to be disregarded, reduced, and/or revised so as to be recognized to the fullest extent possible by law. The Township further states that it would have passed and adopted what remains of any portion of this Ordinance relating to regulation of sexually-oriented businesses following the removal, reduction, or revision of any portion so found to be invalid or unconstitutional.

- a. No sexually-oriented business shall be established on a parcel within one thousand (1000) feet of any residence, library, school, church or public park.

- b. No sexually-oriented business shall be permitted in a location in which any principal or accessory structure, including signs, is within one thousand (1,000) feet of any principal or accessory structure of another sexually-oriented business.
- c. The proposed use shall conform to all specific density and setback regulations of the zoning district in which it is located.
- d. The proposed use must meet all applicable written and duly promulgated standards of the Township of Caledonia and other governments or governmental agencies having jurisdiction and that to the extent required, the approval of these governments and/or governmental agencies has been obtained or is reasonably assured.
- e. The outdoor storage of garbage and refuse shall be contained, screened from view and located so as not to be visible from neighboring properties or adjacent roadways.
- f. Any sign or signs proposed for the sexually-oriented business must comply with the provisions of this Ordinance, and shall not otherwise include photographs, silhouettes, drawings, or pictorial representation of any type, or include animated or flashing illumination.
- g. Entrances to the proposed sexually-oriented business must be posted on both the exterior and interior walls in a location clearly visible to those entering and exiting the business, and using lettering no less than two (2) inches in height that: (1) "Persons under the age of 18 are not permitted to enter the premises," and (2) "No alcoholic beverages of any type are permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission."
- h. No product or service for sale or gift, or any picture or other representation of any product or service or gift, shall be displayed so as to be visible from the nearest adjoining roadway or a neighboring property.
- i. Any booth, room or cubicle available in any sexually-oriented business, excepting an adult motel, used by patrons for the viewing of any entertainment characterized by the showing of Specified Anatomical Areas or Specified Sexual Activities:
 - (1) Shall be handicap accessible to the extent required by the Americans With Disabilities Act;
 - (2) Shall be unobstructed by any door, lock or other entrance and exit control device;
 - (3) Has at least one (1) side totally open to a public, lighted aisle so that there is an unobstructed view at all times from the adjoining aisle of any occupant;
 - (4) Is illuminated by a light bulb of wattage of not less than twenty-five (25) watts; and
 - (5) Has no holes or openings in any side or rear walls.