

**ARTICLE XXV  
SEXUALLY ORIENTED BUSINESSES (SOBS)**

**Sec. 25.1 PREAMBLE**

There is convincing documented evidence that sexually oriented businesses, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them; and, have serious objectionable characteristics, particularly when they are located in close proximity to each other.

It is not the intent of this Ordinance to suppress any activity protected by the First Amendment of the United States Constitution or the Michigan Constitution, but to enact content neutral regulations which address the adverse secondary effects of sexually oriented businesses.

The Townships recognize that state and federal law prohibits the distribution of obscene materials and expects and encourages state enforcement officials to enforce state and federal obscenity statutes against any such illegal activities within the Townships.

**Sec. 25.2 INTENT AND PURPOSE**

It is the purpose of this Ordinance to regulate sexually oriented businesses and related activities to promote and ensure the health, safety, and general welfare of the citizens of the Township and to establish reasonable and uniform regulations to prevent the deleterious effects of sexually oriented businesses within the Township. The provisions of this Ordinance do not have the purpose of imposing a limitation or restriction on the content of any communicative material, including sexually oriented materials. Similarly, it is not the intent of this Ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment of the United States Constitution, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent of this Ordinance to condone or legitimize the distribution of obscene materials.

**Sec. 25.3 DEFINITIONS**

As used in this Article, the following terms shall have the indicated meanings:

- A. ADULT BOOK OR VIDEO STORE: An establishment having as a substantial or significant portion of its stock in trade, books, magazines, periodicals, films, computer software or video tapes which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined herein.
- B. ADULT ENTERTAINMENT ESTABLISHMENT: A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances presented for the enjoyment of the audience which has paid or promised to pay an admission fee and which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities".
- C. ADULT MINI-THEATER: A commercial establishment where, for any form of consideration, in an enclosed area with a capacity of less than ten (10) persons, films, motion pictures, video cassettes, slides, or similar photographic reproductions are shown which are characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas".
- D. ADULT MOTION PICTURE THEATER: A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas," as defined herein.
- E. ADULT NOVELTY BUSINESS: A business that has as a substantial or significant portion of its activity in the sale of devices which stimulate human genitals or devices designed for sexual stimulation.
- F. NUDITY or STATE OF NUDITY: The appearance of a human bare buttock, anus, male genitals, female genitals, or female breast without a fully opaque complete covering or the breast below a point immediately above the top of the areola, or human male genitals in a discernible turgid state even if complete and opaquely covered.

- G. PERMIT: A Special Land Use Permit for the operation of a sexually oriented business and issued pursuant to Article XIV and this Article.
- H. PERMITTEE: A person in whose name a permit to operate a sexually oriented business has been issued as well as the individual listed as an applicant on the application for a permit.
- I. PERSON: An individual, proprietorship, partnership, limited liability company, corporation, association, or other legal entity.
- J. SEXUALLY ORIENTED BUSINESS: An adult book or video store, adult motion picture theater, adult mini-theater, adult novelty business, or adult entertainment establishment.
- K. SPECIFIED ANATOMICAL AREAS Includes:
1. Less than completely and opaquely covered human genitals, pubic regions, buttocks and female breasts below a point immediately above the top of the areola;
  2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- L. SPECIFIED SEXUAL ACTIVITIES Includes:
1. Acts of human masturbation, sexual intercourse, or sodomy;
  2. Fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts;
  3. Human genitals in a state of sexual stimulation or arousal.
- M. SUBSTANTIAL OR SIGNIFICANT PORTION: A business will be deemed to have a substantial or significant portion of its stock in trade or services if it meets at least one of the following criteria:
1. Thirty-five (35) percent or more of the stock, materials, or services provided describes or relates to specified sexual activities, specified anatomical

areas, or both.

2. Thirty-five (35) percent or more of the usable floor area of the building is used for the sale, display, or provision of services describing or relating to specified sexual activities, specified anatomical areas, or both.
3. The advertising (on signs, in publications, on television or radio and/or other media forms) associated with the business, describes or relates to specified sexual activities, specified anatomical areas, or both.

N. TRANSFER OF OWNERSHIP OR CONTROL: of a sexually oriented business means and includes any of the following:

1. The sale, lease, or sublease of the business;
2. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means;
3. The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

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**Sec. 25.4 PERMIT REQUIRED**

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A. It shall be unlawful for a person to operate a sexually oriented business without a valid permit issued by the Township Zoning Administrator.

B. An application for a permit must be made on a form provided by the Township. The application must be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.

C. An application for a permit shall be made and delivered to the Zoning Administrator by the intended operator of the establishment. The intended operator shall be required to give the

following information on the application form:

1.
    - a. The name and street address (and mailing address, if different) and driver's license number of the intended operator if he/she has such a driver's license.
    - b. The name and street address (and mailing address, if different) of the owner(s), if different.
  2. The name under which the establishment is to be operated and a general description of the services to be provided.
  3. The telephone number of the establishment or, if unavailable, the operator's.
  4. The address, tax parcel number, and legal description, of the tract of land on which the establishment is to be located.
- D. The fact that a person possesses other types of state, county or township permits and/or licenses does not exempt him from the requirement of obtaining a sexually oriented business permit from the Township.
- E. The application shall be accompanied by the following:
1. Payment of the application fee in full;
  2. Proof of current fee ownership of the tract of land on which the establishment is to be situated in the form of a copy of the recorded deed, land contract, or other instrument of conveyance;
  3. If the persons identified as the fee owner(s) of the tract of land in Item 2 above, are not also the owners of the establishment, then the lease, purchase contract, purchase option contract, lease option contract or other document(s) evidencing the legally enforceable right of the ownership or proposed owners of the establishment to have or obtain the use and possession of the tract or portion thereof that is to be used for the purpose of the operation of the establishment.

F. The application shall contain a statement under oath that:

1. The applicant has personal knowledge of the information contained in the application and that the information contained therein and furnished therewith is true and correct; and
2. The applicant has read the provisions of this article.

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**Sec. 25.5 ISSUANCE OF PERMIT**

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A. The Zoning Administrator or Planning Commission shall approve the issuance of a permit to an applicant within sixty (60) days after receipt of an application unless he/it finds one or more of the following to be true:

1. An applicant is under eighteen (18) years of age.
2. An applicant is overdue in his payment of taxes, fines, or penalties assessed against him or imposed upon him in relation to a sexually oriented business.
3. An applicant has failed to provide information reasonably necessary for issuance of the permit or has falsely answered a question or request for information on the application form.
4. An applicant who has been denied a permit by the Township to operate a sexually oriented business within the preceding twelve (12) months, or whose license to operate a sexually oriented business has been revoked within the preceding twelve (12) months.
5. The premises to be used for the sexually oriented business has not been approved by the health department for the use intended, if applicable.
6. The permit fee, as established by the Township Board of Trustees, has not been paid.
7. An applicant has been convicted of any of the following criminal offenses in any jurisdiction:

Prostitution, procuring a prostitute, or solicitation of a prostitute; sale, distribution or display of obscene material; soliciting, procuring or aiding and abetting an

unlawful sexual performance by a minor; possession, sale or distribution of child pornography; public lewdness; indecent exposure; indecent conduct with a child; sexual assault or rape; incest; or sexual solicitation of a child.

The applicant shall certify, as a part of the application, that he/she/it has not been convicted of any one or more of the foregoing criminal offenses.

B. The permit, if granted, shall state on its face the name of the person or persons to whom it is granted, and the address of the sexually oriented business. The permit shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.

C. The Zoning Administrator may also take all steps necessary to revoke a permit if he determines that a permittee gave false or misleading information in the material submitted during the application process.

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**Sec. 25.6 INSPECTION**

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An applicant or permittee shall allow the Township Zoning Administrator or representatives of the Township Code Enforcement Office to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law at any time it is occupied or open for business.

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**Sec. 25.7 ACTION TO REVOKE PERMIT**

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The Zoning Administrator shall take enforcement action, including the commencement of suit seeking revocation of a permit, if any of the following occurs:

A. A permittee gave false or materially misleading information in the application process.

B. A permittee has been convicted of using and/or allowing the use of the controlled substances within the establishment.

C. A permittee has been convicted of prostitution or other activity fostering, promoting or otherwise facilitating prostitution, within the establishment or elsewhere.

D. A permittee or employee of the sexually oriented business

has been convicted of any crime of a sexual nature or involving sexual conduct or the solicitation thereof within the establishment or elsewhere.

E. A permittee has been convicted of knowingly allowing a person under eighteen (18) years of age to enter the establishment.

F. There has been a transfer of ownership or control of an establishment without the prior consent of the Zoning Administrator, as required herein.

#### **Sec. 25.8 TRANSFER OF PERMIT**

A permittee shall not transfer his permit to another, nor shall a permittee operate a sexually oriented business under the authority of a permit at any place other than the address designated in the application. Permittee must complete application.

#### **Sec. 25.9 LOCATION RESTRICTIONS**

A. A sexually oriented business may not be operated within one thousand (1,000) feet of:

1. A church, synagogue or regular place of religious worship;
2. A public or private school; or
3. Another sexually oriented business.

B. A sexually oriented business may not be operated within seven hundred fifty (750) feet of:

1. A boundary of any residential zoned district or any residential structure;
2. A licensed day care center; or
3. A public park.

C. A sexually oriented business may not be operated in the same building, structure, or portion thereof, containing another sexually oriented business.

D. For the purpose of this Article, measurement shall be made in a straight line, without regard to intervening structure or objects,



from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted to the nearest property line of the premises of a church, synagogue, regular place of worship, or public or private school, or to the nearest boundary of an affected public park, residential district, or residential structure, or licensed day-care center.

E. For purposes of Subsection D of this section, the distance between any two sexually oriented business uses shall be made from the closest exterior wall of the structure in which each business is located.

F. A sexually oriented business may only be operated in a commercial (C-1) zoning district as designated in the Township Zoning Ordinance.

**Sec. 25.10 REGULATIONS PERTAINING TO ADULT ENTERTAINMENT ESTABLISHMENTS**

A. A person who operates or causes to be operated an adult entertainment establishment which presents live entertainment for the enjoyment of an audience which has paid or promised to pay an admission fee and which depicts specified sexual activities or displays specified anatomical areas, shall comply with the following requirements:

1. Upon application for a sexually oriented business permit, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures (indicating the type of illumination intensity of each such fixture) and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty (30) square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. Unless it is for a new commercial structure to be built, professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises.

2. The application shall be sworn to be true and correct

by the applicant.

3. No alteration in the configuration or location of a manager's station may be made without the prior approval of the Zoning Administrator.

4. It is the duty of the owners and operator of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

5. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

6. It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present in the premises to ensure that the view area specified in Subsection 5 remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to Subsection 1 of this section.

7. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one (1.0) foot-candle as measured at the floor level.

8. It shall be the duty of the owners and operator and it shall also be the duty of any agents and employees present in the premises to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

9. The premises shall meet all barrier free requirements and building code requirements imposed by the County Building and Inspections Department.
10. Hours of operation shall be limited to 8:00 a.m. to 10:00 p.m.
11. When live performers are involved in the sexually oriented business, privacy dressing rooms are to be provided, and an aisle between the performance area and the dressing room shall be kept clear and unobstructed so the performers can pass through without contact with patrons.
12. Parking layouts shall not adversely affect the flow of traffic within the site, or to and from the adjacent streets.
13. All off street parking areas shall be sufficient for all vehicles patronizing the establishment, shall be illuminated during all hours of operation with down shining lighting, and shall be open to view from the adjacent street.
14. Grounds maintenance shall include routine clearing of rubbish and trash from the grounds, and hauling away of same at least once-per-week.
15. No person shall reside in or permit any person to reside in the premises of an adult oriented business.
16. All performers shall be salaried by the operators/owners of the sexually oriented business.
17. No person shall become the lessee or sublessee of any property for the purpose of using said property for a sexually oriented business without the express written permission of the owner of the property.
18. The maximum number of persons, including patrons, performers and operators, allowed in a structure at any one time shall be as established by the current Building Officials and Code Administration, Inc. (BOCA) Code, however, the number of patrons allowed on premises at any one time shall be limited to the amount of seating available, but shall not exceed one person for each fifteen (15) square feet of public net floor space, exclusive of restrooms, dance floor, administrative areas, hallways, etc.

**Sec. 25.11 EXTERIOR PORTIONS OF SEXUALLY ORIENTED BUSINESS**

A. It shall be unlawful for an owner or operator of a sexually oriented business to allow the merchandise or activities of the establishment to be visible from a point outside the establishment.

B. It shall be unlawful for the owner or operator of a sexually oriented business to allow the exterior portion of the sexually oriented business to have any words, lettering, photographs, silhouettes, drawings, or pictorial representations of a sexual or explicit manner except to the extent otherwise permitted by the provisions of this Ordinance.

C. Signs shall contain no photographs, silhouettes, drawings or pictorial representations of any manner, and may contain only the name of the enterprise.

**Sec. 25.12 PERSONS YOUNGER THAN EIGHTEEN PROHIBITED FROM ENTRY; ATTENDANT REQUIRED**

A. It shall be unlawful to allow a person who is younger than eighteen (18) years of age to enter or be on the premises of a sexually oriented business at any time that the sexually oriented business is open for business.

B. It shall be the duty of the operator of each sexually oriented business to ensure that an attendant is stationed at each public entrance to the sexually oriented business at all times during such sexually oriented business's regular business hours. It shall be the duty of the attendant to not allow any person under the age of eighteen (18) years to enter the sexually oriented business. It shall be presumed that an attendant knew a person was under the age of eighteen (18) unless such attendant asked for and was furnished:

1. A valid operator's, commercial operator's, or chauffeur's license; or
2. A valid personal identification certificate reflecting that such person is eighteen (18) years of age or older.

**Sec. 25.13 EXEMPTION**

It is a defense to prosecution under this Ordinance that a person appearing in a state of nudity did so in a modeling class operated:

A. By a proprietary school, licensed by the State of Michigan, a college, junior college, or university supported entirely or partly by taxation;

B. By a private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.

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**Sec. 25.14 NOTICES**

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A. Any notice required or permitted to be given by the Township or other agency under this Ordinance to any applicant, operator or owner of an establishment may be given either by personal delivery or by certified United States mail, postage prepaid, return receipt requested, addressed to the most recent address as specified in the application for the permit, or transfer application that has been received by the Township, or any notice of address change that has been received by the Township. Notices mailed as above shall be deemed given upon their deposit in the United States mail. In the event that any notice given by mail is returned by the postal service, the Township shall cause it or a replica thereof to be posted at the principal entrance to the establishment.

B. Any notice required or permitted to be given to the Township by any person under this Ordinance shall not be deemed given until and unless it is received in the principal office of the Township Planning Department.

C. It shall be the duty of each owner who is designated on the permit application and each operator to furnish notice to the Township, in writing, of any change of residence or mailing address.

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**Sec. 25.15 NON-CONFORMING USES**

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Any business lawfully operating on the effective date of this Ordinance that is in violation of the location or structural configuration requirements of this Ordinance shall be deemed a non-conforming use. The non-conforming use will be permitted to continue for a period not to exceed one (1) year, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. If two or more sexually oriented businesses are within one thousand (1,000) feet of one another and otherwise in a permissible location, the sexually oriented business

which was first established and continually operating at a particular location is the conforming use and the later-established business(es) is non-conforming.

A sexually oriented business lawfully operating as a conforming use is not rendered a non-conforming use by the subsequent location of a church, synagogue, or regular place of religious worship, or public or private school, within one thousand (1,000) feet, or the location of a boundary of any residential zoned district or any residential structure, a licensed day care center or a public park, within seven hundred fifty (750) feet. This provision applies only to the renewal of a valid permit and does not apply when an application for a permit is submitted after a permit has expired or has been revoked.

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**Sec. 25.16 INJUNCTION**

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A person who operates or causes to be operated a sexually oriented business without a valid permit or otherwise violates this Ordinance shall be subject to a suit for injunctive relief and/or revocation of the sexually oriented business permit, as well as fines or other penalties as provided by this Zoning Ordinance.

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**Sec. 25.17 VARIANCES AND LIMITATION ON REAPPLICATION**

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Relief from any dimensional requirement of this Ordinance may be granted by the Zoning Board of Appeals in accordance with Article XXIX. Any evidence and any guarantee may be required as proof that the conditions stipulated in connection therewith will be fulfilled.

No application for a waiver of a spacing requirement or other Zoning Board of Appeals approval for a Regulated Use which has been denied wholly or in part, or granted with conditions shall be resubmitted for a period of one (1) year from the date of said order, except on the grounds of new evidence not previously available or proof of changed conditions.

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**Sec. 25.18 EXPANSION AND DISCONTINUANCE**

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A. Once established, a sexually oriented business may not be expanded in any manner without first applying for and receiving the approval of the Zoning Administrator.

B. If the regulated use is voluntarily discontinued, the use may not be re-established without first applying for and receiving the approval of the Zoning Administrator.

C. Nothing herein shall prevent the reconstruction, repairing, or rebuilding and continued use of any building or structure under the regulation of this Ordinance, which is damaged by fire, collapse, explosion, or any other involuntary cause.