

SEXUALLY ORIENTED BUSINESS LICENSING AND REGULATION ORDINANCE

WHEREAS, sexually oriented businesses require special supervision in order to protect and preserve the health, safety and welfare of the patrons of such business as well as the citizens of the communities where they locate, and

WHEREAS, the Township Board finds that sexually oriented businesses are frequently used for unlawful sexual activities, including prostitution and sexual liaisons of a casual nature; and

WHEREAS, the concern over sexually transmitted diseases is a legitimate health concern of the Township that demands reasonable regulation of sexually oriented businesses in order to protect the health and well-being of the citizens; and

WHEREAS, permitting and/or licensing is a legitimate means of accountability to ensure that operators of sexually oriented businesses comply with reasonable regulations and to ensure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation; and

WHEREAS, 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 and other uses adjacent thereto, causing increased crime and the downgrading of property values; and

WHEREAS, it is recognized that sexually oriented businesses, due to their nature, have serious objectionable operational characteristics, particularly when they are located in proximity to each other, thereby contributing to urban blight and downgrading the quality of life in the adjacent area; and

WHEREAS, the Township Board wants to prevent these adverse affects and thereby 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 deter the spread of urban blight; and

WHEREAS, it is not the intent of this ordinance to suppress any speech activities protected by the First Amendment, but to enact a content neutral ordinance that addresses the secondary effects of sexually oriented businesses as well as the health problems associated with such businesses; and

WHEREAS, it is not the intent of the Township Board to condone or legitimize the distribution of obscene materials, and the Township Board recognizes 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 in Jamestown Township.

The Charter Township of Jamestown hereby ordains:

Section I - Purpose and Intent.

It is the purpose of this ordinance to regulate sexually oriented businesses and related activities to promote the health, safety, morals and general welfare of the citizens of the Township and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the Township. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene materials.

Section II - Definitions.

(1) Adult Arcade means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas".

(2) Adult Bookstore or Adult Video Store means a commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration any 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 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 "Adult Bookstore" or "Adult Video Store". Such other business purposes will not serve to exempt such commercial establishments from being categorized as an "Adult Bookstore" or "Adult Video Store" so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe "specified sexual activities" or "specified anatomical areas". A principal business purpose need not be a primary use of an establishment so long as it is a significant use based upon the visible inventory or commercial activity of the establishment.

(3) Adult Cabaret means a nightclub, bar, restaurant or similar commercial establishment that features:

- a. persons who appear in a state of semi-nudity; or
- b. live performances that are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or
- c. films, motion pictures, video cassettes, slides or other photographic reproductions that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; or
- d. persons who engage in lewd, lascivious or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

(4) Adult Motel means 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 transmission, films, motion pictures, video cassettes, slides or other photographic reproductions 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 this adult type of photographic reproductions; or
- b. offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
- c. allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten (10) hours.

(5) Adult Motion Picture Theater means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas".

(6) Adult Smoking or Sexual Paraphernalia Store is an establishment having, as a substantial or significant portion of its stock in trade, paraphernalia designed or usable for sexual stimulation or arousal or for smoking, ingesting or inhaling marijuana, narcotics or other stimulating or hallucinogenic drug-related substances;

(7) Adult Theater means a theater, concert hall, auditorium, or similar commercial establishment that regularly features persons who appear in a state of nudity or live performances that are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

(8) Escort means a person who, for consideration, agrees or offers to act as a companion, guide or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

(9) Escort Agency means a person or business association who furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.

(10) Establishment means and includes any of the following:

a. the opening or commencement of any sexually oriented business as a new business;

b. the conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;

c. the additions of any sexually oriented business to any other existing sexually oriented business or any other business; or

d. the relocation of any sexually oriented business.

(11) Host or Hostess Establishment means establishments or clubs offering socialization with a host or hostess for a consideration to the host or hostess or for an admission or membership fee;

(12) Licensed Day Care Center means a facility licensed by the State of Michigan, whether situated within the Township or not, that provides care, training, education, custody, treatment or supervision for children.

(13) Massage Parlor means an establishment where persons conduct or permit to be conducted or engaged in, massages of the human body or parts thereof by means of pressure, imposed friction, stroking, kneading, rubbing, tapping, pounding, vibrating or otherwise stimulating the same with hands, other parts of the human body, mechanical devices, creams, ointments, oils, alcohol or any other means of preparations to provide relaxation or enjoyment to the recipient;

(14) Permittee and/or Licensee means a person in whose name a permit and/or license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a permit and/or license.

(15) Nude Model Studio means any place where a person who appears in a state of nudity or 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.

(16) Nudity or a State of Nudity means the appearance of a human bare buttock, anus, male genitals, female genitals or female breast without a fully opaque complete covering of the breast below a point immediately above the top of the areola, or human male genitals in a discernibly turgid state even if completely and opaquely covered.

(17) Open Dance Hall means an establishment where open public dancing by patrons is available with partners furnished by the establishment;

(18) Person means an individual, proprietorship, partnership, corporation, association or other legal entity.

(19) Semi-Nude means a state of dress in which clothing covers no more than the human bare buttock, anus, male genitals, female genitals, or female breast without a fully opaque complete covering of the breast below a point immediately above the top of the areola or human male genitals in a discernibly turgid state even if completely and opaquely covered.

(20) Sexual Encounter Center means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

- a. physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

b. activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

(21) Sexually Oriented Business means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio or sexual encounter center.

(22) Specified Anatomical Areas means the male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals.

(23) Specified Sexual Activities means and includes any of the following:

- a. the fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts;
- b. sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy;
- c. masturbation, actual or simulated; or
- d. excretory functions as part of or in connection with any of the activities set forth in a through c above.

(24) Sauna, Hot Tub or Other Similar Health or Body Improvement Enterprises means establishment where saunas, hot tubs, whirlpools, sun lamps and similar body relaxing, soothing or improving facilities are available for male and/or female customers with supervision or participation by employees or independent contractors of the business.

(25) Transfer or Ownership or Control of a sexually oriented business means and includes any of the following:

- a. the sale, lease or sublease of the business;
- b. the transfer of securities that form a controlling interest in the business, whether by sale, exchange or similar means; or
- c. the establishment of a trust, gift or other similar legal device that 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.

Section III - Classification.

Sexually oriented businesses are classified as follows:

- (1) adult arcades;
- (2) adult bookstores or adult video stores;
- (3) adult cabarets;
- (4) adult motels;
- (5) adult motion picture theaters;
- (6) adult theaters;
- (7) escort agencies;
- (8) nude model studios;
- (9) sexual encounter centers;
- (10) massage parlor;
- (11) host or hostess establishment;
- (12) sauna, hot tub, or other similar health or body improvement enterprise;
- (13) open dance hall;
- (14) adult smoking or sexual paraphernalia store; and
- (15) any combination of the foregoing.

Section IV - Permit and/or License Required.

(A) It shall be unlawful for a person to operate a sexually oriented business without a valid permit and/or license, issued by the Township Supervisor.

(B) An application for a permit and/or license must include all the information required by this ordinance. The application must be accompanied by a sketch or a 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 inches.

(C) The applicant must be qualified according to the provisions of this ordinance and the premises must be inspected and found to be in compliance with the law by the fire department, building code inspector, electrical code inspector, mechanical code inspector and plumbing code inspector and zoning administrator.

(D) If a person who wishes to operate a sexually oriented business is an individual, he must sign the application for a permit and/or license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a five (5%) percent or greater interest in the business must sign the application for a permit and/or license as applicant. If a corporation is listed as owner of a sexually oriented business or as the entity that wishes to operate such a business, each individual having a five (5%) percent or greater

interest in the corporation must sign the application for a permit and/or license as applicant.

(E) The fact that a person possesses other types of state or city permits and/or licenses does not exempt him, her or it from the requirement of obtaining a sexually oriented business permit and/or license.

(F) Applications for a permit, whether original or renewal, must be made to the Township Supervisor by the intended operator of the enterprise. Applications must be submitted by hand delivery to the office of the Township Supervisor during regular working hours. The intended operator shall be required to give the following information on the application form:

- 1) a. The name, street address (and mailing address if different) and Mississippi driver's license number of the intended operator;
- b. The name and street address (and mailing address if different) of the owner(s);
- 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;
- 4) The address, and legal description of the tract of land on which the establishment is to be located;
- 5) If the establishment is in operation, the date on which the owner(s) acquired the establishment for which the permit is sought, and the date on which the establishment began operations as a sexually oriented business at the location for which the permit is sought; and
- 6) If the establishment is not in operation, the expected startup date (which shall be expressed in number of days from the date of issuance of the permit). If the expected startup date is to be more than ten (10) days following the date of issuance of the permit, then a detailed explanation of the construction, repair or remodeling work or other cause of the expected delay and a statement of the owner's time schedule and plan for accomplishing the same.

(G) The application shall be accompanied by the following:

- 1) The application fee of \$750.00 paid in full;



2) If the establishment is a corporation, a certified copy of the articles of incorporation, together with all amendments thereto and its bylaws;

3) If the establishment is a foreign corporation, a certified copy of the certificate of authority to transact business in this state, together with all amendments thereto and the articles of incorporation and bylaws thereof;

4) If the establishment is a limited partnership, a certified copy of the certificate of limited partnership and limited partnership agreement, together with all amendments thereto;

5) If the establishment is a foreign limited partnership, a certified copy of the certificate of limited partnership, the limited partnership agreement, and the qualification documents, together with all amendments thereto;

6) Proof of the 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;

7) If the persons identified as the fee owner(s) of the tract of land in item (6) 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 owners 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 establishment for the purpose of the operation of the establishment;

8) any of items (2) through (7), above shall not be required for a renewal application if the applicant states that the documents previously furnished the township supervisor with the original application or previous renewals thereof remain correct and current.

(H) 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.

(I) A separate application and permit shall be required for each sexually oriented business.

(J) In the event live entertainment is going to be provided or a massage establishment, escort agency, host or hostess establishment, nude model studio, open dance hall, or sauna, hot tub or other similar health or body improvement enterprise is intended to be established all live entertainers, escorts, hosts, hostesses, models, myomassagists, dance partners, and employees or independent contractors providing supervision or participation at any such establishment must be licensed and must provide a license fee of \$50.00 each and provide the following information:

- 1) Fingerprints of the applicant taken by the Township Clerk, or such person designated by the Township Clerk.
- 2) Two recent photographs of the applicant's face, head and shoulders, of a representable size and quality.
- 3) A medical certificate signed by a physician, licensed to practice in Michigan within seven days of the date of the application. The certificate shall state that the applicant was examined by the certifying physician and that the applicant is free of communicable diseases.

Section V - Issuance of Permit and/or License.

(A) The township supervisor shall approve the issuance of a permit and/or license to an applicant within thirty (30) days after receipt of an application unless he finds one or more of the following to be true:

- 1) An applicant is under eighteen (18) years of age.
- 2) An applicant or an applicant's spouse is overdue in his payment to the Township of taxes, fines or penalties assessed against him or her or imposed upon him or her in relation to a sexually oriented business.
- 3) An applicant has failed to provide information reasonably necessary for issuance of the permit and/or license or has falsely answered a question or request for information on the application form.
- 4) An applicant is residing with a person who has been denied a permit and/or license by the Township to operate a sexually oriented business within the preceding twelve (12) months, or residing with a person 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 have not been approved by the health department, fire department, building official and zoning administrator as being in compliance with applicable laws and ordinances.

6) The permit and/or license fee required by this ordinance has not been paid.

7) An application of the proposed establishment is in violation of or is not in compliance with any of the provisions of this ordinance.

(B) The permit and/or license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the sexually oriented business. The permit and/or license 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 health department, fire department, building official and zoning official shall complete their certification that the premises is in compliance or not in compliance within twenty (20) days of receipt of the application by the township supervisor. If the applicant fails to provide reasonable access to the premises intended to be licensed, then such time shall be extended until 20 days after such access has been provided.

(D) In the event that the Township Supervisor determines that an applicant is not eligible for a permit, the applicant shall be given notice in writing of the reasons for the denial within forty five (45) days of the receipt of its application by the Township Supervisor, provided that the applicant may request, in writing, that such period be extended for an additional period of not more than ten (10) days at any time before the notice is issued in order to make modifications necessary to comply with this ordinance and provided reasonable access is provided.

(E) An applicant may appeal the decision of the Township Supervisor regarding a denial to the Township Board by filing a written notice of appeal with the Township Clerk within fifteen (15) days after the applicant is given notice of the Township Supervisor's decision. The notice of appeal shall be accompanied by a memorandum or other writing setting out fully the grounds for such appeal and all arguments in support thereof. The Township Supervisor may submit a memorandum in response to the memorandum filed by the applicant on appeal to the Township Board. After reviewing such memoranda, as well as the township supervisor's written decision, if any, and exhibits submitted to the Township Supervisor, the Township Board, not including the Supervisor, shall vote to either uphold or overrule the Supervisor's decision. A majority of the Township Board, not including the Supervisor, shall be needed to over turn the decision of the Township Supervisor.

Section VI - Fees.

The annual fee for a sexually oriented business permit and/or license is Seven Hundred Fifty (\$750.00) Dollars. This fee is to be used to pay for the cost of the administration and enforcement of this ordinance.

Section VII - Inspection.

An applicant, or permittee and/or licensee shall permit representatives of the Police Department, Health Department, Fire Department, Zoning Department, or other Township or State departments or agencies 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.

Section VIII - Expiration of Permit and/or License.

(A) Each permit and/or license shall expire one year from the date of issuance and may be renewed only by making application as provided in Section V. Application for renewal should be made at least thirty (30) days before the expiration date, and when made less than thirty (30) days before the expiration date, the expiration of the permit and/or license will not be affected.

(B) When the Supervisor denies renewal of a license, the applicant shall not be issued a permit and/or license for one year from the date of denial. If, subsequent to denial, the Supervisor finds that the basis for denial of the renewal permit and/or license has been corrected or abated, the applicant may be granted a permit and/or license if at least ninety (90) days have elapsed since the date denial became final.

Section IX - Suspension.

The Supervisor shall suspend a permit and/or license for a period not to exceed thirty (30) days if he determines that permittee and/or licensee or an employee of a permittee and/or licensee has:

- 1) violated or is not in compliance with any section of this ordinance;
- 2) become impaired or intoxicated through the use of alcoholic beverages while on the sexually oriented business premises;
- 3) refused to allow an inspection of the sexually oriented business premises as authorized by this ordinance;
- 4) knowingly permitted gambling by any person on the sexually oriented business premises.

Section X - Revocation.

(A) The Supervisor shall revoke a permit and/or license if a cause of suspension in Section IX occurs and the permit and/or license has been suspended within the preceding twelve (12) months.

(B) The Supervisor shall also revoke a permit and/or license if he determines that:

1) a permittee and/or licensee gave false or misleading information in the material submitted during the application process;

2) a permittee and/or licensee or an employee has knowingly allowed possession, use or sale of controlled substances on the premises;

3) a permittee and/or licensee or an employee has knowingly allowed prostitution on the premises;

4) a permittee and/or licensee or an employee knowingly operated the sexually oriented business during a period of time when the permittee's and/or licensee's permit and/or license was suspended;

5) a permittee and/or licensee or employee, independent contractor has offered or engaged in any of the following acts:

a. Anilingus - Erotic stimulation achieved by contact between mouth or tongue and the anus.

b. Cunnilingus - Stimulation of the vulva or clitoris with the lips or tongue.

c. Coprophilia - Use of feces for sexual excitement.

d. Fellation - Practice of obtaining sexual gratification by oral stimulation of the penis.

e. Flagellation - An act or instance of obtaining sexual gratification by beating, flogging or scourging another or being the recipient of such action.

f. Frottage - Masturbation by rubbing against another person.

g. Masturbation - Erotic involving the genital organs commonly resulting in orgasm and achieved by manual or other bodily contact exclusive of sexual intercourse or by instrumental manipulation.

h. Sexual intercourse - Carnal copulation of male and female implying actual intercourse of the organs of the latter.

i. Sodomy - Penetration of the male organ into the anus of another person.

j. Urolagina - Sexual excitement associated with the urine or urination.

k. The touching, massaging or use of the anus, buttock, pubic region, genitals or female breasts to touch or massage any other individual.

6) a permittee and/or licensee is delinquent in payment to the City or State for any taxes for fees past due;

7) the owner or operator of the permitted establishment knowingly allowed a person under eighteen (18) years of age to enter an establishment; or

8) that there was a change of owner or operator for which a transfer application was not timely filed.

(C) When the Supervisor revokes a permit and/or license, the revocation shall continue for one (1) year, and the permittee and/or licensee shall not be issued a sexually oriented permit and/or license for one (1) year from the date revocation became effective. If, subsequent to revocation, the Director finds that the basis for the revocation has been corrected or abated, the applicant may be granted a permit and/or license if at least ninety (90) days have elapsed since the date the revocation became effective.

(D) After denial of an application by the Supervisor and denial of the appeal by the Township Board, or denial of a renewal of an application, or suspension or revocation of a permit and/or license by the Supervisor, the applicant or licensee or permittee may seek prompt judicial review of such administrative action in any court of competent jurisdiction. The administrative action shall be promptly reviewed by the court.

#### Section XI - Transfer of Permit and/or License.

A permittee and/or licensee shall not transfer his permit and/or license to another, nor shall a permittee and/or licensee operate a sexually oriented business under the authority of a permit and/or license at any place other than the address designated in the application.

Section XII - Locational Restrictions.

Sexually oriented businesses shall be permitted in any business industrial district provided that:

A) the sexually oriented business may not be operated within 1,000 feet of:

1) a church, synagogue or regular place of religious worship;

2) a public or private elementary or secondary school;

3) a boundary of any residential district or of a residential use;

4) a public park;

5) a licensed day care center; or

5) another sexually oriented business.

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

(C) For the purpose of this ordinance, measurement shall be made in a straight line, without regard to intervening structures 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, public or private elementary or secondary school, to the nearest boundary of an affected public park, residential district, residential lot, or licensed day care center.

(D) For purposes of Subsection (C) of this section, the distance between any two sexually oriented business uses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

Section XIII - Additional Regulations for Adult Motels.

(A) Evidence that a sleeping room in a hotel, motel or a similar commercial establishment has been rented and vacated two or more times in a period of time that is less than ten (10) hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this chapter.

(B) It is unlawful if a person, as the person in control of a sleeping room in a hotel, motel or similar commercial establishment that does not have a sexually oriented permit and/or license, rents or subrents a sleeping room to a person and within ten (10) hours from the time the room is rented, he rents or subrents the same sleeping room again.

(C) For purposes of subsection (B) of this section, the terms "rent" or "subrent" mean the act of permitting a room to be occupied for any form of consideration.

Section XIV - Regulations Pertaining to Exhibit of Sexually Explicit Films or Videos.

(A) A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, or other video reproduction that depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

1) Upon application for a sexually oriented permit and/or license, the application shall be accompanied by a diagram of the premise showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A 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 to an accuracy of plus or minus six (6") inches. The Supervisor may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

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 Supervisor or his designee.

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 that 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) No viewing room may be occupied by more than one person at any time.

8) 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.

9) 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.

#### Section XV - Exterior Portions of Sexually Oriented Businesses.

(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 flashing lights, or any words, lettering, photographs, silhouettes, drawings or pictorial representations of any manner except to the extent permitted by the provisions of this ordinance.

(C) It shall be unlawful for the owner or operator of a sexually oriented business to allow exterior portions of the establishment to be painted any color other than a single achromatic color. This provision shall not apply to a sexually oriented business if the following conditions are met:

1) The establishment is a part of a commercial multi-unit center; and

2) The exterior portions of each individual unit in the commercial multi-unit center, including the exterior portions of the business, are painted the same color as one another or are painted in such a way so as to be a component of the overall architectural style or pattern of the commercial multi-unit center.

(D) Nothing in this article shall be construed to require the painting of an otherwise unpainted exterior portion of a sexually oriented business.

#### Section XVI - Signage.

(A) Notwithstanding any other city ordinance, code or regulation to the contrary, it shall be unlawful for the owner or operator of any sexually oriented business or any other person to erect, construct or maintain any sign for the sexually oriented business other than the one (1) primary sign and one (1) secondary sign, as provided herein.

(B) Primary signs shall have no more than two (2) display surfaces. Each such display surface shall:

1) not contain any flashing lights;

2) be a flat plane, rectangular in shape;

3) not exceed seventy-five (75) square feet in area;  
and

4) not exceed ten (10) feet in height or ten (10) feet in length.

(C) Primary signs shall contain no photographs, silhouettes, drawings or pictorial representations in any manner and may contain only the name of the enterprise.

(D) Each letter forming a word on a primary sign shall be of solid color, and each such letter shall be the same print-type, size and color. The background behind such lettering on the display surface of a primary sign shall be of a uniform and solid color.

(E) Secondary signs shall have only one (1) display surface. Such display surface shall:

- 1) be a flat plane, rectangular in shape;
- 2) not exceed twenty (20) square feet in area;
- 3) not exceed five (5) feet in height and four (4) feet in width; and
- 4) be affixed or attached to any wall or door of the enterprise.

(F) The provisions of item (1) of subsection (B) and subsection (C) and (D) shall also apply to secondary signs.

Section XVII - 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 businesses' regular business hours. It shall be the duty of the attendant to prohibit any person under the age of eighteen (18) years from entering 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 driver's license; or
- 2) a valid personal identification certificate issued by a governmental agency reflecting that such person is eighteen (18) years of age or older.

Section XVIII - Notices.

(A) Any notice required or permitted to be given by the Township Supervisor or any other Township office, division, department or other agency under his 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 Supervisor, or any notice of address change that has been received by the Supervisor. 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 Supervisor or his designee shall cause it to be posted at the principal entrance to the establishment.

(B) Any notice required or permitted to be given to the Township Supervisor by any person under this ordinance shall not be deemed given until and unless it is received in the office of the Township Supervisor.

(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 Supervisor in writing of any change of residence or mailing address.

#### Section XIX - Injunction.

Any violation of the ordinance shall be deemed to be a nuisance per se and be subject to a suit for injunction and abatement as well as prosecution for criminal violations.

#### Section XX - Severability.

If any section, subsection or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby.

#### Section XXI - Conflicting Ordinances Repealed.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

#### Section XXII - Violation and Penalty.

Each person who shall violate any of the provisions of this ordinance, or fail to comply with any of the requirements thereof, shall each be liable to a fine of not more than five hundred dollars (\$500.00) or to imprisonment for not more than ninety (90) days, or to both such fine and imprisonment. Each and every day such violation continues shall be deemed a separate and distinct violation.

Section XXIII - Effective Date.

This ordinance shall be enforced from the date of publication.

A copy of the foregoing Ordinance may be purchased or inspected any Tuesday or Wednesday between the hours of 8:30 a.m. to 12:00 p.m. and 1:00 p.m. to 4:00 p.m. at the Township Offices located at 2380 Riley Street, Jamestown, Michigan 49427.

The foregoing Ordinance was adopted at a regular board meeting of the Jamestown Township Board held on the 27th day of May, 1997.

  
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Ruth Pruis  
Jamestown Township Clerk

STATE OF MICHIGAN )  
                                  ) ss.  
County of Ottawa )

I, Ruth Pruis, the duly qualified and acting clerk of the Township of Jamestown, Ottawa County, Michigan, (the "Township"), do hereby certify that the foregoing is a true and complete copy of Ordinance adopted by the Township Board of the Township, at a regular meeting held on May 27, 1997, the original of which is on file in my office. Public notice of said meeting was given pursuant to and in compliance with Act No. 267, Public Acts of Michigan, 1976, as amended, including in the case of a special or rescheduled meeting, notice by publication or posting at least eighteen (18) hours prior to the time set for the meeting and that it was published in the following newspaper: Advance Newspapers on the 6th day of May, 1997.

IN WITNESS WHEREOF, I have affixed my official signature this 8th day of July, 1997.

Ruth Pruis  
Ruth Pruis  
Jamestown Township Clerk

Henry Edema  
Henry Edema  
Jamestown Township Supervisor