

## ARTICLE 25

### REGULATION OF SEXUALLY ORIENTED BUSINESSES

Sexually oriented businesses require special supervision in order to protect and preserve the health, safety, and welfare of the patrons of such businesses as well as the citizens and property values of the communities where such businesses locate. The Township Planning Commission and Township Board determined that sexually oriented businesses may sometimes be used for unlawful sexual activities, including prostitution and sexual liaisons of a casual nature. Concern over sexually transmitted diseases is a legitimate health concern of the Township, that requires reasonable regulation of sexually oriented businesses in order to protect the health and well-being of the citizens. Licensing is a legitimate means of accountability to ensure that operators of sexually oriented businesses comply with reasonable regulations, and to ensure that such operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitations. There is convincing documented evidence that sexually oriented businesses, because of their very nature, have a deleterious effect on both the existing businesses and residential areas adjacent to them, causing increased crime and the downgrading of property values. It is recognized that sexually oriented businesses, due to their nature, have objectionable operational characteristics, particularly when they are located in proximity to each other, thereby contributing to blight and downgrading the quality of life in the adjacent area. The Township Board desires to prevent these adverse effects 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 blight. It is not the intent of this Ordinance to suppress any speech activities protected by the First Amendment, but instead to enact a content neutral ordinance that addresses the secondary effects of sexually oriented businesses, as well as the potential health problems associated with such businesses.

#### 2501 PURPOSE AND FINDINGS

A. It is the purpose of this Ordinance to regulate sexually oriented businesses and related activities to promote the health, safety, 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 shall have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials (except for public nudity as defined hereafter), including

sexually oriented materials. Similarly, it is not the intent nor effect of this Ordinance to 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.

B. Based on evidence concerning the adverse secondary effects of adult uses on the community presented in studies, informational materials, hearings, and in reports made available to the Township Planning Commission and the Township Board, and on findings incorporated in the cases of California v LaRue, 409 U.S. 109 (1972), City of Renton v Playtime Theatres, Inc., 475 U.S. 41 (1986), Young v American Mini Theatres, 422 U.S. 50 (1976), and Barnes v Glen Theatre, Inc. 501 U.S. 560 (1991), and on studies conducted in other cities, the Township Planning Commission and Township Board determines:

1. Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities that may be uncontrolled by the operators of such establishments.
2. Sexual acts, including sexual intercourse, masturbation, and oral and anal sex, may occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows.
3. Offering and providing such booths and/or cubicles encourages such activities, which creates unhealthy conditions.
4. Some persons may frequent certain adult theaters, adult arcades, and other sexually oriented businesses, for the purpose of engaging in sex within the premises of such sexually oriented businesses.
5. Some sexually transmitted diseases may be spread by activities occurring in sexually oriented businesses, including but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, chlamydia, trichomoniasis, and human papilloma virus ("HPV").
6. The surgeon general of the United States, has advised the America public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug use, exposure to infected blood and blood components, and from an infected mother to her newborn.

7. According to the best scientific evidence available, AIDS and HIV infection, as well as syphilis and gonorrhea, are transmitted by sexual acts.

8. Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the operators of the facilities to self-regulate those activities and maintain those facilities.

9. The findings noted in paragraphs numbered 1 through 8 raise substantial governmental concerns.

10. Sexually oriented businesses have operational characteristics which should be reasonably regulated in order to protect substantial governmental concerns.

11. A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the operators of sexually oriented businesses. Further, such a licensing procedure would place a heretofore non-existent incentive on the operators to see that the sexually oriented business is run in a manner consistent with the health, safety, and welfare of its patrons and employees, as well as the citizens of the Township. It is appropriate to require reasonable assurances that the licensee is the actual operator of the sexually oriented business, fully in possession and control of the premises and activities occurring therein.

12. Removal of doors on adult booths and requiring sufficient lighting on the premises with adult booths advances a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in adult theaters.

13. The disclosure of certain information by persons ultimately responsible for the day-to-day operation and maintenance of the sexually oriented business, where such information is substantially related to the significant governmental interest in the operation of such uses, will aid in preventing the spread of sexually transmitted diseases.

14. It is desirable in the prevention of the spread of communicable diseases to obtain a limited amount of information regarding certain employees who may engage in the conduct which this Ordinance is designed to prevent or who are likely to be witnesses to such activity.

15. The fact that an applicant for an adult use license has been convicted of a sex-related crime leads to the rational assumption that the applicant may engage in that conduct in contravention to this Ordinance.

16. The barring of such individuals from operation or employment in sexually oriented businesses serves as a deterrent to and prevents conduct which leads to the transmission of sexually transmitted diseases.

17. The general welfare, health, and safety of the citizens of this Township will be promoted by the enactment of this Ordinance.

18. The Township of Whitehall currently has no sexually oriented businesses, so it is not possible to examine negative secondary effects from the operation of such businesses within the Township. However, there exist numerous studies conducted by other municipalities throughout the U.S., which municipalities do have sexually oriented businesses, concerning the effects of such sexually oriented businesses within such municipalities.

19. The Township of Whitehall may reasonably rely upon such studies and assume that the negative secondary effects almost uniformly reported in such studies would be present within Whitehall Township in the event that sexually oriented businesses entered the Township and were allowed to operated unregulated.

20. That the Township has relied upon studies or summaries of studies from the following municipalities: Phoenix, AZ dated 5/25/79; Garden Grove, CA dated 9/12/91; Los Angeles, CA dated 6/77; Whittier, CA dated 1/9/78; Indianapolis, IN dated 2/84; Minneapolis, MN dated 10/80; Oklahoma City, OK dated 3/3/86; Austin, TX dated 5/9/86; Houston, TX dated 11/3/83; and Lansing, MI dated 4/88.

21. That such studies reveal a pattern of occurrence of the following negative secondary effects from the operation of sexually oriented businesses, as compared to similar areas without sexually oriented businesses: increased crime, especially when there exist more than one (1) sexually oriented business in close proximity to each other; either decreased property values or property values which increase at a lower rate than similar areas without sexually oriented businesses (especially for residential properties); increased occupancy turn-over rate, difficulties of businesses in attracting employees; and decrease in the rate of owner occupied structures.

## 2502 DEFINITIONS

A. ADULT ARCADE means any place to which the public is permitted or invited wherein, for consideration paid or promised to be paid, 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".

B. 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:

1. 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
2. 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 shall not serve to exempt such commercial establishments from being categorized as an ADULT BOOKSTORE or ADULT VIDEO STORE so long as one (1) 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.

C. ADULT CABARET means a nightclub, bar, restaurant, theater, auditorium, or similar commercial establishment that regularly features:

1. 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

2. Persons who engage in erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

D. ADULT MOTEL means a hotel, motel, or similar commercial establishment that:

1. Offers accommodations to the public for any form of consideration and provides patrons with closed-circuit television transmissions, 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 which also has a sign visible from the public right of way that advertises the availability of this adult type of photographic reproductions; or
2. Offers a sleeping room for rent for a period of time that is less than twelve (12) hours; or
3. Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than twenty four (24) hours.

E. 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";

F. DIRECTOR means the Township's Zoning Administrator or an authorized agent thereof.

G. EMPLOYEE means a person who performs any service on the premises of a sexually oriented business on a full time, part time, contract basis, or independent basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise, and whether or not the said person is paid a salary, wage, or other compensation by the operator of said business. "Employee" does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises, nor does "employee" include a person exclusively on the premises as a patron or customer.

H. ESCORT means a person whom, 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 lap dance or striptease for another person.

I. 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.

J. LICENSED DAY-CARE FACILITY means a facility licensed by the State of Michigan, pursuant to PA 116 of 1973, MCL 722.111, MSA 25.348(11), et. seq.

K. LICENSEE means a person in whose name a license has been issued, as well as the individual listed as an applicant on the application for a license.

L. 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 for consideration.

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

1. A woman's breastfeeding of a baby whether or not the nipple or areola is exposed during or incidental to the feeding.
2. 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.
3. Sexually explicit visual material as defined in Section 3 of Act No. 33 of the Public Acts of 1978, being Section 622.673 of the Michigan Compiled Laws.
4. Any display of a person's genitals or anus, or of a female person's breast, which occurs as part of the regular curriculum of an educational institution that is funded, chartered, or recognized by the State of Michigan.

N. PERSON means an individual, proprietorship, partnership, corporation, limited liability company, association, or other legal entity.

O. PREMISES means the real property upon which the sexually oriented business is located, and all appurtenances thereto and structures thereon, including, but not limited to, the sexually oriented business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the licensee, as described in the application for a business license pursuant to Section 2204 of this Ordinance;

P. SEXUAL ENCOUNTER CENTER means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

1. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
2. Activities between male and female persons and/or persons of the same sex when one (1) or more of the persons is in a state of nudity or semi-nude.

Q. 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.

R. SPECIFIED ANATOMICAL AREAS means less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola; and human male genitals in a discernible turgid state, even if completely and opaquely covered.

S. SPECIFIED CRIMINAL ACTIVITY means any of the following offenses:

1. Prostitution or promotion of prostitution; dissemination of obscenity; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; engaging in organized criminal activity; sexual assault; molestation of a child; illegal gambling; distribution of a controlled substance; or any similar offenses to those described above under the Michigan or U.S. criminal codes.
2. For which:
  - a. less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;



b. less than five (5) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a felony offense;

c. less than five (5) years have elapsed since the date of the last conviction or the date of release from confinement imposed for the last conviction, whichever is the later date, if the convictions are of two (2) or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty four (24) month period.

3. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant.

T. SPECIFIED SEXUAL ACTIVITIES means human genitals in a state of sexual stimulation or arousal; acts of human masturbation, oral sex, sexual intercourse or sodomy; fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

U. 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 that form a controlling interest in the business, whether by sale, exchange, or similar means; or
3. 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.

### **2503 CLASSIFICATION**

Sexually oriented businesses are classified as follows:

- A. Adult arcades;
- B. Adult bookstores or adult video stores;
- C. Adult cabarets;
- D. Adult motels;

- E. Adult motion picture theaters;
- F. Escort agencies;
- G. Nude model studios; and,
- H. Sexual encounter centers.

**2504 BUSINESS LICENSE/EMPLOYEE REGISTRATION REQUIRED**

A. It shall be unlawful:

1. For any person to operate a sexually oriented business without a valid sexually oriented business license issued by the Director pursuant to this Ordinance;
2. For any person who operates a sexually oriented business to employ an employee to work and/or perform services for the sexually oriented business, if such employee has not registered with the Director pursuant to this Ordinance;
3. For any person to obtain employment with a sexually oriented business if such employee has not registered with the Director pursuant to this Ordinance or if such employee has previously been convicted of a specified criminal activity as defined by this Ordinance.

B. An application for a sexually oriented business license shall be made to the Director. 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 shall 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. Prior to issuance of a license, the premises shall be inspected by the Director.

C. All applicants for a license shall be qualified according to the provisions of this Ordinance. The application may request, and the applicant shall provide, such information as to enable the Director to determine whether the applicant meets the qualifications established under this Ordinance.

D. If a person who desires to own and/or operate a sexually oriented business is other than one individual, each individual who has a ten percent (10%) or greater

interest in the person shall sign the application for a business license.

E. Applications for a business license, whether original or renewal, shall be made to the Director by the intended operator of the enterprise. Applications shall be submitted to the Director or the Director's designee. The following information shall be provided on the application:

1. The name, street address (and mailing address if different) of each applicant(s);
2. A recent photograph of the applicant(s);
3. Each applicant's driver's license number, Social Security number, and/or federally issued tax identification number;
4. The name under which the sexually oriented business is to be operated and a general description of the services to be provided;
5. Whether any applicant has been convicted of a specified criminal activity as defined in this Ordinance, and, if so, the specified criminal activity involved, place, and jurisdiction of each;
6. Whether the applicant(s) has had a previous license under this Ordinance or similar sexually oriented business ordinance from another municipality denied, suspended or revoked, including the name and location of the sexually oriented business for which the business license was denied, suspended or revoked, as well as the date of the denial, suspension or revocation; and whether the applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation or other legal entity that is licensed under this Ordinance whose business license has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the business license was denied, suspended or revoked as well as the date of denial, suspension or revocation;
7. Whether the applicant(s) holds any other licenses under this Ordinance or other similar sexually oriented business ordinance from another municipality, and if so, the names and locations of such other licensed businesses;
8. The single classification of license, as found in Section 2503, for which the applicant is filing;

9. The telephone number of the establishment;

10. The address, and the legal description of the lot on which the sexually oriented business is to be located;

11. The expected startup date (which shall be expressed in number of days from the date of issuance of the business license).

F. Each application for a business license shall be accompanied by the following:

1. Payment of the application fee in full;

2. If the person is other than an individual, a certificate showing that the person is in good standing and currently validly in existence, and if the person is not formed under the laws of this state, a certified copy of the certificate of authority to transact business in this state, together with all amendments thereto;

3. Proof of the current ownership of the lot on which the sexually oriented business is to be situated in the form of a copy of the recorded deed or land contract memorandum.

4. If the persons identified as the owner(s) of the lot in item 3 are not also the applicant(s), appropriate documents evidencing the legally enforceable right of the proposed licensee of the sexually oriented business to have or obtain the use and possession of the lot for which the license is being sought.

5. Any of items (2) through (4) above shall not be required for a renewal application to the extent that the applicant states that the documents previously furnished the Director with the original application or previous renewals thereof remain correct and current.

G. Employee registration to work in a sexually oriented business must be made to the Director. Each employee/registrant shall be required to give the following information:

1. The applicant's given name, and any other names by which the applicant is or has been known, including "stage" names and/or aliases;

2. Age, social security number, and date and place of birth;

3. Present residence address and telephone number;
4. Present business address and telephone number;
5. Date, issuing state, and number of photo driver's license, or other state issued identification card information;
6. Proof that the individual is at least eighteen (18) years old;
7. A statement whether the applicant has been convicted of a specified criminal activity as defined in this Ordinance and, if so, the specified criminal activity involved, the date, place, and jurisdiction of each.

H. Every application for a license shall contain a statement that 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.

I. A separate application and business license shall be required for each sexually oriented business classification.

J. The fact that a person possesses other types of state, county, or township permits and/or licenses does not exempt the person from the requirement of obtaining a sexually oriented business license.

#### **2505 ISSUANCE OF LICENSE**

A. The Director shall approve the issuance of a license to an applicant within twenty one (21) days after receipt of an application unless one or more of the following is true:

1. An applicant is under eighteen (18) years of age.
2. An applicant is overdue in payment to the Township of taxes, fines, or penalties assessed against him/her or imposed upon him/her in relation to a sexually oriented business.
3. An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.
4. An applicant has been convicted of a "specified criminal activity" as defined in this Ordinance.

5. If the premises are to be used for a purpose prohibited by local or state law, statute, rule, or regulation, or prohibited by or contrary to a provision of this Ordinance.

6. An applicant has had a sexually oriented business license revoked by the Township within two (2) years of the date of the current application.

7. If the lot or premises to be used for the sexually oriented business have not been approved by the Township structure inspector and Zoning Administrator as being in compliance with applicable laws and ordinances.

8. The license fee required by this Ordinance has not been paid.

B. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the sexually oriented business, and the classification for which the license is issued. The 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. A sexually oriented business license shall be issued for only one (1) classification, as found in Section 2503. However, one (1) person may obtain more than one (1) type of license per each premises operated by the person.

D. In the event that the Director determines that an applicant is not eligible for a license, the applicant shall be given notice in writing of the reasons for the denial within thirty (30) days of the receipt of its application by the Director, provided that the applicant may request, in writing, that such period be extended for an additional specified period of time before the notice is issued in order to make modifications necessary to comply with this Ordinance.

E. Pursuant to MSA 5.2963(20), MCL 125.290, an applicant or licensee or employee may appeal any decision of the Director to the Township Zoning Board of Appeals, by filing a written notice of appeal with the Director or Township Clerk within thirty (30) days after service of notice upon the applicant of the Director's decision. Such appeal shall be heard and a vote shall be taken by the Zoning Board of Appeals within fourteen (14) calendar days after the date on which the Township receives the notice of appeal. The decision of the Zoning Board of Appeals shall be communicated to the Applicant within three (3) business days. Appeals may be taken from the decision of the Zoning Board of Appeals pursuant to law; MSA 5.2963(23a), MCL 125.293a within twenty one (21) days after the decision by the Zoning Board of Appeals.

## **2506 INSPECTIONS**

A licensee or their employee shall permit the Director and representatives of the Muskegon County Sheriff's Department and/or Health Department, White Lake Fire Authority, Director, or other Township or State or County 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 open for business.

## **2507 EXPIRATION OF LICENSE**

Each license shall expire two (2) years from the date of issuance and may be renewed only by making a renewal application as provided for an original license in Section 2504. Application for renewal shall be made at least twenty one (21) days before the expiration date; when made less than twenty one (21) days before the expiration date, the expiration of the license shall not be affected.

## **2508 SUSPENSION OF LICENSE**

The Director shall suspend a license for a period not to exceed thirty (30) days if he/she determines that licensee or an employee of licensee has committed or allowed any of the following to occur:

- A. violated or is not in compliance with any section of this Ordinance;
- B. operated or performed services in a sexually oriented business while intoxicated by the use of alcoholic beverages or controlled substances;
- C. refused to allow prompt inspection of the premises as authorized by this Ordinance;
- D. knowingly permitted gambling by any person on the premises.

## **2509 PROHIBITED ACTS; REVOCATION OF LICENSE**

- A. The Director shall revoke a license if:
  - 1. a cause of suspension in Section 2508 occurs and the license has been suspended within the proceeding twelve (12) months.
  - 2. a licensee gave false or misleading information in the material submitted during the application process;

3. a licensee has knowingly allowed the possession, use, or sale of controlled substances on the premises;
4. a licensee has knowingly allowed the sale, use, or consumption of alcoholic beverages on the premises, in violation of the law or regulations of the Michigan Liquor Control Commission;
5. a licensee has knowingly allowed prostitution on the premises;
6. a licensee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;
7. a licensee knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sexual conduct to occur in or on the licensed premises;
8. a licensee is delinquent in payment to the Township for any taxes or fees;
9. a licensee knowingly allowed a person under eighteen (18) years of age to enter the establishment; or
10. a licensee has sold, assigned, or transferred ownership or control of the sexually oriented business to a non-licensee.
11. a licensee has appeared or knowingly allowed another person to appear in a state of public nudity within the premises.

B. When the Director revokes a license, the revocation shall continue for one (1) year, and the licensee shall not be issued a sexually oriented business license for one (1) year from the date revocation became effective.

#### **2510 JUDICIAL REVIEW**

In addition to any other available remedies, an applicant or licensee or employee aggrieved by the decision of the Director or the Zoning Board of Appeals may seek judicial review of such administrative action in any court of competent jurisdiction.

#### **2511 NO TRANSFER OF LICENSE**

A licensee shall not transfer ownership or control of a sexually oriented business



except and unless authorized by this Ordinance, which shall require a new application to be filed for the purchaser or transferee. A licensee shall not transfer a license to another person, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the location designated in the application.

#### **2512 LOCATION OF SEXUALLY ORIENTED BUSINESS**

Sexually oriented businesses shall only be authorized in the "M" zone.

#### **2513 ADDITIONAL REGULATIONS FOR INDIVIDUALS AT SEXUALLY ORIENTED BUSINESSES**

No person shall knowingly and intentionally appear in a state of nudity in a sexually oriented business, or depict specified sexual activities in a sexually oriented business. No person who operates a sexually oriented business shall employ any employee who has been convicted of a specified criminal activity, as defined in this Ordinance. No person shall obtain employment with a sexually oriented business if such employee has been convicted by a specified criminal activity, as defined in this Ordinance.

#### **2514 ADDITIONAL REGULATIONS FOR ADULT MOTELS**

A. Evidence that a sleeping room in a hotel, motel, or a similar commercial enterprise has been rented and vacated two (2) or more times in a period of time that is less than ten (10) hours creates a rebuttable presumption that the enterprise is an adult motel as that term is defined in this chapter.

B. A person, as the person in control of a sleeping room in a hotel, motel, or similar commercial enterprise that does not have a sexually oriented business license, shall not rent or subrent a sleeping room to another person and, within ten (10) hours from the time the room is rented, rent or subrent 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.

#### **2515 ADDITIONAL REGULATIONS FOR ESCORT AGENCIES**

A. An escort agency shall not employ any person under the age of eighteen (18) years.

B. A person shall not act as an escort or agree to act as an escort for any person under the age of eighteen (18) years.

#### **2516 ADDITIONAL REGULATIONS FOR NUDE MODEL STUDIOS**

A. A nude model studio shall not employ any person under the age of eighteen (18) years.

B. A person shall not appear in a state of nudity, or knowingly allow another to appear in a state of nudity in an area of nude model studio premises which can be viewed from the public right of way.

C. A nude model studio shall not place or permit a bed, sofa, or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public.

#### **2517 ADDITIONAL REGULATIONS FOR EXHIBITION OF SEXUALLY EXPLICIT FILMS, VIDEOS, AND LIVE PERFORMANCES**

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, other video production, or live performance that depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

A. Upon application for a sexually oriented business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one (1) 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 one hundred (100) square feet of floor area. The diagram shall also designate the place at which the business license shall 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 shall be oriented to the north or to some designated street or object and 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 one (1) foot. The Director 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 be altered since it was prepared.

B. No alteration in the configuration or location of a manager's station may be made without the prior approval of the Director or their designee.

C. It is the duty of the licensee to ensure that at least one (1) employee is on duty and situated in each manager's station at all times (except in emergency situations) that any patron is present inside the premises.

D. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of the entire 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 (2) 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 the entire area of the premises to which any patron is permitted access for any purpose from at least one (1) of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

E. It shall be the duty of the licensee to ensure that the view area specified in Subsection A. 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.

F. No viewing room or booth may be occupied by more than one (1) person at any time. Nor shall any viewing room or booth contain any door, barrier, or other similar device as would prevent the compliance with subparagraph D above.

G. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at any illumination of not less than five (5.0) foot-candle as measured at the floor level.

H. It shall be the duty of the licensee to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

I. No licensee shall allow an opening of any kind to exist between viewing rooms or booths.

J. No person shall make or attempt to make an opening of any kind between the viewing booths or rooms.

K. The licensee of the sexually oriented business shall, during each business day, cause to be inspected the walls between the viewing booths to determine if any openings or holes exist.

L. The licensee of the sexually oriented business shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.

M. The licensee of the sexually oriented business shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used within forty eight (48) inches of the floor.

#### **2518 EXTERIOR PORTIONS OF SEXUALLY ORIENTED BUSINESSES**

A. It shall be unlawful for a licensee of a sexually oriented business to allow the merchandise or operations of the business to be visible from a point outside the exterior of the structure in which the business is conducted.

B. It shall be unlawful for the licensee 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.

#### **2519 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 licensee to ensure that an employee 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 employee to prohibit any person under the age of eighteen (18) years from entering the sexually oriented business.

#### **2520 HOURS OF OPERATION**

No sexually oriented business, except for an adult motel, may remain open at any time between the hours of one o'clock a.m. (1:00 a.m.) and eight o'clock a.m. (8:00 a.m.).