

ARTICLE IX C, COMMERCIAL DISTRICT

Section 9.01. PRINCIPAL USES PERMITTED.

- A. Any retail business which sells or rents merchandise within a completely enclosed building.
- B. Personal service establishments such as restaurants, taverns, laundromats, barber shops, beauty shops, and dry-cleaning establishments.
- C. Repair shops for consumer items such as watches, shoes, furniture, and appliances.
- D. Professional and business offices.
- E. Financial institutions.
- F. Funeral homes, mortuaries, and cemeteries.
- G. Indoor recreation establishments.
- H. Hotels, motels, lodge halls, private clubs, and auditoriums.
- I. Schools, churches, and publicly owned buildings or facilities.
- J. Buildings, structures and uses which are accessory to any of the above permitted uses.

Section 9.02. USES PERMITTED AFTER SPECIAL APPROVAL.

- A. Open-air businesses such as drive-in theaters, racetracks, used car sales, farm machinery, sales, fruit markets, recreational facilities, or any retail business activities which are conducted outside of an enclosed building.
- B. Repair, service, or storage facilities for automobiles, trucks, construction equipment, farm machinery, and similar equipment.
- C. Adult Entertainment Facilities

Adult entertainment facilities may be permitted subject to the following requirements:

1. Purpose. It is the purpose of this ordinance to establish reasonable and uniform regulations governing adult entertainment facilities in order to promote the health, safety, and general welfare of the citizens of 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 material.

2. Definitions

- a) Specified Anatomical Areas means:
- (1) The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
 - (2) Less than completely and opaquely covered human genitals, pubic region, buttocks, or a female breast below a point immediately above the top of the areola.
- b) Specified Anatomical Areas means:
- (1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts.
 - (2) Sex acts, normal or perverted, actual, or simulated, including intercourse, oral copulation, masturbation, or sodomy; or
 - (3) Excretory functions as part of or in connection with any of the activities set forth in (1) through (2) above.
- c) An Adult Book Store is a use which has a display containing books, magazines, periodicals, newspapers, slides, pictures, cassettes, videotapes, videodiscs, motion picture films, or other printed, recorded, or electronic material which has as a significant portion of its content or exhibit matter or actions depicting, describing, or relating to substantial segment or section devoted to the sale or display of such material. Retail establishments which display, sell, distribute, provide, or rent such material within an enclosed area not greater than five (5) percent of the total usable retail space, which is limited to persons eighteen (18) years of age or older, shall not be included in this definition. "Usable Retail Space" is defined as that area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers. The portion of the floor area which is used or intended to be used principally for the storage or processing of merchandise, hallways, or for utilities or sanitary facilities shall be excluded from the computation of "Usable Retail Space."
- d) An Adult Cabaret is a nightclub, theater, or other establishment which feature live performances by one or more topless and/or bottomless dancers, "go-go" dancers, exotic dancers, strippers, or similar entertainers, wait staff, or other persons, where a significant portion of such performances show, depict, or describe "Specified Sexual Activities" or "Specified Anatomical Areas."
- e) An Adult Mini-Motion Picture Theatre is an enclosed building with a capacity for less than fifty (50) persons used for presenting motion picture films, video cassettes or tapes, cable television, or other visual display depicting, describing, or presenting "Specified Sexual Activities" or "Specified Anatomical Areas."
- f) An Adult Model Studio is any place where, for any form of consideration or gratuity, figure models who display "Specified Anatomical Areas" are

provided to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by persons paying such considerations or gratuities, except that this provision shall not apply to any bona fide art school or similar educational institutions.

- g) An Adult Model is a model wherein matter, actions, or other displays are presented which contain a significant portion depicting, describing, or relating to “Specified Sexual Activities” or “Specified Anatomical Areas.”
- h) An Adult Motion Picture Arcade is any place to which the public is permitted or invited wherein credit card or other payment method, or coin operated or electronically or mechanically controlled still or motion picture machines, projectors, video machines, or other image producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where a significant portion of images so displayed depict, describe, or relate to “Specified Sexual Activities” or “Specified Anatomical Areas.”
- i) An Adult Motion Picture Theatre is an enclosed building with the capacity of fifty (50) or more persons used for presenting motion picture films, videotapes or cassettes, cable television, or other visual display depicting or relating to “Specified Sexual Activities” or “Specified Anatomical Areas” for observation by patrons therein.
- j) An Adult Novelty Business is any establishment that offers for sale devices that stimulate human genitals or devices designed for sexual stimulation. In addition, any novelties that are sexual in nature or are characterized by an emphasis on depicting or describing specific sexual conduct.
- k) An Adult Personal Service Establishment is any business, agency, or service which arranges, solicits, or provides for the benefit of its customers or clients, escorts, dates, models, unlicensed therapists, companions, or entertainers, either on or off the premises, for the purpose of engaging in “Specified Sexual Activities” or displaying “Specified Anatomical Areas” as defined herein. These establishments may include, but are not limited to escort services, exotic rubs, modeling, body painting studios, wrestling studios, baths, and theatrical performances.
- l) An Adult Physical Culture Establishment is any establishment, club, or business by whatever name designated, which provides, offers, or advertises, or is equipped or arranged so as to provide as part of its services, either on or off the premises, massages, body rubs, physical stimulation, baths, tattoos, or other similar treatment by any person. The following uses shall not be included within the definition of an adult physical culture establishment:
 - (1) Establishments which routinely provide such services by a licensed physician, a licensed chiropractor, a licensed osteopath, a licensed or certified physical or massage therapist, a licensed practical nurse, or any other similarly licensed medical professional.

- (2) Electrolysis treatment by a licensed operator of electrolysis equipment.
 - (3) Continuing instruction in martial or performing arts or in organized athletic activities.
 - (4) Hospitals, nursing homes, medical clinics, or medical offices; and,
 - (5) Barbershops or beauty parlors, health spas and/or salons that offer massage to the scalp, face, the neck, or shoulders only.
- m) An Adult Sexual Encounter Center is any business, agency, or person who, for any form of consideration or gratuity, provides a place where two or more persons, not all members of the same family, may congregate, assemble, or associate for the purpose of engaging in "Specified Sexual Activities" or exposing "Specified Anatomical Areas."
 - n) A Restricted Adult Business is any of the defined adult entertainment uses, which are not customarily open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age.

3. Regulations

- a) Uses subject to the conditions contained herein shall be referred to as regulated land uses. Regulated land uses shall include all adult entertainment facilities defined in Section 2 above.
- b) Locational Requirements: Regulated land uses shall be permitted by special use permit in the Commercial District subject to the following locational requirements. Further, no more than one (1) regulated land use shall be permitted in a single structure.
 - (1) No regulated land use shall be established within five hundred (500) feet of any residential dwelling that is zoned AR, Agricultural Residential or RMH, Residential Mobile Home Park. The required separation distance shall be measured from the property line of the regulated use to the protected residential dwelling, using the closest points along the property line and the residential dwelling involved.
 - (2) No regulated land use shall be established within one thousand five hundred (1,500) feet of a public or private school, childcare facility, place of worship, public building or park. The required separation distance shall be measured from property line to property line, using the closest points along the property lines involved.
 - (3) No regulated land use shall be established within five hundred (500) feet of another regulated land use nor within five hundred (500) feet of any establishment licensed by the Michigan Liquor Control Commission for an on-premise retail license (i.e., restaurants, hotels, bars or clubs). The required separation distance shall be measured from property line to property line, using the closest points along the property lines involved.

- c) Application: Because regulated land uses possess unique characteristics and because minors are excluded from such facilities by virtue of age, these facilities shall be permitted only upon approval of the Planning Commission, after a public hearing and review of the proposed site plan by the Planning Commission, subject to the procedure as specified in Article XV, Site Plan Review and Article XVI, Special Land Uses.

- d) Approval Criteria: Prior to granting approval to any regulated land use, the Planning Commission may impose additional conditions or limitations upon the establishment, location, construction, maintenance or operation of the regulated land use as it deems necessary for the protection of the public interest and to secure compliance with the standards specified above. The Planning Commission may require such evidence and guarantees as it deems necessary as proof that the conditions stipulated in connection therewith are being and will be fulfilled. No regulated land use shall be approved by the Planning Commission unless all the following criteria are fulfilled:
 - (1) The establishment, location, maintenance, and operation of the regulated land use will not be detrimental to or endanger the public, health, safety, morals, comfort or general welfare; and
 - (2) The regulated land use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes permitted nor substantially diminish or impair property values within the neighborhood; and
 - (3) The establishment of the regulated land use will not impede the normal and orderly development and improvement of surrounding property for uses permitted within the zoning district; and
 - (4) The regulated land use will not be conducted in any manner that permits the observation of any material depicting or describing “specified sexual activities” and “specified anatomical areas” from any public right-of-way or from any other property. This provision shall apply to any display, decoration, sign, show window, or other opening; and
 - (5) The regulated land use will conform to all other requirements of the zoning district.

D. Residences

E. Body Art Facilities

Body Art Facilities may be permitted subject to the following requirements:

1. Body Art Facilities are defined as an establishment whose principal business activity is the practice of one or more of the following:
 - a) Placing designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substance that result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin.
 - b) The act of penetrating the skin to make, generally permanent in nature, a mole, mark, or scar. This does not include the use of a mechanized, pre-sterilized ear-piercing system that penetrates the outer perimeter or lobe of the ear.
2. No body art facilities shall be located within one thousand (1,000) feet of another body art establishment, public or private school, childcare facility, place of worship, public building or park. The required separation distance shall be measured from property line to property line, using the closest points along the property lines involved.
3. No body art facilities shall be established within five hundred (500) feet of any residential dwelling that is zoned AR, Agricultural Residential or RMH, Residential Mobile Home Park. The required separation distance shall be measured from the property line of the regulated use to the protected residential dwelling, using the closest points along the property line and the residential dwelling involved.
4. All proper state and local licenses must be in place prior to approval.

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