

118 – ADULT ORIENTED BUSINESS

It is the purpose of this section to regulate adult oriented businesses, 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 concentration of adult oriented businesses within the Township. The provisions of this section have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented material protected by the First Amendment, or to deny access by the distributors and exhibitors of adult oriented entertainment to their intended market. There is convincing documented evidence that the adult oriented businesses, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them causing increased crime and the downgrading of property values.

The Township Trustees desire to minimize and control these adverse effects and thereby preserve the property values and character of surrounding neighborhood, deter the spread of suburban blight, protect the citizens from increased crime, preserve the quality of life, and protect the health, safety, and welfare of the citizenry.

118.1 DEFINITIONS (applicable only to this Section):

ADULT ORIENTED BUSINESS: A business which is designed and used to sell, rent or show sexually explicit materials distinguished or characterized by an emphasis on “Specified Anatomical Areas” as herein defined and is more particularly, but not exclusively, defined as meaning and adult arcade, adult bookstore, adult video store, adult cabaret, adult motel, adult motion picture theater, or adult theater, or massage business.

ADULT ARCADE: 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 image so displayed are distinguished or characterized by the depicting or describing of “specified sexual activities” or “specified anatomical areas”.

ADULT BOOKSTORE or ADULT VIDEO STORE: means a commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration, one or more of the following:

1. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, or video 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”.

ADULT CABARET: A nightclub, bar, restaurant, or similar commercial establishment which features:

1. Persons who appear in a state of nudity; or
2. Live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities”, or
3. Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of “specified sexual activities”, or “specified anatomical areas”.

ADULT MOTEL: A hotel, motel or similar commercial establishment which:

1. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion picture, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of “specified anatomical areas”, and has a sign visible from the public right of way which advertises the availability of this adult type of photographic reproductions; or
2. Offers sleeping rooms for rent for a period of time that is less than ten (10) hours or;
3. Allows a tenant or occupant of a sleeping room to sublet the room for a period of time that is less than ten (10) hours.

ADULT MOTION PICTURE THEATER: A commercial establishment where for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which is characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”.

ADULT THEATER: A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of “specified anatomical areas” or by specified sexual activities”.

MASSAGE: The manipulation of body muscles or tissue by rubbing, stroking, kneading, or tapping by hand or mechanical device.

MASSAGE BUSINESS: Any establishment or business wherein massage is practiced, including establishments commonly known as health clubs, physical culture studios, massage studios, or massage parlors, which is characterized by emphasis on matters and activities related to “specified sexual activities” or specified anatomical areas” as defined herein.

NUDITY OR A STATE OF NUDITY: The appearance of a human bare buttock, anus, male genitals, female genitals, or female breast.

PERSONS: An individual, proprietorship, partnership, corporation or other legal entity.

SEMI-NUDE: A state of dress in which clothing covers no more than the genitals, pubic region, and aureoles of the female breast, as well as portions of the body covered by supporting straps or devices.

SPECIFIED SEXUAL ACTIVITIES: means and includes any of the following:

1. The fondling or other erotic touching of human genitals, public region, buttocks, anus, or female breast
2. Sex acts normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy;
3. Masturbation, actual or simulated; or
4. Excretory functions as part of or in connection with any of the activities set forth in (1) through (3) above.

SEXUALLY ORIENTED DEVICES: Means without limitation any artificial or simulated specified anatomical area or other device or paraphernalia that is designed principally for specified sexual activities but shall not mean any contraceptive device.

SPECIFIED ANATOMICAL AREAS: Means less than completely and opaquely covered human genital, pubic region, buttock and female breast below a point immediately above the top of the aureole; and human male genitals in a discernibly turgid state, even if completely and opaquely covered.

118.2 RULES GOVERNING ADULT ORIENTED BUSINESS:

118.2.1 The proposed business is located more than one thousand feet (1000') from a church, a public or private school, public-park, or playground and any social services facility, fairgrounds or neighborhood center.

118.2.1.1 For the purposes of subdivision, a measurement shall be made in a straight line, without regard to intervening structure or objects, from the nearest portion of the building or structure used as a part of the premises where an adult oriented business is conducted, to the nearest property line of the premises of a church, or a public or private school or social services facility or neighborhood center, or to the nearest boundary of an affected public park, fairgrounds or playground.

118.2.2 The proposed business is located more than three hundred (300) feet from any boundary of a residential district as established by the Board of Township Trustees, the lot line of a lot devoted to a residential use, any boundary of a residential district in a local government abutting Madison Township, or any structure that contains a residence.

118.2.2.1 For the purposes of subdivision, a 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 and adult oriented business is conducted, to the nearest property line of a lot devoted to residential use or possessing a structure that contains a residence, or to the nearest boundary of an affected residential district.

118.2.3 The proposed use is located more than one thousand feet (1000') from an already existing adult oriented business, whether by permit or other means of establishment.

118.2.3.1 For purposes of subdivision (118.2.3), the distance between any two adult oriented businesses shall be measured in a straight line, without regard to intervening structures or objects from the closest external wall of the structure in which each business is located.

118.2.4 All viewing booths and viewing areas in an Adult Arcade, Adult Book store, Adult video store, Adult motion picture theater, or Adult Theater must be visible from a continuous main aisle and must not be obscured by any curtain, door, wall, or other enclosure.

118.2.5 No sexually oriented activities or materials may be sold, furnished or displayed to any person under the age of eighteen (18) years.

118.2.6 All provisions of the Ohio Fire Code are met prior to issuance of a permit.

118.3 No person shall establish, operate or cause the establishment or operation of any adult oriented business in violation of the provisions of this section. Nothing in this section shall be construed to prohibit or limit the display, sale or rental of descriptive, printed, film or video material or any live performance which, taken as a whole, contains serious literary, artistic, political, medical, educational or scientific value.

118.4 Revocation: The Madison Township Board of Trustees, after affording notice and hearing, upon recommendation of the Chief of Madison Joint Fire District, the Lake County Sheriff's Department, the Zoning Inspector, or on their own authority, may at any time suspend the Zoning Permit for the applicant's failure to comply with any applicable sections of this Resolution.