

**BLAIR TOWNSHIP  
ORDINANCE #115**

**Sexually Oriented Business Ordinance**

PREAMBLE

WHEREAS, 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 of the communities where they locate, and

WHEREAS, the Blair Township Board of Trustees 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, 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 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 adjacent to them, 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 Blair Township Board wants 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 urban blight; and

WHEREAS, it is not the intent of this ordinance to suppress any speech activities protected by the First Amendment of the United States Constitution, or the Michigan Constitution, 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 Blair Township Board to condone or legitimize the distribution of obscene materials, and the 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 Blair Township.

NOW, THEREFORE, BE IT ORDAINED BY THE BLAIR TOWNSHIP BOARD OF TRUSTEES THAT THE BLAIR TOWNSHIP SEXUALLY ORIENTED BUSINESS ORDINANCE #115 IS AMENDED IN ITS ENTIRETY as follows:

SECTION I. Purpose and Findings

1. 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.

2. The adoption of the original Blair Township Sexually Oriented Business Ordinance was based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings, studies and in reports made available to the Township Board in 1996, and the Township Board now bases its amendment on hearings, studies and in reports findings incorporated in various court cases as well as studies conducted in other cities including, but not limited to, Tucson, Arizona; Garden Grove, California; Ellicottville, New York; New York, New York; Times Square, New York; Oklahoma City, Oklahoma; Cleburne, Texas; Dallas, Texas; Houston, Texas; Newport News, Virginia; St. Croix, Wisconsin, and findings reported in the Final Report of the Attorney General's Commission on Pornography (1986), the Report of the Attorney General's Working Group On the Regulation Of Sexually Oriented Businesses (June 6, 1989, State of Minnesota). Based on this information, the Township Board finds that:

(A) Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the operators of the establishments. Further, there is presently no mechanism to make owners of these establishments responsible for the activities that occur on their premises.

(B) Crime statistics show that all types of crimes, especially sex-related crimes, occur with more frequency in neighborhoods where sexually oriented businesses are located

(C) Sexual acts, including masturbation, and oral and anal sex, occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows.

(D) Offering and providing such booths and/or cubicles encourages such activities, which creates unhealthy conditions.

(E) Persons 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.

(F) At least 50 communicable 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, Non A, Non B

amebiasis, salmonella infections, and shigella infections.

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

(H) 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 owners and operators of the facilities to self-regulate those activities and maintain those facilities.

(I) Numerous studies and reports have determined that bodily fluids, including semen and urine, are found in the areas of sexually oriented businesses where persons view "adult" oriented films.

(J) Nude dancing in adult establishments encourages prostitution, increases sexual assaults, and attracts other criminal activity.

(K) Nude dancing in adult establishments increases the likelihood of drug-dealing and drug use.

(L) Alcohol consumption in adult establishments increases the likelihood of crime, illegal drug use, and illegal sexual activity, and encourages undesirable behavior that is not in the interest of the public health, safety, and welfare.

(M) The findings noted in above raise substantial governmental concerns.

(N) Sexually oriented businesses have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.

(O) A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and operators of sexually oriented businesses. Further, such licensing procedure will place a heretofore non-existent incentive on 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 permittee is the actual operator of the sexually oriented business, fully in possession and control of the premises and activities occurring therein.

(P) 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 establishments.

(Q) The disclosure of certain information by those 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 and criminal activity.

(R) The fact that an applicant for a sexually oriented business permit 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.

(S) The general welfare, health, morals, and safety of the citizens of this Township will be promoted by enactment of this ordinance.

(T) When more than one sexually oriented business use occupies the same location or business address, the secondary effects caused by such businesses are increased. Secondary effects are eliminated or controlled to a greater degree when only a single sexually oriented business use is allowed to occupy the same location.

## 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, videos, 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, which, 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 pictures, video cassettes or video reproductions, slides, or other visual representations that are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas"; or

(B) Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities."

A principal business purpose exists if materials offered for sale or rental depicting or describing "specified sexual activities" or "specified anatomical areas" generate 20% or more of the business's income, or account for 20% or more of inventory, or occupy 20% or more of total floor space. 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 that depict or describe "specified sexual activities" or "specified anatomical areas."

3. ADULT CABARET means a nightclub, bar, restaurant, café, or similar commercial establishment that regularly, commonly, habitually, or consistently features:

(A) persons who appear in a state of nudity or semi-nudity; or

(B) live performances that are distinguished or characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or

(C) films, motion pictures, video cassettes, slides, photographic reproductions, or other image producing devices that are distinguished or characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; or

(D) persons who engage in "exotic" 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 transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that are distinguished or 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 twenty-four (24) 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 twenty-four (24) 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, commonly, habitually, or consistently shown that are distinguished or characterized by the depiction or description of “specified sexual activities” or "specified anatomical areas."

6. ADULT THEATER means a theater, concert hall, auditorium, or similar commercial establishment that regularly, commonly, habitually, or consistently features persons who appear, in person, in a state of nudity and/or semi-nudity, and/or live performances that are distinguished or characterized by the exposure of “specified anatomical areas” or by "specified sexual activities."

7. ADULT ENTERTAINMENT ESTABLISHMENT means a nightclub, bar, restaurant, café, theater, concert hall, auditorium, or similar commercial establishment that regularly, commonly, habitually, or consistently features:

(A) persons who appear in a state of nudity or semi-nudity; or

(B) live performances that are distinguished or characterized by the exposure of “specified anatomical areas” or by “specified sexual activities”; or

(C) films, motion pictures, video cassettes, slides, photographic reproductions, or other image producing devices that are distinguished or characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”; or

(D) persons who engage in “exotic” or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

8. 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.

9. 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.

10. 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.

11. 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

(D) the relocation of any sexually oriented business; or

(E) a sexually oriented business or premises on which the sexually oriented business is located.

12. LICENSED DAY-CARE CENTER means a facility licensed by the State of Michigan, whether situated within the Township or not, other than a private residence, receiving one or more preschool or school age children for care for periods of less than twenty-four (24) hours a day, and where the parents or guardians are not immediately available to the child. Childcare center or day care center includes a facility that provides care for not less than two (2) consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a childcare center, day care center, day nursery, nursery school, parent cooperative preschool, play-group, or drop-in center.

13. LIVE THEATRICAL PERFORMANCE means a play, skit, opera, ballet, concert, comedy, or musical drama.

14. 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.

15. NUDITY or a STATE OF NUDITY means the appearance of a human bare buttock, anus, anal cleft or cleavage, pubic area, male genitals, female genitals, or vulva, with less than a fully opaque covering; or a female breast with less than a fully opaque covering of any part of the areola; or human male genitals in a discernibly turgid state even if completely and opaquely covered.

16. PERMITTEE means a person in whose name a permit to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a permit.

17. PERMIT means a permit for the operation of a sexually oriented business and

issued pursuant to this Sexually Oriented Business Ordinance.

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

19. PREMISES means the real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings 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 permittee, as described in the application for a business license pursuant to Section IV of this ordinance;

20. SEMI-NUDE OR SEMI-NUDITY means the appearance of the female breast below a horizontal line across the top of the areola at its highest point. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or in part.

21. 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 persons of the opposite sex and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity.

A principal business purpose exists if the services offered are intended to generate business income.

22. 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, sexual encounter center, or adult entertainment establishment.

23. SPECIFIED ANATOMICAL AREAS includes:

(A) 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) the human male genitals in a discernibly turgid state, even if completely and opaquely covered.

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

(A) prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution, or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; sexual assault; molestation of a child; or any similar sex-related offenses to those described above under the criminal or penal code of this state, other states, or other countries.

(B) for which:

(1) 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;

(2) 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;

(3) 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 for two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty-four (24) month period;

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

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

(A) acts of human masturbation, actual or simulated;

(B) sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;

(C) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts, whether covered or uncovered;

(C) human genitals in a state of sexual stimulation or arousal.

(D) excretory functions as part of or in connection with any of the activities set forth in above.

26. TRANSFER OF 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 which constitute a controlling interest in the business, whether by sale, exchange, or similar means;

(C) the establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

### SECTION III. Administration and Enforcement

(A) The Blair Township Zoning Administrator shall be designated to administer and enforce the provisions of this Ordinance. The Zoning Administrator may designate authorized agents to assist in the administration and enforcement of this Ordinance.

(B) The Blair Township Zoning Administrator shall:

(1) receive and review all application for sexually oriented business permit, and approve or disapprove such applications based on compliance or non-compliance with the provisions of this Ordinance.

(2) maintain maps showing current locations within the Township where sexually oriented business are located and where additional sexually oriented business may be located taking into consideration the location restrictions set forth in this Ordinance and all applicable zoning requirements.



#### SECTION IV. Permit Required

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

(B) An application for a permit must be made on a form provided by Blair Township. 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 and the percentage of the total floor space that will be occupied by the sexually oriented business activity. 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) Applications for a permit shall be made and delivered to the Zoning Administrator by the intended operator of the establishment. The intended operator shall be required to give the following information on the application form:

a. The name and street address (and mailing address, if different) and driver's license number of the intended operator if he/she has such a driver's license.

b. The name and street address (and mailing address, if different) of the owner(s), if different.

c. The name under which the establishment is to be operated and a general description of the services to be provided and the products to be carried in inventory for sale, rent or display to customers.

d. The telephone number of the establishment or, if unavailable, the operator's.

e. The address, and legal description, of the tract of land on which the establishment is to be located.

(D) All applicants for a permit must be qualified according to the provisions of this ordinance. The application may request, and the applicant shall provide, such information reasonably necessary (including fingerprints) to enable the Township to determine whether the applicant meets the qualifications established under this ordinance. The applicant has an affirmative duty to supplement an application with new information received subsequent to the date the application was deemed completed.

(E) If a person who wishes to own or operate a sexually oriented business is an individual, he must sign the application for an operator's permit as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a ten (10%) percent or greater interest in the business must sign the application for an operator's permit 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, all corporate officers and directors must sign the application for an operator's permit as applicant.

(F) The fact that a person possesses other types of state or county permits and/or licenses does not exempt him from the requirement of obtaining a sexually oriented business permit from the Township.

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

1. Payment of the application fee in full;

2. If the establishment is a Michigan corporation, a certified copy of the articles of incorporation, together with all amendments thereto;

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;

4. If the establishment is a limited partnership formed under the laws of the State of Michigan, a certified copy of the certificate of limited partnership, together with all amendments thereto;

5. If the establishment is a foreign limited partnership, a certified copy of the certificate of limited partnership 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) is not also the owner of the sexually oriented business, then the lease, purchase contract, purchase option contract, lease option contract or other document(s) evidencing the legally enforceable right of the owner(s) or proposed owner(s) of the sexually oriented business to have or obtain the use and possession of the tract or portion thereof that is to be used for the sexually oriented business;

8. A current certificate and straight-line drawing prepared within thirty (30) days prior to application by a registered land surveyor depicting the property lines and the structures containing any existing sexually oriented businesses within 1,500 feet of the property to be certified; and the property lines of any established religious institution, church, place of worship, synagogue, school, public park or recreation area within 750 feet of the property to be certified. For purposes of this Section, a use shall be considered existing or established if it is in existence at the time an application is submitted;

(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.

#### SECTION V. Issuance of Permit

(A) The Zoning Administrator shall approve or deny the issuance of a permit to an applicant within thirty (30) days after receipt of a completed application, unless the applicant requests that this period be extended for up to 10 days under Section V(C), in which case the approval or denial shall be made with the extended period. The Zoning Administrator shall issue a permit unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

1. An applicant is under eighteen (18) years of age. (Individual applicants only).

2. An applicant is overdue in his payment of taxes, fines, or penalties assessed against him or imposed upon him in relation to a sexually oriented business.

3. An applicant has failed to provide information reasonably necessary for issuance of the permit or has falsely answered a question or request for information on the application form.

4. An application for the proposed establishment is in violation of or is not in

compliance with any of the provisions of this Ordinance.

5. An applicant has been convicted of any of the following criminal offenses in any jurisdiction in the past five years:

- a. prostitution, procuring a prostitute, or solicitation of a prostitute;
- b. sale, distribution or display of obscene material;
- c. soliciting, procuring or aiding and abetting an unlawful sexual performance by a minor;
- d. possession, sale or distribution of child pornography;
- e. public lewdness;
- f. indecent exposure;
- g. indecent conduct with a child;
- h. sexual assault, criminal sexual conduct, or rape;
- i. incest;
- j. sexual solicitation of a child.

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

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

(C) In the event that the Zoning Administrator 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 thirty (30) days of the receipt of its application by the Zoning Administrator, 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. In the event the Zoning Administrator fails to render a decision on the application within the time specified herein, the applicant shall be permitted to commence operation of the business.

(D) An applicant may appeal the decision of the Zoning Administrator regarding a denial to the Township Board by filing a written notice of appeal with the Township Clerk within ten (10) days after service of notice upon the applicant of the Zoning Administrator's decision. The notice of appeal shall be accompanied by a memorandum or other writing setting out fully and specifically the grounds for such appeal and all arguments in support thereof. The Zoning Administrator may, within fifteen (15) days of service upon him of the applicant's memorandum, submit a responsive memorandum to the Township Board. After reviewing such memoranda, as well as the Zoning Administrator's written decision, if any, and exhibits submitted to the Zoning Administrator, the Township Board shall vote either to uphold or overrule the Zoning Administrator's decision. Such vote shall be taken within thirty (30) calendar days after the date on which the Township Clerk receives the notice of appeal. The Township Board shall, in its determination, make findings of fact supporting its decision. Judicial review of a denial by the Zoning Administrator and Township Board may be made pursuant to Section VIII of this ordinance.

#### SECTION VI. Suspension.

(A) The Zoning Administrator shall suspend a permit for a period not to exceed thirty (30) days if he determines that permittee or an employee of permittee has:

1. violated or is not in compliance with any section of this ordinance;
2. operated or performed services in a sexually oriented business while intoxicated by the use of alcoholic beverages or controlled substances;
3. refused to allow prompt inspection of the sexually oriented business premises as authorized by this ordinance;
4. with knowledge, permitted gambling by any person on the sexually oriented business premises.

(B) The Zoning Administrator, before suspending any permit, shall give the permittee at least ten (10) days' written notice of the charges against him or her, and shall cause written notice to be delivered pursuant to Section XXII informing such person of the right to appeal the suspension upon request. Suspension shall take effect 10 days from date of notice, unless within that time, an appeal is filed with the Township Board. When a suspension is appealed to the Township Board, the suspension will become effective, if and when the Township Board decides that the suspension is proper.

(C) A permittee may appeal the suspension of a permit to the Township Board in accordance with the procedure set forth in Section V(D), or may seek direct judicial review pursuant to Section VIII.

(D) Any permit issued by the township may be immediately suspended by the Zoning Administrator without a hearing if it is determined that the permittee has violated or someone at or upon the permitted location has violated the township ordinance or state law and that continued operation under the permit is an immediate threat to public health, safety, and welfare. Suspension under this subsection shall take effect immediately, but may be appealed under the procedure described above in subsection (B).

#### SECTION VII. Revocation.

(A) The Zoning Administrator shall revoke a permit if a cause of suspension in Section VI occurs and the permit has been suspended within the preceding twelve (12) months.

- (B) The Zoning Administrator shall revoke a permit if he determines that:
1. a permittee gave materially false or misleading information in the material submitted during the application process;
  2. a permittee was convicted of a "specified criminal activity" on a charge that was pending prior to the issuance of the permit;
  3. a permittee has, with knowledge, permitted the possession, use, or sale of controlled substances on the premises;
  4. a permittee has, with knowledge, permitted the sale, use, or consumption of alcoholic beverages on the premises;
  5. a permittee has, with knowledge, permitted prostitution on the premises;
  6. a permittee has, with knowledge, operated the sexually oriented business during a period of time when the permittee's permit was suspended;
  7. a permittee has, with knowledge, permitted any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sexual conduct to occur in or on the permitd premises;

8. a permittee is delinquent in payment to the Township or State for any taxes, fees, fines, or penalties relating to the sexually oriented business or the premises thereof;

9. a permittee has, with knowledge, permitted a person under eighteen (18) years of age to enter or remain in the establishment; or

10. a permittee has attempted to sell his permit, or has sold, assigned, or transferred ownership or control of the sexually oriented business to a non-permittee of the establishment;

(C) The Zoning Administrator, before revoking any permit, shall give the permittee at least ten (10) days' written notice of the charges against him or her, and shall cause written notice to be delivered pursuant to Section XXII informing such person of the right to appeal the revocation upon request. Revocation shall take effect 10 days from date of notice, unless within that time, an appeal is filed with the Township Board. When a suspension is appealed to the Township Board, the suspension will become effective, if and when the Township Board decides that the revocation is proper.

(D) A permittee may appeal the revocation of a permit to the Township Board in accordance with the procedure set forth in Section V(D), or may seek direct judicial review pursuant to Section VIII.

(E) When a permit is revoked, the permittee shall not be issued a new permit for one (1) year from the date revocation became effective.

#### SECTION VIII. Judicial Review.

Within twenty-one (21) days of a denial of an initial application by the Zoning Administrator and Township Board, or suspension or revocation of a permit by the Zoning Administrator and Township Board, the applicant or permittee may seek judicial review of such administrative action in any court of competent jurisdiction, state or federal. The administrative action shall then be reviewed by the court for a prompt judicial determination.

#### SECTION IX. Other Appeals

All decisions and determinations made by the Zoning Administrator in the enforcement of Sections II (Definitions), XII (Location Restrictions) and XXIII (Non Conforming Use), of this Ordinance may be appealed to the Blair Township Zoning Board of Appeals, which shall have the power to hear and decide appeals from decisions and determinations of the Zoning Administrator and to hear appeals for the interpretation of those provisions of this Ordinance.

#### SECTION X. Inspection

The Township may regularly inspect the premises of the sexually oriented business in order to ensure compliance with the provisions of this ordinance. An applicant or permittee shall permit the Township Zoning Administrator or representatives of the Township Code Enforcement Office, County Sheriff's Department and/or Health Department to inspect the premises at any time the establishment is open for business in order to determine compliance with the requirements of this ordinance and other applicable township, county, and state ordinances and statutes. Such inspection shall include visual assessment of the activities conducted in areas to which patrons have access or are allowed access and requests for identification of those individuals who reasonably appear to be under the age of 18. (Amendment 08/14/07)

SECTION XI. Transfer of Permit

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

SECTION XII. Location Restrictions

Sexually oriented businesses shall be permitted in the (CM) Commercial Manufacturing zoning district provided that:

(A) the sexually oriented business may not be operated within:

1. 750 feet of a church, synagogue, mosque, temple, regular place of worship, and for the purpose of this section a “church,” “synagogue,” “mosque,” or “temple” means an entire house or structure set apart primarily for use for purposes of public worship and related religious activities, and which is tax exempt under the laws of this state, and in which religious services are held and with which a clergyman is associated, and the entire structure of which is kept for that use and not put to any other use inconsistent with that use;

2. 750 feet of a public or private educational facility including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education school, junior colleges, and universities; school includes the school ground, but does not include the facilities used primarily for another purpose and only incidentally as a school;

3. 750 feet of a public park or recreational area which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, skating rink, pedestrian/bicycle paths, wilderness areas, or other similar public land within the township which is under the control, operation, or management of the township;

4. 750 feet of the property line of a lot zoned for residential use and devoted to a residential use as defined in the zoning ordinance; or

5. 1,500 feet of 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, or public or private elementary or secondary school, or to the nearest boundary of an affected public park, residential district, or 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 Pertaining to Adult Cabarets and Adult Entertainment

## Establishments

(A) A person who operates or causes to be operated an Adult Cabaret or Adult Entertainment Establishment, shall comply with the following requirements:

1. Upon application for a sexually oriented business permit, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures (indicating the type of illumination intensity of each such fixture) and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty (30) square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. 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.

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 Township Zoning Administrator.

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

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

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

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

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

9. The premises shall contain a dressing room for performers with direct access between the dressing area and the performance area or stage so that the performer may enter the performance area or stage without entering the area from which patrons will view the performance. The dressing area for performers must be separate and not freely accessible from areas of the business accessible to patrons, and the dressing area must contain hot and cold running water and

toilet facilities.

10. There shall be no physical contact between any performer and any other performer or between any performer and any owner, independent contractor, employee, patron or other person during or for at least 15 minutes following such performance. "Physical contact" includes, but is not limited to, any contact in which any part of the body or clothing of one person touches any part of the body or clothing of the other person or if a person causes anything under that persons direct control to touch any part of the body or clothing of another person.

11. The premises shall meet all barrier free requirements and building code requirements imposed by the County Building and Inspections Department.

12. Permittee shall provide sufficient fences or barriers or shall so patrol the boundaries of his business premises as to efficiently prevent his patrons from directly trespassing on neighboring premises.

#### SECTION XIV. 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 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) It is unlawful if 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 permit, 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 XV. Additional Regulations For Escort Agencies.

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

(B) A person commits an offense if the person acts as an escort or agrees to act as an escort for any person under the age of 18 years.

#### SECTION XVI. Additional Regulations For Nude Model Studios

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

(B) A person under the age of 18 years shall not appear semi-nude or in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this subsection if the person under 18 years was in a restroom not open to the public view or visible by any other person.

(C) A person shall not appear in a state of nudity, or with knowledge, allows another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right of way.

(D) 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.

#### SECTION XVII. Regulations Pertaining to Exhibition of Sexually Explicit Films and 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 business permit, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures 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 business 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.

2. The application shall be sworn to be true and correct by the applicant.

3. No alteration in the configuration or location of a manager's station may be made without the prior approval of the Zoning Administrator 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 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 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 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 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) of this section remains unobstructed at all times. No doors, walls, partitions, curtains, merchandise, display racks, or other object(s) shall obstruct from view of the manager's station any portion of the premises to which patrons have access. It shall be the duty of the operator, and it shall also be the duty of any agents and employees present in the premises, 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, as designated in the application filed pursuant to subsection (1) of this section.

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

8. It shall be the duty of the operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that the illumination described above is

maintained at all times that any patron is present in the premises.

9. No viewing room or booth may be occupied by more than one person at any time.

10. No opening of any kind shall exist between viewing rooms or booths.

11. It shall be the duty of the operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that no more than one person at a time occupies a viewing booths or rooms, and to ensure that no person attempts to make an opening of any kind between the viewing booths or rooms.

12. The operator of the sexually oriented business shall, each business day, inspect the walls between the viewing booths to determine if any openings or holes exist.

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

14. The operator 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.

#### SECTION XVIII. Exterior Portions of Sexually Oriented Businesses ; Hours of Operation

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

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

(C) Signs shall contain no lettering, photographs, silhouettes, drawings or pictorial representations of a sexually explicit manner, and may contain only the name of the enterprise.

(D) No sexually oriented business shall remain open at any time between the hours of 2:00 a.m. and 7:00 a.m. on weekdays and Saturdays, and 2:30 a.m. and noon (12:00 p.m.) on Sundays, nor shall any entertainment, service, or product be provided to a customer on the premises of a sexually oriented business during those hours.

#### SECTION XIX. Persons Younger Than Eighteen Prohibited From Entry; Attendant Required

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

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

1. A valid operator's, commercial operator's, or chauffeur's license; or

2. A valid personal identification certificate issued by the State of Michigan reflecting that such person is eighteen (18) years of age or older.

SECTION XX. Massages or Baths Administered by Person of Opposite Sex.

It shall be unlawful for any sexually oriented business, regardless of whether in a public or private facility, to operate as a massage salon, massage parlor or any similar type business where any physical contact with the recipient of such services is provided by a person of the opposite sex.

SECTION XXI. Exemption

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

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

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

(B) Notwithstanding any other provision in this ordinance, movies rated G, PG, PG-13, or R, by the Motion Picture Association of America (MPAA), or live theatrical performances with serious artistic, social, or political value, that depict or describe specified anatomical areas or specified sexual activities, are expressly exempted from regulation under this ordinance.

SECTION XXII. Notices

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

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

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

SECTION XXIII. Non-Conforming Uses

Any business lawfully operating on the effective date of this ordinance that is in violation of the location or structural configuration requirements of this ordinance shall be deemed a non-conforming use. Such non-conforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. If two or more sexually oriented businesses are within 1,500 feet of one another and otherwise in a permissible location, the sexually

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

A sexually oriented business lawfully operating as a conforming use is not rendered a non-conforming use by the location, subsequent to the grant of the sexually oriented business permit, of a church, synagogue, or regular place of religious worship, public or private elementary or secondary school, licensed day-care center, public park, residential district, within 750 feet of the sexually oriented business. This provision does not apply when an application for a permit is submitted after a permit has been revoked.

SECTION XXIV. Fees

The fee schedule for appeals under this Ordinance shall be the same as for appeals to the Zoning Board of Appeals under the Blair Township Zoning Ordinance.

SECTION XXV. Penalties and Fines

This section reserved for future use.

SECTION XXVI. Injunction

A person who operates or causes to be operated a sexually oriented business without a valid permit or otherwise violates this Ordinance shall be subject to a suit for injunctive relief and/or revocation of the sexually oriented business permit.

SECTION XXVII. Nuisance per se

Any violation of any provision of this Ordinance is hereby declared to be a public nuisance per se, and may be abated by order of any court of competent jurisdiction.

SECTION XXVIII. 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 XXIX. Conflicting Ordinances Repealed.

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

SECTION XXX. Effective Date

This Ordinance shall become effective one day after publication.