

Article 13

Sexually-Oriented Businesses

1300 Purpose

It is the purpose and intent of this Article to regulate sexually-oriented businesses for the welfare of the citizens of Jackson Township and to establish reasonable and uniform regulations to prevent any deleterious location and concentration of sexually-oriented businesses within the Township, thereby, reducing or eliminating any adverse secondary effects, as defined, but not limited to, Ohio Revised Code Sections 503.51 and 503.52 from such businesses. The provisions of this Article have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative material, including sexually-oriented materials. It is not the intent, nor effect of this Article 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 the Article to condone or legitimize the distribution of obscene material.

1301 Classification of sexually-oriented businesses

Sexually-oriented businesses are classified and include the following:

- A. Adult arcade.
- B. Adult bookstore, adult novelty store or adult video store.
- C. Adult cabaret.
- D. Adult motel
- E. Adult motion picture theater.
- F. Adult theater.
- G. Massage parlor.
- H. Sexual encounter establishment.
- I. Escort agency.
- J. Nude model studio.

1302 Location restrictions and requirements for sexually-oriented businesses

The sexually-oriented businesses shall be permitted only in Industrial (I) Districts. In addition, any sexually-oriented businesses shall be subject to the following restrictions.

- A. No sexually-oriented business shall be operated within one thousand (1,000) feet of the property line of:
 - 1. Any religious place of worship.
 - 2. Any school, boys club, girls club, dance/gymnastics studio or similar existing youth organization.
 - 3. A public park.
 - 4. Any property zoned for residential purposes.
- B. No sexually-oriented business shall be operated within one thousand (1,000) feet of the property line of another such business, which will include any adult arcade, adult bookstore, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, massage parlor or any sexual encounter establishment.
- C. No more than one (1) sexually-oriented business shall be operated, established, or maintained within the same building, structure, or portion thereof, as another sexually-oriented business.
- D. Nothing in this Article shall prohibit a person appearing in a state of nudity for a modeling class operated:
 - 1. By a proprietary school, licensed by the State of Ohio, a college, junior college or university supported entirely or partly by taxation.
 - 2. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.
 - 3. In a structure which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing, where to participate in a class a student must enroll at least three (3) days in advance of the class and where no more than one (1) nude model is on the premises at any one time.

1303 Measurement of distance

Regarding Sections 1301 and 1302, distances between any two (2) sexually-oriented businesses shall be measured in a straight line, without regard to intervening structures, from the property line of each business. The distance between any sexually-oriented business and any religious place of worship, public or private elementary or secondary school, boys club, girls club or similar existing youth organization, public park or any properties zoned for residential use shall also be measured in a straight line, without regard to intervening structures or objects from the property line where the sexually-oriented business is conducted, to the nearest property line of the premises of a religious institution, public or private elementary or secondary school, boys club, girls club, or similar existing youth organization, public park or any properties zoned for residential use.

1304 Application requirements

The completed application shall contain the following information and shall be accompanied by the appropriate documents, including a map drawn to a sufficient scale and marked to indicate all land uses within one thousand (1,000) feet of the property to be certified and the property lines of any residential use zoned area within one thousand (1,000) 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.

1305 Advertising and lighting

- A. No sign, advertisement, promotional material or display of any type shall be visible to the public from pedestrian sidewalks or walkways, public or semi-public areas nor the public right of way of any street or roadway except as permitted under paragraph B of this Section.
- B. No displays or exhibits of materials and/or performances at such sexually-oriented businesses shall be allowed in advertising which is visible outside the premises. This prohibition shall not extend to advertising of the existence or location of such sexually-oriented businesses. The business shall not allow any portion of the interior premises to be visible from outside the premises.
- C. Lighting (See Article 10, Section 1040 for lighting requirements.)
- D. Nothing contained in this section of the Article shall relieve the operator (s) of the sexually-oriented business from complying with other requirements of this Resolution as it may be amended.

1306 Definitions

For the purpose of this Article, certain terms and words are defined as follows:

- A. Sexually-Oriented Businesses are those businesses defined as follows:
 - 1. Adult arcade means an establishment where, for any form of consideration, one (1) or more still or motion picture projectors, slide projectors or similar machines, or other image producing machines, for viewing by five (5) or fewer people each, are regularly used to show 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 area.
 - 2. Adult bookstore, adult novelty store, or adult video store means a commercial establishment which 50 percent or more of its stock-in-trade or derives 50 percent or more of its revenues or 50 percent or more of its interior business or advertising to the sale, or rental, for any form of consideration, of any one (1) or more of the following:

- a. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides or other visual representations which are characterized by the depiction of specified sexual activities or specified anatomical areas.
 - b. Instruments, devices or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others.
 - c. An establishment may have other principal business purposes that do not involve the offering for sale, rental or viewing of materials depicting or describing specified sexual activities or specified anatomical areas, and still be categorized as an adult bookstore, adult novelty store or adult video store, so long as one of its principal business purposes is offering for sale or rental, for some form of consideration, the specified materials which depict or describe specified anatomical areas or specified sexual activities.
3. Adult cabaret means a night club, bar, restaurant bottle club, or similar commercial establishment, whether or not alcoholic beverages are served, in which people appear in a state of nudity in the performance of their duties.
4. Adult motel means a motel, hotel or similar commercial establishment which:
- a. Offers public accommodations for any form of consideration, which provides patrons with closed-circuit television transmissions, 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 and which advertises the availability of this sexually-oriented type of material by means of a sign visible from the public right of way, or by means of any off-premises advertising including, but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television.
 - b. Offers a sleeping room for rent for a period of time less than ten (10) hours.
 - c. Allows a tenant or occupant to sub-rent the sleeping room for a time period of less than ten (10) hours.
5. Adult motion picture theater means a commercial establishment where films, motion pictures, video cassettes, slides or similar photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas are regularly shown.
6. Adult theater means a theater, concert hall, auditorium, or similar commercial establishment which, for any form of consideration, regularly

features people who appear in a state of nudity or live performances which are characterized by exposure of specified anatomical areas or by specified sexual activities.

7. Escort means a person, who for any form of 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 strip tease for another person.
8. 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.
9. Massage parlor means any place where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentation, electric or magnetic treatments, or any other treatment manipulation of the human body which occurs as a part of or in connection with specified sexual activities, or where any person providing such treatment, manipulation, or service related thereto, exposes his or her specified anatomical areas. The definition of sexually-oriented businesses shall not include the practice of massage in any licensed hospital nor by a licensed chiropractor or osteopath nor by any nurse or technician working under the supervision of a licensed physician, surgeon, chiropractor or osteopath; nor by trainers for any amateur, semi professional or professional athlete, or athletic team or school athletic program.
10. Nude model studio means any place where a person, who regularly appears in a state of nudity or, displays specified anatomical areas, is provided money, or any form of consideration, to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other people.
11. Sexual encounter establishment means a business or commercial establishment, that as one of its primary business purposes, offers for any form of consideration, a place where two (2) or more persons may congregate, associate, or consort for the purpose of specified sexual activities or the exposure of specified anatomical areas or activities when one (1) or more of the people is in a state of nudity or semi nudity. The definition of sexually-oriented businesses shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.

B. Nudity or state of nudity means the showing of either of the following:

1. The human male or female genitals, pubic area, or buttocks with less than a fully opaque covering.
2. The female breast with less than a fully opaque covering on any part of the nipple.

- C. Operator means and includes the owner, permit holder, custodian, manager, operator or person in charge of any permitted or licensed premises.
- D. Permitted or licensed premises means any premises that requires a license and/or permit and that is classified as a sexually-oriented business.
- E. Person means an individual, proprietorship, partnership, corporation, association, or other legal entity.
- F. Public park or recreation area means public land which has been designed for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, open space, wilderness areas or similar public land within the Township which is under the control, operation, or management of the Township Board of Trustees, the County Commissioners or other public agency or entity.
- G. Religious place of worship means any church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities.
- H. Residential District means any District designated "A", "R1" or "R2" in the Jackson Township Zoning Resolution.
- I. School means any public or private educational facility including but not limited to child day care facilities, nursery schools, preschools, ballet or gymnastics academics or facilities, kindergartens, elementary schools, primary schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation school, special education schools, junior colleges and universities. School includes the school grounds, but does not include the facilities used primarily for another purpose and only incidentally as a school.
- J. Semi-nude means a state of dress in which clothing covers no more than the genitals, pubic region and areolae of the female breast as well as portions of the body covered by supporting straps or devices.
- K. Sexually-oriented business means an adult arcade, adult bookstore, adult novelty shop, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, massage parlor, sexual encounter establishment, escort agency or nude model studio.
 - 1. Specified anatomical areas means and includes any of the following:
Less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breast below a point immediately above the top of the areole.
 - 2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

- L. Specified sexual activities means and includes any of the following:
1. The fondling or other intentional touching of human genitals, pubic region, buttocks, anus or female breasts.
 2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy.
 3. Masturbation, actual or simulated.
 4. Human genitals in a state of sexual stimulation, arousal or tumescence.
 5. Excretory functions as part of or in connection with any of the activities set forth in subdivisions 1 through 4 of this Subsection.