

ORLEANS TOWNSHIP ORDINANCE NO. 57

AN ORDINANCE TO REQUIRE LICENSING OF
SEXUALLY ORIENTED BUSINESSES, TO PROVIDE
REGULATIONS FOR THE OPERATION OF SUCH
BUSINESSES, AND TO PROVIDE PENALTIES FOR THE
VIOLATION HEREOF

Introduction.

WHEREAS, sexually oriented businesses are frequently used for unlawful and unhealthy 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 of Orleans (the "Township") which demands reasonable regulation of sexually oriented businesses in order to protect the health and well-being of persons patronizing sexually oriented businesses; 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, thereby contributing to urban blight and downgrading the quality of life in the adjacent area; and

WHEREAS, the Township Board desires to minimize and control the adverse effects of sexually oriented businesses and thereby protect the health, safety and welfare of the residents of the Township; preserve the quality of life, preserve the property values and

character of surrounding neighborhoods; deter the spread of urban blight and protect the residents of the Township from increased crime; and

WHEREAS, sexually oriented businesses typically attract clientele from a broad regional area; 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, but to enact a content-neutral ordinance which 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 Township Board to condone or legitimize the distribution of obscene material, and the Township Board recognizes that state and federal law prohibits the distribution of obscene materials and expects and encourages state and federal law enforcement officials to enforce state and federal obscenity statutes against any such illegal activities in the Township; and

WHEREAS, in determining whether to require licensing and promulgate regulations for the operation of sexually oriented businesses, the Township reviewed and considered reports and studies made and conducted by other communities to determine that sexually oriented businesses result in negative secondary effects when such businesses occupy a neighborhood or community.

Legislative Findings.

Based on evidence concerning the adverse secondary effects of adult uses on the community presented in reports made available to the Township Board, and on findings incorporated in the U.S. Supreme Court cases of *City of Renton v Playtime Theaters, Inc.*, 475 U.S. 41 (1986); *Young v American Mini Theaters*, 426 U.S. 50 (1976); *Barnes v Glen Theater, Inc.*, 501 U.S. 560 (1991); and *City of Erie v Pap's AM*, 529 U.S. 227 (2000); as well as numerous U.S. Court of Appeals and District Court cases in addition to studies conducted in other cities including, but not limited to, Phoenix, Arizona; St. Paul, Minnesota; Indianapolis, Indiana; Amarillo, Texas; Los Angeles, California; St. Croix County, Wisconsin; Austin, Texas; Seattle, Washington; and New York, New York; 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), and statistics obtained from the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, and the Michigan Department of Community Health, the Township Board finds that:

- (1) 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.
- (2) Crime statistics show that all types of crimes, especially sex-related crimes, occur with more frequency in neighborhoods where sexually oriented businesses are located. *See, e.g.*, Studies of the cities of Phoenix, Arizona; Indianapolis, Indiana; and Austin, Texas.

- (3) 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. *See, e.g., California v LaRue*, 409 U.S. 109, 111 (1972); *See also* Final Report of the Attorney General's Commission on Pornography (1986) at 377.
- (4) Offering and providing such booths and/or cubicles encourages such activities, which creates unhealthy conditions. *See, e.g.,* Final Report of the Attorney General's Commission on Pornography (1986) at 376-77.
- (5) 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. *See, e.g., Arcara v Cloud Books, Inc.*, 478 U.S. 697, 698 (1986); *see also* Final Report of the Attorney General's Commission on Pornography (1986) at 376-77.
- (6) 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. *See, e.g.,* Study of Fort Meyers, Florida.
- (7) At the end of 1999, the total number of reported cases of AIDS in the United States caused by the human immunodeficiency virus (HIV) was 733,374. *See, e.g.,* Statistics of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.
- (8) As of July 1, 2000, it is estimated that there are 13,000 cases of AIDS in the State of Michigan and Michigan ranks 17th among all states in total HIV/AIDS cases reported. *See, e.g.,* Quarterly HIV/AIDS Analysis, Bureau of Epidemiology, Michigan Department of Community Health (1998).
- (9) Since 1981 and to the present, there has been an increasing cumulative number of persons testing positive for the HIV antibody test in Michigan.
- (10) The total number of cases of early (less than one year) syphilis in the United States reported during the ten year period 1985-1995 was 367,796. *See, e.g.,* Statistics of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.

- (11) The number of cases of gonorrhea in the United States reported annually remains at a high level, with a total of 1,911,525 cases reported during the period 1993-1997. *See, e.g.* Statistics of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.
- (12) The surgeon general of the United States in his report of October 22, 1986, advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug use, exposure to infected blood and blood components, and from an infected mother to her newborn.
- (13) According to the best scientific evidence available, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts. *See, e.g.* Findings of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.
- (14) 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 the operators of the facilities to self-regulate those activities and maintain those facilities. *See, e.g.*, Final Report of the Attorney General's Commission on Pornography (1986) at 377.
- (15) 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. *See, e.g.*, Final Report of the Attorney General's Commission on Pornography (1986) at 377.
- (16) Nude dancing in adult establishments encourages prostitution, increases sexual assaults, and attracts other criminal activity. *See, e.g.*, *Barnes v Glen Theatre*, 501 U.S. 560, 583 (1991).
- (17) Nude dancing in adult establishments increases the likelihood of drug dealing and drug use. *See, e.g.*, *Kev, Inc. v Kitsap County*, 793 F.2d 1053, 1056 (9th Cir.1986).
- (18) The findings noted in paragraphs numbered (1) through (17) raise substantial governmental concerns.

- (19) Sexually oriented businesses have operational characteristics that should be reasonably regulated in order to protect those substantial governmental concerns.
- (20) The general welfare, health, morals, and safety of the citizens of this Township will be promoted by the enactment of this Ordinance.

THE TOWNSHIP OF ORLEANS, IONIA COUNTY, MICHIGAN ORDAINS:

Section 1. Purpose. The purpose and intent of this Ordinance is to license and regulate sexually oriented businesses in order to protect and promote the public health, safety and welfare.

Section 2. Definitions. These definitions shall apply in the interpretation and enforcement of this Ordinance unless otherwise specifically stated:

- (a) "Adult arcade" means any place to which the public is permitted or invited wherein coin operated or slug-operated or electronically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depictions or describing of specified sexual activities or specified anatomical areas.
- (b) "Adult bookstore" means a commercial establishment that, as a principal business purpose, offers for sale or rental for any form of consideration any one or more of the items set out in subsection (1) or (2):
 - (1) Books, magazines, periodicals or other printed matter or photographs, films, motion picture, video cassettes or video reproduction, slides, or other visual representations or media 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.

The sale of such materials shall be deemed to constitute a principal business purpose of an establishment if it comprises forty percent (40%) or more of sales volume or occupies forty percent (40%) or more of the aggregate total display area within the establishment. For purposes of this Ordinance, "aggregate total display area" means the internal area of the establishment, including but not limited to walls, floor space, book shelves, counters, and display cases, that is used or available for use for the display of merchandise for sale. No merchandise or advertisements shall be displayed on or from the ceiling. "Aggregate total display area" does not include the following:

nonvisible inventory or nonpublic areas of the establishment which is used to store inventory or the area of the ceiling.

- (c) "Adult cabaret" means a nightclub, bar, restaurant, or similar commercial establishment that features films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.
- (d) "Adult motel" means a hotel, motel or similar commercial establishment that:
 - (1) Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television (as distinguished from commercial cable services) transmissions, films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of specified sexual activities or specified anatomical areas; and
 - (2) Offers a sleeping room for rent for a period of time that is less than twelve (12) hours; or
 - (3) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than twelve (12) hours.
- (e) "Adult motion picture theater" means a commercial establishment, which for any form of consideration, regularly or primarily shows films, motion pictures, video cassettes, slides, other photographic reproductions or visual media, that are characterized by the depiction or description of specified sexual activities or specified anatomical areas. This definition includes commercial establishments that offer individual viewing booths.
- (f) "Adult theater" means a theater, concert hall, auditorium, or similar commercial establishment that regularly features a person or persons in live performances that are characterized by exposure of specified anatomical areas or specified sexual activities.
- (g) "Escort" means a person who, for a fee, tip or other form of consideration and regardless of who pays that consideration, agrees to act or offers to act as a

companion or date for another person, or who agrees or offers to privately model lingerie or to privately perform a strip tease for another person.

- (h) "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.
- (i) "Nude model studio" means any place where a person who displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration, but does not include the following:
 - (1) An educational institution funded, chartered or recognized by the State of Michigan; or
 - (2) Any modeling session for a local, non-profit organization, that is not open to the public or to any persons other than members of the organization, that is for the purpose of instruction in the artistic depiction in two dimensional or three dimensional media of the human form, during which no specified sexual activities occur and during which the model remains in a fixed pose.
- (j) "Public nudity or state of nudity" means knowingly or intentionally displaying in a public place, or in any other place for payment or promise of payment by any person including, but not limited to, payment or promise of payment of an admission fee, any individual's genitals or anus with less than a fully opaque covering, or a female individual's breast with less than a fully opaque covering of the nipple and areola. Public nudity does not include any of the following:
 - (1) A woman's breastfeeding of an infant shall not under any circumstances constitute public nudity irrespective of whether the nipple is covered during or incidental to the feeding.
 - (2) "Material" defined in section 2 of Act No. 343 of the Public Acts of Michigan of 1984, being section 752.362 of the Michigan Compiled Laws.

- (3) "Sexually explicit visual material" as defined in section 3 of Act No. 33 of the Public Acts of 1978, being section 722.673 of the Michigan Compiled Laws.
- (4) Any display of any part of the anatomy occurring as part of the regular curriculum of an educational institution that is funded, chartered, or recognized by the State of Michigan.
- (k) "Sexual encounter center" means a business or commercial enterprise, except that which is part of the practice of and under the supervision and control of a physician, psychologist or psychiatrist licensed to practice in Michigan that, as one of its principal business purposes, offers for any form of consideration:
 - (1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
 - (2) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity.
- (l) "Sexually oriented business" means a business or commercial enterprise engaging in any of the following businesses: (1) adult arcade; (2) adult bookstore; (3) adult cabaret; (4) adult motel; (5) adult motion picture theater; (6) adult theater; (7) escort agency; (8) nude model studio; and (9) sexual encounter center.
- (m) "Specified anatomical areas" are defined as the following:
 - (1) Less than completely and opaquely covered human genitals, anus and female breasts at or below the top of the areola; and
 - (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- (n) "Specified sexual activities" includes any of the following:
 - (1) The fondling or any other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;

- (2) Sex acts, actual or simulated, including intercourse, oral copulation or sodomy; or
- (3) Masturbation, actual or simulated; or
- (4) Excretory functions as part of or in connection with any of activities set forth in (1), (2), or (3) above.

Section 3. License Required. Prior to opening, operating, or relocating a sexually oriented business, the owner, operator, or manager of such a business shall apply for and obtain a sexually oriented business license in accordance with the Ordinance.

Section 4. Application; Contents; Fee. Any person desiring to obtain a license to operate a sexually oriented business shall file an application with the Township Clerk and a nonrefundable application fee in the amount established by resolution of the Township Board. The application shall be signed and sworn to by the applicant and shall contain the following information:

- (a) The full name and present address of the applicant(s).
- (b) The two (2) previous addresses immediately prior to the present address of the applicant(s) and the dates of residence.
- (c) A description of service to be provided and materials to be offered for rent or sale.
- (d) The location and mailing address of the sexually oriented business.
- (e) The names to written proof of age of all present employees (including, but not limited to, managers and supervisors on the sexually oriented businesses). Written proof of age may be in the form of either:
 - (1) a copy of a birth certificate and current photo;
 - (2) current driver's license w/picture; or
 - (3) other picture identification document issued by a governmental agency.

- (f) If the applicant is a corporation, the names and current addresses of:
 - (1) Each of the officers and directors of the corporation;
 - (2) Each stockholder owning more than twenty (20) percent of the corporation; and
 - (3) The individual(s) responsible in whole or in part for the management and operation of the sexually oriented business.
- (g) If the applicant is a partnership or other business entity, the names and current addresses of:
 - (1) Each of the partners (including limited partners) or each of the principals in the business; and
 - (2) The individual(s) responsible for the management and operation of the sexually oriented business.
- (h) If the applicant is an individual or a group of individuals, the following shall be required with respect to each individual applicant:
 - (1) Height, weight, sex, color of eyes, and hair;
 - (2) Business, occupation, or employment for the three (3) years immediately preceding the application;
 - (3) All criminal convictions other than minor traffic violations and the reasons therefor;
 - (4) Written proof (birth certificate or sworn affidavits) that the individual is at least eighteen (18) years of age.
- (i) If the applicant is a corporation, partnership, or other business entity, the following shall be required with respect to each individual responsible in whole or in part for the management and operation of the sexually oriented business:
 - (1) Height, weight, sex, color of eyes, and hair;

- (2) Business, occupation, or employment for the three (3) years immediately preceding the application;
 - (3) All criminal convictions other than minor traffic violations and the reasons therefor;
 - (4) Written proof (birth certificate or sworn affidavits) that the individual is at least eighteen (18) years of age.
- (j) One (1) portrait photograph of at least two (2) inches by two (2) inches which shall be taken by the Ionia County Sheriff's Department, and the results of a criminal history records investigation of the applicant completed within thirty (30) days immediately prior to the date of the filing of the application which shall include all criminal history information on file at the state police central records division pertaining to the applicant. (The applicant shall provide his or her fingerprints to the Sheriff's Department for the purpose of obtaining such criminal history information.) In the event that the applicant is a corporation, partnership, or other business entity, the applicant shall submit the required photograph and results of a criminal history records investigation of the individual(s) responsible for the management and operation of the sexually oriented business.
- (k) The history of the applicant in the operation of the sexually oriented business or similar business or occupation, including, but not limited to, whether or not such applicant, in previously operating in the Township or in another jurisdiction, has had a sexually oriented business license revoked or suspended and the reason therefor, and the business activity or occupation subsequent to such action or suspension.
- (l) Such other identification and information bearing on the application as the Township may reasonably require.

Section 5. Procedures; Issuance.

(a) *Generally.* An applicant for a sexually oriented business license shall present to the Township Clerk the complete application containing all the information, materials, and documentation described in Section 4 of the Ordinance. Applications which are not

completely or correctly filled out, or not accompanied by the appropriate information, materials, documentation, and application fee shall be rejected as incomplete by the Township Supervisor and shall be returned to the applicant. All complete applications shall be reviewed in accordance with the following procedure:

(1) The Township Clerk shall forward a copy of the completed application to the Township's Supervisor for review in accordance with this section. The Supervisor, shall review the application, conduct any inquiries or inspections, and make findings to determine whether the application and the proposed premises comply with the requirements of this Ordinance or any other provisions of the Township's ordinances.

a. The Supervisor shall review the application to determine whether the applicant, any individual in the management of the corporation, partnership, or other business entity operating the sexually oriented business or any employee has been convicted of any criminal offenses other than minor traffic offenses, has violated any provision of this article or has had a sexually oriented business license or similar license denied or revoked by the Township or by any another governmental body and the reasons therefor.

(2) The Township Supervisor, after conducting the review required in 5(a)(1) above, , shall approve a license to the sexually oriented business. The determination of Township Supervisor shall be made within fifteen (15) calendar days after receipt of the complete application by the Township Clerk. If approved, the Township Clerk shall issue the sexually oriented business license upon payment of a license fee in an amount established by resolution of the Township Board. The license shall be approved unless the Township Supervisor finds any of the following:

a. Failure of the applicant, the premises, or the sexually oriented business to comply with this Ordinance, , or any other provision of the Township's ordinances.

b. Prior criminal convictions, other than minor traffic offenses of the applicant, any individual in the management of any corporation, partnership, or other business entity operating the sexually oriented business, or of any employee of the sexually oriented business or prior denial or revocation of a sexually

oriented business license or similar license by the Township or another governmental body, when such criminal conviction or license denial or revocation bears on the ability of the sexually oriented business to operate in an honest, healthful, and lawful manner.

- c. Misrepresentation of any material fact in the application for the license.
- d. Violations of this Ordinance by the applicant, any individual in the management of the corporation, partnership, or other business entity operating the sexually oriented business, any manager, supervisor, or employee of the sexually oriented business.

(b) *Written findings of fact in support of denial: appeal.* In the event that a sexually oriented business license is denied, the Township Supervisor shall make written findings of fact in support of the denial based on the standards described above and shall notify the applicant of the denial in writing by certified mail. The applicant may appeal such denial to the Township Board by filing a written request for an appeal with the Township Supervisor within five (5) calendar days following receipt of notification of the denial. In the event of an appeal, the Township Board shall hold a public hearing on the denial within (thirty (30) calendar days of the receipt of the written request for an appeal. The Township Board shall have the power to reverse, affirm, or modify the decision of the Township Supervisor and the Township Board shall render a decision on the appeal within five (5) calendar days of hearing the appeal. The Township Board shall, in its determination, make findings of fact supporting its decision and the reasons shall be based upon the standards described in Section 5 above. The determination of the Township Board shall be final. Any person aggrieved by the decision of the Township Board may promptly appeal such decision to a court of competent jurisdiction in accordance with the Michigan Constitution and applicable state law.

Section 6. Display of License.

(a) Every person, association, firm, or corporation to whom or for which a license for a sexually oriented business has been granted shall display the license in a conspicuous place so that it may be readily seen by persons entering the premises.

(b) The sexually oriented business shall make its license available to the Sheriff's Department or to the Township Supervisor during normal business hours.

Section 7. Change of Ownership; Change or Expansion of Location. A license for a sexually oriented business shall not be transferable to a new or different owner or to a new location. Each sexually oriented business located within the Township shall be separately licensed regardless of whether such businesses are owned or operated by the same person or entity.

Section 8. General Requirements. All sexually oriented businesses shall comply with the following:

(a) Obtain and maintain a valid license to operate a sexually oriented business issued in accordance with this Ordinance.

(b) No person under the age of 18 shall enter or be on the premises of a sexually oriented business at any time the sexually oriented business is open.

(c) No person under the age of 18 shall be employed, contracted or engaged to provide any services within, for or on behalf of a sexually oriented business.

(d) No owner, partner, performer, contractor or employee of a sexually oriented business shall sell or provide goods, merchandise or services to persons under the age of 18 on the premises.

(e) Any sexually oriented business offering live entertainment shall comply with all of the following:

1. A dressing room for performers with direct access between said dressing area and the performance area or stage shall be provided, such that the performer may enter the performance area or stage without entering the area from which patrons will view the performance;

2. The access, performance area, or stage and dressing room shall be handicapped accessible to the extent required by the American With Disabilities Act, as amended from time-to-time, the Elliott Larsen Civil Rights Act, as amended from time-to-time, and other similar statutes relating to accessibility for disadvantaged persons;

3. All performances shall occur on a stage elevated at least 18 inches above the immediate floor level and removed at least six feet from the nearest employee or patron;

4. The dressing area for performers be separate and not freely accessible from areas of the business accessible to patrons, and that the said dressing area contain hot and cold running water and toilet facilities; and

5. Prohibit public nudity in accordance with this Ordinance.

(f) All sexually oriented businesses shall be open to inspection by the Township's designated ordinance enforcement officer, any public safety officer, any sheriff's deputy and any Michigan State Police trooper for the purpose of ensuring compliance with the law at any time the establishment is occupied or open for business.

(g) 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 and there shall be no physical contact between any person on the stage or performance area and any owner, independent contractor, employee, patrol or other person during or for at least 15 minutes following any 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 his/her direct control to touch any part of the body or clothing of another person.

(h) The prohibitions of Section 8(b) and (g) shall be posted on signs placed in at least two conspicuous (*i.e.*, so they will be easily viewed by persons occupying the premises) places on the business premises. Such signs shall be at least 24 inches by 36 inches in size and be printed in bold fact type at least 24 points in size.

(i) The exterior of the business premises shall not have any words, lettering, photographs, silhouettes, drawings, or pictorial representations of a sexually explicit manner or sexually explicit material.

(j) No sexually oriented business may be established, operated or maintained within 1500 feet of a residential dwelling, church, state licensed day care facility, public library, public park, public treatment facility, elementary school, middle school or high school.

(k) No sexually oriented business may be established, operated or maintained within 1500 feet of any other sexually oriented business.

(l) The merchandise or activities within the business premises shall not be visible from a point that is outside of the business premises.

Section 9. Annual License. Licenses for a sexually oriented business shall be annual licenses and shall be valid only from the date of issuance to the following December 31 (unless earlier revoked). In the event that a licensee wishes to obtain a license for an ensuing year, such licensee shall file its completed application in accordance with Sections 4 and 5 of this Ordinance, at least 60 days before the expiration of the current license. The Township shall review the license renewal application in accordance with Section 5 of this Ordinance. Any revocation of an existing license for violation of this Ordinance shall be subject to the appeal procedures set forth in Section 5(b) of this Ordinance relating to the denial of a license.

Section 10. Prohibited Conduct.

(a) Except as otherwise provided by this Ordinance, no person within a sexually oriented business shall display to the view of any other person specified anatomical areas, or dance, entertain, display or otherwise engage in any exhibition or performance in such a manner as to expose to the view of any person any device, costume or covering which give the appearance of or simulates any specified anatomical areas.

(b) No person shall engage in any specified sexual activities on the premises of a sexually oriented business or any other commercial establishment.

(c) No employees or patrons of a sexually oriented business shall promote, offer, solicit, allow or engage in acts of prostitution on the premises. For the acts described in this subsection, no criminal charges need be brought for the suspension or revocation of the license to occur. The acts may be shown to have occurred by a preponderance of the evidence.

Section 11. Violations. A violation of any provision of this ordinance or this section is a misdemeanor punishable by a fine not to exceed Five Hundred Dollars (\$500) (plus costs of prosecution) or by imprisonment not to exceed ninety (90) days, or by both a fine and imprisonment. Each day on which a violation continues constitutes a separate offense. Violations of this Ordinance include the following:

- (a) Permitting, allowing, encouraging or promoting any violation of any provision of this Ordinance, including any owner, manager, employee, patron, customer, office, partner or other person shall be a misdemeanor punishable in accordance with this Ordinance.
- (b) Aiding, assisting or abetting the violation of any provision of this Ordinance shall also constitute a misdemeanor punishable in accordance with this Section.
- (c) Any violation of this Ordinance may result in the suspension and/or revocation of a license to operate a sexually oriented business.

Section 12. Additional Remedies. In addition to the remedies and penalties otherwise provided in this Ordinance, the Township shall be entitled to seek and obtain temporary and permanent equitable relief, enjoin violations of this Ordinance, and seek all other remedies as provided by law.

Section 13. Severability. The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

Section 14. Effective Date. This Ordinance shall be effective thirty (30) days after publication.

Moved by John Heppe, seconded by Linda Patrick, that the foregoing Ordinance be adopted.

YEAS: Frederick Chapman, Joyce E. Doty, Joel Noe, John Heppe and Linda Patrick

NAYS: None

UNANIMOUS: Yes

ABSENT/ABSTAIN: None

ORDINANCE DECLARED ADOPTED.

Frederick A. Chapman

Frederick A. Chapman
Township Supervisor

Joyce E. Doty

Joyce Doty
Township Clerk

CERTIFICATION

I hereby certify that the foregoing Ordinance was adopted by the Orleans Township Board in a regular session held on August 7, 2001, and that it was published in the Sentinel-Standard on August 21, 2001.

Joyce Doty

Joyce Doty
Township Clerk