

**MILAN TOWNSHIP ADULT ENTERTAINMENT ORDINANCE**

(ORD. NO. 6, EFE. #20) 96

THE TOWNSHIP OF MILAN ORDAINS:

**Section 1. Legislative Findings and Intent.**

The Township Board of Milan Township recognizes and concludes that the activity of "adult entertainment," as that term is more particularly described in Section 3 of this Ordinance, is an activity which, because of its very nature, is recognized as having serious objectionable operational characteristics, particularly when several such activities are concentrated under certain circumstances thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of property values of the surrounding neighborhood. Accordingly, it is the intent and purpose of the Milan Township Board to adopt reasonable regulations for adult entertainment uses in the Township, so as to minimize the adverse effects caused by this activity on the public health, safety and welfare of persons and property within the Township. Further, the purpose of the locational requirements of this Ordinance is to prevent crime, protect and preserve the quality of life in the Township's retail trade, maintain property values, protect and preserve the quality of life in the Township, preserve areas frequented by children from increased criminal activity and increased blight or other neighborhood deterioration, and prevent the blighting, downgrading and deterioration of residential neighborhoods in the commercial districts.

**Section 2. Short Title.**

This Ordinance shall be known and may be cited and referred to as the Milan Township Adult Entertainment Ordinance and shall hereinafter be referred to as this "Ordinance".

**Section 3. Definitions.**

(a) Adult Book Store: A use which has a display containing books, magazines, periodicals, newspapers, slides, pictures, cassettes, videotapes, videodisks, motion picture films or other printed, recorded or electronic material which has as a significant portion of its content or exhibit matter or actions depicting, describing, or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" or an establishment with a substantial segment or section devoted to the sale or display of such material. Retail establishments which display, sell, distribute, provide or rent such material within an enclosed area not greater than five (5) percent of the total usable retail space, which is strictly limited to persons eighteen (18) years of age or older, shall not be included in this

definition. "Usable Retail Space" is defined as that area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients or customers. The portion of the floor area which is used or intended to be used principally for the storage or processing of merchandise, hallways, or for utilities or sanitary facilities, shall be excluded from the computation of "Usable Retail Space".

(b) Adult Cabaret: A nightclub, theater, or other establishment which features live performances by one or more topless and/or bottomless dancers, "go-go" dancers dances, exotic dancers, strippers, or similar entertainers, wait staff or other persons, where a significant portion of such performances show, depict or describe "Specified Sexual Activities" or "Specified Anatomical Areas."

(c) Adult Entertainment: Any use of land, whether vacant or combined with structures or vehicles thereon, by which said property is devoted to displaying or exhibiting material for entertainment, a significant portion of which includes matter or actions depicting, describing or presenting "Specified Sexual Activities" or "Specified Anatomical Areas."

(d) Adult Motion Picture Theater: An enclosed building with a capacity of fifty (50) or more persons used for presenting motion picture films, videotapes or cassettes, cable television or other visual display depicting or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" for observation by patrons therein.

(e) Adult Novelty Business: Any establishment which offers for sale devices which simulate human genitals or devices designed for sexual stimulation.

(f) Adult Personal Service Establishment: Any business, agency or service which arranges, solicits or provides for the benefit of its customers or clients, escorts, dates, models, unlicensed therapists, companions or entertainers, either on or off the premises, for the purpose of engaging in "specified sexual activities" or "specified acts of violence", or displaying "specified anatomical areas" as defined herein. These establishments include, but are not limited to: escort services, exotic rubs, modeling studios, tattoo parlors, body painting studios, wrestling studios, baths and theatrical performances.

(g) Establishment: Any business or enterprise which utilizes any buildings, structures, premises, parcel, place or area.



(h) Restricted Adult Business: Any of the defined Adult entertainment uses, which are not customarily open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age.

(i) Specified Anatomical Areas:

- (i) Less than completely and opaquely covered: a) human genitals, pubic region, b) buttock, and c) female breast below a point immediately above the top of the areola; and
- (ii) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(j) Specified Sexual Activities:

- (i) Human genitals in a state of sexual stimulation or arousal;
- (ii) Acts of human masturbation, sexual intercourse or sodomy;
- (iii) Fondling or other erotic touching of human genital, pubic region, buttock or female breast;
- (iv) Acts defined as bestiality.

(k) Adult Mini-Motion Picture Theater: An enclosed building with a capacity for less than (50) fifty persons used for presenting motion picture films, video cassettes or tapes, cable television or other visual display depicting, describing or presenting "Specified Sexual Activities" or "Specified Anatomical Areas."

(l) Adult Motion Picture Arcade: Any place to which the public is permitted or invited wherein coin or slug operated, or electronically or mechanically controlled still or motion picture machines, projectors, video machines or other image producing devices are maintained to show images to (5) five or fewer persons per machine at any one time, and where a significant portion of images so displayed depict, described, or related to "Specified Sexual Activities" or "Specified Anatomical Areas."

(m) Adult Motel: A motel wherein matter, actions or other displays are presented which contain a significant portion depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas."

(n) Adult Model Studio: Any place where, for any form of consideration or gratuity, figure models who display "Specified Anatomical Areas" are provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons paying such considerations or

gratuities, except that this provision shall not apply to any bona fide art school or similar educational institution.

(o) Adult Physical Culture Establishment: Any establishment, club or business by whatever name designated, which provides, offers, advertises or is equipped or arranged so as to provide as part of its services, either on or off the premises, massage, body rubs, physical stimulation, baths, tattoos or other similar treatment by any person. The following uses shall not be included within the definition of an adult physical culture establishment:

- (i) Establishments which routinely provide such services by a licensed physician, a licensed chiropractor, a licensed osteopath, a licensed or certified physical or massage therapist, a licensed practical nurse or any other similar licensed medical professional;
- (ii) Electrolysis treatment by a licensed operator of electrolysis equipment;
- (iii) Continuing instruction in martial or performing arts or in organized athletic activities;
- (iv) Hospitals, nursing homes, medical clinics or medical offices; and,
- (v) Barber shops or beauty parlors, health spas and/or salons which offer massage to the scalp, face, feet, neck or shoulders only.

(p) Adult Sexual Encounter Center: Any business, agency or person who, for any form of consideration or gratuity, provides a place where three or more persons, not all members of the same family may congregate, assemble or associate for the purpose of engaging in "Specified Sexual Activities" or exposing "Specified Anatomical Areas."

(q) Specified Acts of Violence: The graphic depiction, whether real or simulated, of human or animal

- (i) Decapitation;
- (ii) Dismemberment;
- (iii) Physical Torture;
- (iv) Stabbing;
- (v) Shooting;
- (vi) Strangulation;
- (vii) Drowning;
- (viii) Electrocution;
- (ix) Aggravated assault, whether accomplished by human contact, instruments or weapons;
- (x) Rape;
- (xi) Disfigurement;
- (xii) Mutilation;
- (xiii) Burning and;
- (xiv) Disembowelment.

#### **Section 4. License Required.**

No Adult Entertainment Business shall be established, maintained or conducted in Milan Township by any person without the owner or operator first obtaining a license to operate such place from the Township Board. Any such license shall be valid only one year from the date of issuance.

#### **Section 5. Application.**

Every owner or operator as defined herein desiring to obtain a license as required by this Ordinance shall file a written application to the Township of Milan, together with an application fee of \$500.00 or as provided by resolution of the Township Board to defray the costs of administration of this Ordinance in the initial phase of licensing. The application shall be filed with the Township zoning official who shall be responsible for processing the application and forwarding the same to the Township Board. The application shall include the following information:

- (a) Name of owner and operator; if a partnership, names of all partners; if a firm, society, club or association; names of all officers and directors, if a corporation, the objects for which organized, the names and addresses of the officers and directors, and if more than 30% of the outstanding stock of such corporation is owned by one person or in joint ownership, then the name of such person(s);
- (b) Addresses of all listed as above;
- (c) The location and description of the premises or place where the Adult Entertainment Business will be located, and a description of the type of adult entertainment activity conducted on the premises;
- (d) The total square footage of floor space in the room or building in which the Adult Entertainment Business will be operated, along with a building and plot plans showing the entire structure and premises and in particular the specific areas where the license is to be utilized. The plans shall demonstrate adequate off-street parking, lighting, refuse disposal facilities, security arrangements for maintaining order, noise control and, where appropriate, adequate plans for screening;
- (e) Whether the owner or operator has at any time been convicted of a felony or offense involving moral turpitude, or has been convicted of any alcohol or narcotic violation or violation of any gambling laws or ordinances;



- (f) Whether or not any permit or license heretofore granted to applicant to engage in any similar business has been revoked or denied, and if so, the circumstances surrounding the revocation or denial;
- (g) A statement whether the applicant has made application for a similar type license on premises other than that described in its application, and the disposition of such application;
- (h) A schedule of the days of the week and the hours of such days during which the applicant seeks permission for the operation of the Adult Entertainment Business;
- (i) The application shall be signed by both the owner and operator, in the case of a club, society, corporation, firm or association, the owner's signature requirement shall be met by the signature of the President and Secretary or equivalent officers with proper authority. Where the ownership is a partnership, the signature of all general partners are required. Any false or incorrect statements made on any such application shall be immediate and substantial grounds for revocation of a license granted pursuant to such application.

**Section 6. Inspection of Premises.**

Before an Adult Entertainment Business license shall be issued, investigation of the application and inspection of the premises shall be made by the Township building official, fire chief, Township zoning official or their agent, and such other departments or agencies as may be deemed necessary by the Township Board to determine whether the premises fully comply with all pertinent ordinances and regulations. Before any Adult Entertainment Business license may be recommended for approval, it must be determined that the applicant is providing sufficient off-street parking and sufficient aids and regulations whereby vehicular traffic shall not constitute a nuisance or danger. For a standard of such determination, minimum off-street parking facilities shall be as required by the zoning ordinance of the Township of Milan. Before the fire chief or his agents approve the same, it must be determined that adequate space is provided to permit safe ingress and egress in said premises. The building official and zoning official shall determine whether the building involved meets all requirements of the Township's building code and other applicable Township ordinances, including the zoning ordinance.

## **Section 7. Location.**

An adult entertainment use regulated by this Ordinance may be located only in the C-2 Highway Commercial zoning districts and only in conformance with the following restrictions:

- (a) No adult entertainment use shall be located within (500) five hundred feet of any of the following uses:
  - (i) All Class "C" establishment licensed by the Michigan Liquor control Commission.
  - (ii) Pool or billiard halls.
  - (iii) Coin-operated amusement centers or video arcades.
  - (iv) Teenage discos or dance halls.
  - (v) Ice or roller skating rinks.
  - (vi) Pawn shops.
  - (vii) Indoor or outdoor movie theaters.
  - (viii) Any public park, public playground, public library or public building.
  - (ix) Any church, place of worship or other religious facility.
  - (x) Any public or private school having a curriculum including kindergarten or any one or more of the grades one (1) through twelve (12).
  - (xi) Any restaurant that does not serve alcohol.
  - (xii) Any preschool or day nursery.
  - (xiii) Any indoor or outdoor public, private or commercial recreational facility. A "recreational facility" is a place designed and equipped for the conduct of sports and leisure time activities. A public recreational facility is designed as a recreational facility opened to the general public. A private recreational facility is defined as a recreational facility operated by a non-profit organization and opened only to bona-fide members and guests of such non-profit organization. A commercial recreational facility is defined as a recreational facility operated as a business and opened to the public for a fee.
  - (xiv) Any area zoned residential (R-1, R-2 or R-m).
  - (xv) A dwelling used or designed for residential purposes within the AG (Agricultural) zoning district.
  - (xvi) Uses like or similar to the above.
  
- (b) No adult entertainment use shall be located within one thousand (1,000) feet of any other adult entertainment use.

(c) The required distance provided for in subsection 7(a)(i) through 7(a)(xvi) inclusive, excluding (xiv), shall be measured along the centerline of the street between two (2) fixed points on the centerlines determined by projecting straight lines at right angles from the part of the above listed use nearest to the contemplated location of the structure containing the adult entertainment use and from the contemplated location of the structure containing the adult entertainment use nearest to a use listed above.

(d) The required distance provided for in subsection 7(a)(xiv) shall be measured by a straight line between a point on the boundary line of a zoned residential area nearest to the contemplated structure or contemplated location of the structure containing the adult entertainment use to a point on the contemplated structure or contemplated location of the structure containing the adult entertainment use nearest to the boundary lines of a zoned residential area.

(e) All adult entertainment uses shall be contained in a free-standing building. Enclosed malls, commercial strip stores, common wall structures and multi-uses with the same structure do not constitute a free-standing building.

(f) No adult use shall be conducted in any manner that permits the observation of any material depicting, describing or relation to specified sexual activities or specified anatomical areas from any public way or from any property not regulated as an adult entertainment use. This provision shall apply to any display, decoration, sign, show window or other opening.

### **Section 8. Issuance of License.**

No Adult Entertainment Business license shall be issued:

- (a) For premises where there exists a violation of the applicable Building, Electrical, Mechanical, Plumbing or Fire Codes, applicable zoning regulations, applicable Public Health Regulations or any other applicable Township Ordinance, state code or state law.
- (b) For premises where it is determined by the Township Board that the premises do not have adequate off-street parking, exterior and interior lighting, refuse disposal facilities, security arrangements for maintaining order, screening and noise or nuisance control.
- (c) Until the Township Building Department, Township zoning official and the Township Fire Department representative have inspected the subject premises and ascertained that all physical requirements have been complied with, the adequacy of security arrangements on the premises for maintaining order and avoiding public disturbance is satisfactory.



- (d) No person shall reside in or permit any person to reside in premises of an Adult Entertainment Business.

**Section 9. Time Requirements; License Denial.**

The Township Board shall act on a license application or license renewal application within sixty (60) days of the date the application is filed with the Township Clerk. If the Township Board determines after a review of the application, and accompanying written recommendations, that an application for a license under this Ordinance must be denied, the Township Clerk shall inform the applicant of this fact by written notice either personally served on the applicant or mailed by First Class mail to the applicant's last known address. This written notice shall inform the applicant of the reasons the application was denied, and of the applicant's right to seek judicial review of the decision.

**Section 10. License Renewal Fee.**

Any application to renew a license previously issued under this Ordinance shall be accompanied by a renewal fee of \$150.00, or as provided by resolution of the Township Board to defray the costs of administering the Ordinance during the renewal phase of licensing.

**Section 11. Suspension or Revocation of License.**

Any license issued under this Ordinance may be revoked or suspended during the period of its issuance as a result of any violations of the terms and conditions of the license and this Ordinance. Such revocation or suspension shall be determined by the Township Board at a meeting of the Board preceded by notice to the licensee of the proposed action and the reasons therefore, and the time, date and place of the meeting at which the matter is to be heard. This notice shall be either personally served or mailed by First Class mail to the applicant's last known address at least seven (7) days prior to the date of the Township Board meeting which the matter is to be heard. The licensee shall have an opportunity to present any evidence or arguments on its own behalf at that time. The extent of the suspension or revocation shall be determined by the Township Board.

**Section 12. Severability.**

This ordinance, and the various parts, sentences, paragraphs, sections, subsections, phrases and clauses thereof are declared to be severable and if any of them are adjudged unconstitutional or invalid, it is hereby provided that the remainder of the Ordinance shall not be affected.

**Section 13. Repeal All Ordinances or Parts of Ordinances.**

Repeal all ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

**Section 14. Penalty.**

Any person or persons, firm or corporation who shall violate any of the provisions of this Ordinance shall, upon conviction thereof before a court of competent jurisdiction, be guilty of a misdemeanor and subject to a fine of not more than FIVE HUNDRED (\$500) DOLLARS or to imprisonment in the County Jail for a period not to exceed ninety (90) days, or to both such fine and imprisonment. Each day such violation continues shall be deemed a separate offense. The imposition of sentence shall not exempt the offender from compliance with the requirements of this Ordinance.

**Section 15. Effective Date.**

This ordinance shall become effective 30 days after the first publication of the ordinance in a newspaper or general circulation in the Township of Milan, Monroe County, Michigan.

*This Section Replaced by Section 15 (A).*