

RILEY TOWNSHIP - ST. CLAIR COUNTY

ARTICLE XI
PLANNING COMMISSION – SPECIAL APPROVAL USES

SECTION 1134. SEXUALLY ORIENTATED BUSINESS ORDINANCE:

A. PURPOSE:

It is the purpose of this ordinance to regulate sexually oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of the Township, and to establish reasonable and uniform regulations to prevent 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 material. In the development and execution of this Ordinance, it is recognized that there are some uses which, because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances, thereby having a deleterious effect upon the adjacent area. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. In addition to the review standards contained in this Article, additional special regulations are itemized in this Section. The primary control or regulation is for the purpose of preventing a concentration of these uses in any one area (i.e. not more than two (2) such uses within one thousand (1000') feet of each other) which would create such adverse effects.

B. LOCATION REQUIREMENTS:

1. Must be located in Extensive Commercial (EC) District.
2. An adult only business shall be located in a freestanding building. A shared or common wall structure or shopping center is not considered to be a freestanding building.
3. Adult only businesses are prohibited from locating within one thousand (1000') feet of an: agricultural/residential (AR) zoning district, existing residentially/agriculturally used lot or parcel, religious institution, place of worship, school, library, public park or playground, non-commercial assembly facility, public office building, licensed day care facility or arcade within the Township of Riley or surrounding communities. Measurements shall be made from the outer most boundaries of the lot or parcel upon which the proposed adult only business will be situated.
4. That all applicable regulations of this Ordinance will be observed.

RILEY TOWNSHIP - ST. CLAIR COUNTY

ARTICLE XI
PLANNING COMMISSION – SPECIAL APPROVAL USES

5. The Planning Commission may waive the locational requirement established in subsection B. herein for adult entertainment and business establishments if the following findings are made:
 - a. That the proposed use will not be contrary to the public interest or cause negative secondary affects to nearby properties, and that the spirit and intent of this Ordinance will be observed.
 - b. That the proposed use will not enlarge or encourage the development of a "skid row" area.
 - c. That the establishment of an additional regulated use in the area will not be contrary to any program of neighborhood conservation.
 - d. The Planning Commission shall not consider the waiver of locational requirements as hereinabove set forth until a petition shall have been filed with the Township Clerk. Such petition shall indicate approval of the proposed regulated use by fifty-one (51%) percent or more of the persons owning property within a radius of one thousand (1000') feet of the location of the proposed use as measured by the lot line. The petitioner, or his agent, shall attempt to contact all eligible property owners within this radius and must maintain a list of all addresses at which no contact was made. Petition shall contain an affidavit signed by the party circulating the petition attesting that the petition was circulated by him and that the circulator personally witnessed the signatures on the petition.
6. The Township Clerk shall be responsible for the petitions per State Guidelines governing the procedure for securing the petition of consent provided for in this Section of the Ordinance. The rules shall provide that the circulation of the petition requesting a waiver shall subscribe to an affidavit attesting to the fact that the petition was circulated in accordance with the rules of the Township Clerk and that the circulation personally witnessed the signatures on the petition and that the same were affixed to the petition by the person whose name appeared thereon.
7. The Planning Commission shall not consider the waiver of locational requirements set forth in subsection 5: a, b, c until the above-described petition shall have been filed and verified.

C. SITE DEVELOPMENT REQUIREMENTS:

1. The site layout, setbacks, structures, function and overall appearance shall be compatible with adjacent uses and structures.

RILEY TOWNSHIP - ST. CLAIR COUNTY

ARTICLE XI
PLANNING COMMISSION – SPECIAL APPROVAL USES

2. Windows, displays, signs, and decorative structural elements of buildings shall not include or convey examples of a sexual exploitation. All such displays and signs shall be in conformance with all Township Ordinances.
3. All building entries, windows, and other such openings shall be located, covered, or screened in such a manner as to prevent viewing into the interior from any public or semi-public area as determined by the Planning Commission.
4. No loud speakers or sound equipment shall be permitted to project sound outside of the adult only business.
5. An adult only business shall clearly post notification at the entrance to the business, or any portion of the business utilized for adult only use, that minors are excluded.
6. "Adult cabarets" (as defined in Section 202) are required to include a stage raised at least three (3') feet from the viewing floor, with a horizontal barrier of at least two (2') feet at the edge of the stage. A person is in violation of this Ordinance if he or she permits an entertainer off of the stage or permits a customer on the stage.
7. "Mainstream media outlets" carrying less than a "substantial portion" of "Adult Media" (all as defined in Section 202) are not subject to the standards for adult only businesses. Adult media in a shop to which this section is applicable shall be kept in a separate room or section of the shop, which room or section shall:
 - a. Restrict access to any person under the age of 18.
 - b. When the doors are open it shall be physically and visually separated from the rest of the store by an opaque wall of durable material, reaching at least eight (8') feet high or to the ceiling, whichever is less.
 - c. Shall be located so that the main entrance is as far as reasonably practicable from media or other inventory in the store likely to be of particular interest to children.
 - d. Shall have access controlled by any means to ensure that persons under age 18 will not gain admission and that the general public will not accidentally enter such room or section or provide continuous video or window surveillance of the room by store personnel and;
 - e. Shall provide notification at all entrances stipulating that persons under 18 are not permitted inside.

RILEY TOWNSHIP - ST. CLAIR COUNTY

ARTICLE XI
PLANNING COMMISSION – SPECIAL APPROVAL USES

D. CLASSIFICATION:

Sexually oriented businesses are defined in Section 202 and are classified as follows:

- (1) Adult Arcade
- (2) Adult Bookstore or Supply Store and Video Stores
- (3) Adult Cabaret
- (4) Adult Merchandise Store
- (5) Adult Motion Picture Theater
- (6) Adult Peep Show
- (7) Adult Personal Service Business
- (8) Escort Services
- (9) Massage Parlor
- (10) Nude body painting or Modeling Studio
- (11) Tattoo Parlor
- (12) Nude or Semi-Nude Dancing (Topless Dancing)

E. USE REGULATIONS:

1. No person shall reside in or permit a person to reside in the premises of an adult on business.
2. No person shall operate an adult only business unless there is conspicuously placed in a room where such business is carried on, a notice indicating the process for all services performed therein. No person operating or working at such a place of business shall solicit or accept any fees, and or tips except those indicated on any posted notice.
3. The owners, operators, or persons in charge of an adult only business shall not allow entrance into such building or any portion of a building used for such use, to any minors as defined by MCL 722.51 et seq., as amended.
4. No adult only business shall possess, disseminate or permit persons therein to possess or disseminate on the premises any obscene materials as defined by MCL 752.361 et seq., as amended.
5. No person shall operate an adult personal service business without first obtaining special approval use by the Riley Township Planning Commission. Such use permit shall be issued by Riley Township Offices. Such license shall be subject to all regulations of federal, state and local governments.
6. No person shall lease or sublease, nor shall anyone become the lessee or sub-lessee of any property for the purpose of using said property for an adult only business without the express written permission of the owner of the property for such use

RILEY TOWNSHIP - ST. CLAIR COUNTY

ARTICLE XI
PLANNING COMMISSION – SPECIAL APPROVAL USES

and only upon having obtained the required licenses and permits from the Township, County, State and Federal government.

7. The provisions of this Section regarding massage parlors shall not apply to hospitals, nursing homes, medical clinics, physician, surgeon, chiropractor, osteopath or the offices of a medical professional who is licensed to practice their profession in the State of Michigan, or who are permitted to practice temporarily under the auspices of an associate or an establishment duly licensed in the State of Michigan, clergymen, certified members of the American Massage and Therapy Association and certified members of the International Myomas Ethics Federation.
8. No person shall operate a Tattoo parlor without first obtaining special approval use by the Riley Township Planning Commission. Such use permit shall be issued by the Riley Township Offices. Such License shall be subject to all regulations of federal, state and local governments.
9. Hours of operation for a sexually orientated business shall be 12:00 P.M. Noon to 12:00 A.M. Midnight, Monday-Saturday and closed Sunday.

F. LICENSE REQUIRED:

(A.) It is unlawful:

1. For any person to operate a sexually orientated business without a valid oriented business license issued by the Riley Township pursuant to this ordinance.
2. For any person who operated a sexually oriented business to employ a person to work for the sexually oriented business who is not licensed as a sexually oriented business employee by the Riley Township pursuant to this ordinance.
3. For any person to obtain employment with a sexually orientated business without having secured a sexually orientated business employee license pursuant to this ordinance.

(B.) An application for a license must be made on a form provided by Riley Township.

(C.) All applicants must be qualified according to the provisions of this ordinance. The application may request and the applicant shall provide such information (including fingerprints) as to enable the Township to determine whether the applicant meets the qualifications established in this ordinance.

(D.) A person, who wishes to operate a sexually oriented business, must sign the application for a license as an applicant. If a person other than an individual

RILEY TOWNSHIP - ST. CLAIR COUNTY

ARTICLE XI
PLANNING COMMISSION – SPECIAL APPROVAL USES

wishes to operate a sexually orientated business, all persons legally responsible for the operations of the sexually orientated business or who have the power to control or direct its operations must sign the application for a license as applicant. Such persons include, but are not limited to, general partners, corporate officers, corporate directors, legal owner(s) and controlling shareholders(s). Each application must be qualified under the following section and each applicant shall be considered a licensee if a license is granted.

- (E.) The completed application for a sexually oriented business license shall contain the following information and shall be accompanied by the following documents:
1. If the applicant is:
 - (a) an individual, the individual shall state his/her legal name and name changes, and any aliases and submit proof that he/she is eighteen (18) years of age;
 - (b) a partnership, the partnership shall state its complete name, and the name of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any;
 - (c) a corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation, the names and capacity of all officers, directors and controlling stockholders, and the name of the registered corporate agent and the address of the registered office for service of process.
 2. If the applicant intends to operate the sexually orientated business under a name other than that of the applicant; he or she must state 1.) the sexually oriented business's fictitious name and 2.) submit the required registration documents.
 3. Whether the applicant, or a person residing with the applicant, has been convicted of a specified criminal activity as defined in this ordinance, and if so, the specified criminal activity involved, the date, place and jurisdiction of each.
 4. Whether the applicant, or a person residing with the applicant, has had a previous license under this ordinance or other similar sexually oriented business ordinances from another city or county denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or a person residing with the applicant has been a partner in a partnership or an officer,

RILEY TOWNSHIP - ST. CLAIR COUNTY

ARTICLE XI
PLANNING COMMISSION – SPECIAL APPROVAL USES

director or principal stockholder of a corporation that is licensed under this ordinance whose license has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.

5. Whether the applicant or a person residing with the applicant holds any other licenses under this ordinance or other similar sexually oriented business ordinance from any Governing Agency such as, but not limited to another city or county and, if so, the names and locations of such other licensed businesses.
 6. The single classification of special approval use license for which the applicant is applying.
 7. The location of the proposed sexually oriented business, including a legal description of the property, parcel number, street address, phone number(s).
 8. The applicant's mailing address and residential address.
 9. A recent dated photograph of the applicant(s).
 10. The applicant(s) driver's license(s) when application is made. (Copies will be made at time of application.)
 11. A current certificate and straight line drawing prepared by a registered land surveyor depicting the property lines and the structures(s) containing any existing sexually oriented businesses within one thousand (1000') feet of the property to be certified; the property lines of any established residence, religious institution/synagogue, school, or public park or recreation area within one thousand (1000') 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. A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram must be drawn to scale with marked dimensions of the interior of the premises.
- (F.) Before any applicant may be issued a sexually oriented business employee license, the applicant shall submit on a form to be provided by the Township the following information:
1. The applicant's name or any other name (including "stage" names) or aliases used by the individual;
 2. Age, date, and place of birth;

RILEY TOWNSHIP - ST. CLAIR COUNTY

ARTICLE XI
PLANNING COMMISSION – SPECIAL APPROVAL USES

3. Height, weight, hair and eye color;
 4. Present residence address and telephone number;
 5. Present business address and telephone number;
 6. Date, issuing state and number of driver's permit or other identification card information; and
 7. Proof that the individual is at least eighteen (18) years of age.
 8. License update for change of address.
- (G.) Attached to the application form for a sexually oriented business employee license as provided above, shall be the following:
1. A color photograph of the applicant clearly showing the applicant's face, and the applicant's fingerprints on a form provided by the police department. Any fees for the photographs and fingerprints shall be paid for by the applicant.
 2. A statement detailing the license history of the applicant for the five (5) years immediately preceding the date of the filing of the application, including whether such applicant previously operated or is seeking to operate, in this or any other county, city, state, or country has ever had a license, permit or authorization to do business denied, revoked, or suspended, or had any professional or vocational license or permit denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the name, the name of the issuing or denying jurisdiction, and describe in full the reason for the denial, revocation, or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application.
 3. A statement whether the applicant has been convicted of a specified criminal activity as defined in this ordinance and, if so, the specified criminal activity involved, the date, place and jurisdiction of each.

G. ISSUANCE OF LICENSE

- (A.) Upon the filing of said application for a sexually oriented business employee license, and having met all other requirements of this ordinance. The application shall then be referred to the appropriate departments for an investigation to be made on such information as is contained on the application. The application process shall be completed within forty-five (45) days from the date the completed application is filed. After the investigation, the Township, the Township shall issue a license, unless it is determined by a preponderance of the evidence that one or more of the following findings is true:
1. The applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;

RILEY TOWNSHIP - ST. CLAIR COUNTY

ARTICLE XI
PLANNING COMMISSION – SPECIAL APPROVAL USES

2. The applicant is under the age of eighteen (18) years;
 3. The applicant has been convicted of a "specified criminal activity" as defined in this ordinance;
 4. The sexually oriented business employee license is to be used for employment in a business prohibited by local or state law, statute, rule or regulation, or prohibited by a particular provision of this ordinance; or
 5. The applicant has had a sexually oriented business employee license revoked by the Township within two (2) years of the date of the current application. If the sexually oriented business employee license is denied, the temporary license previously issued is immediately deemed null and void. Denial, suspension, or revocation of a license issued pursuant to this subsection shall be subject to appeal as set forth in this ordinance.
- (B.) A license granted pursuant to this section shall be subject to annual renewal upon the written application of the applicant and a finding by the Township that the applicant has not been convicted of any specified criminal activity as defined in this ordinance or committed any act during the existence of the previous license, which would be grounds to deny the initial license application.
- (C.) Within forty-five (45) days after receipt of a completed sexually oriented business application, the Township shall approve or deny the issuance of a license to an applicant. The Township shall approve the issuance of a license to an applicant 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.
 2. An applicant or a person with whom the applicant is residing is overdue in payment to the Township of taxes, fees, fines, or penalties assessed against or imposed upon him/her in relation to any business.
 3. An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.
 4. An applicant or a person with whom the applicant is residing has been denied a license by the Township to operate a sexually orientated business within the preceding twelve (12) months or whose license to operate a sexually oriented business has been revoked within the preceding twelve (12) months.
 5. An applicant or a person with whom the applicant is residing has been convicted of a specific criminal activity defined in this ordinance.
 6. The premises to be used for the sexually oriented business have not been approved by the health department, fire department, and the building official as being in compliance with applicable laws and ordinances.
 7. The license fee required by this ordinance has not been paid.
 8. An applicant of the proposed establishment is in violation of or is not in compliance with any provisions of this ordinance.

RILEY TOWNSHIP - ST. CLAIR COUNTY

ARTICLE XI
PLANNING COMMISSION – SPECIAL APPROVAL USES

- (D.) The license, if granted shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the sexually oriented business and the classification for which the license is issued. All licenses shall be posed in a conspicuous place at or near the entrance to the sexually oriented business so that they may be easily read at any time.
- (E.) The applicant shall submit the health department, fire department, and the building official certification that the premises is in compliance or not in compliance at time of application to the Township.
- (F.) A sexually oriented business license shall be issued for only one classification.

H. FEES

- (A.) Every application for a sexually oriented business license (whether for a new license or for a renewal) shall be accompanied by non-refundable application and investigation fees as set by the Riley Township Board.
- (B.) These fees are in addition to the special approval use application fees.

I. INSPECTION

- (A.) An applicant or licensee shall permit representative of the Police Department, Health Department, Fire Department, Zoning Department, or other Township Departments or agencies to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time it is occupied or open for business.
- (B.) A person who operates a sexually oriented business or his agent or employee commits a misdemeanor if he refuses to permit such lawful inspection of the premises at any time it is open for business.

J. EXPIRATION OF LICENSE

- (A.) Each license shall expire one (1) year from the date of issuance and may be renewed only by making application as provided in Section 10. Application for renewal shall be made at least sixty (60) days prior to the expiration date.
- (B.) When the Township denies renewal of a license, the applicant shall not be issued a license for one (1) year from the date of denial.

RILEY TOWNSHIP - ST. CLAIR COUNTY

ARTICLE XI
PLANNING COMMISSION – SPECIAL APPROVAL USES

K. SUSPENSION

- (A.) The Township shall suspend a license for a period not to exceed thirty (30) days if it determines that a licensee or an employee of a licensee has:
1. Violated or is not in compliance with any section of this ordinance;
 2. Refused to allow an inspection of the sexually oriented business premises as authorized by this article.

L. REVOCACTION

- (A.) The Township shall revoke a license if a cause of suspension in Section 15 occurs and the license has been suspended within the preceding twelve (12) months.
- (B.) The Township shall revoke a license if it determines that:
1. A licensee gave false or misleading information in the material submitted during the application process;
 2. A licensee has knowingly allowed possession, use, or sale of a controlled substance on the premises;
 3. A licensee has knowingly allowed prostitution and or solicitation on the premises;
 4. A licensee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;
 5. Except in the case of a motel, a licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sex act to occur in or on the licensed premises; or
 6. A licensee is delinquent in payment to the Township, County or State for any taxes or fees past due.
- (C.) When the Township revokes a license, the revocation shall continue for one (1) year, and the licensee shall not be issued a sexually oriented business license for one (1) year from the date the revocation became effective.
- (D.) After denial of an application, or denial of a renewal of an application, or suspension or revocation of any license, the applicant or licensee may seek prompt judicial review of such administrative action by the Zoning Board of Appeals.

RILEY TOWNSHIP - ST. CLAIR COUNTY

ARTICLE XI
PLANNING COMMISSION – SPECIAL APPROVAL USES

M. TRANSFER OF LICENSE

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

N. PROHIBITION AGAINST CHILDREN IN A SEXUALLY ORIENTED BUSINESS

A person commits a misdemeanor if the person knowingly allows a person under the age of eighteen (18) years on the premises of a sexually oriented business.

O. 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 the clauses shall not be affected.

P. CONFLICTING ORDINANCES REPEALED

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

Q. EFFECTIVE DATE

This ordinance shall become effective September 11, 2009.