

BUSINESS REGULATIONS

24.000 DISPLAY OF ADULT MATERIALS ORDINANCE NO. 187

Adopted: September 9, 2002
Effective: October 24, 2002

An Ordinance to regulate the public display and sale of adult material in retail stores not classified as sexually oriented businesses regulated under the Township Zoning Ordinance.

A. Purpose

The purpose of the Ordinance is to regulate the public display and sale of adult materials defined in this Ordinance in a manner which will minimize the public display of such items to minors or other retail customers which might find such materials offensive or objectionable. This ordinance shall regulate those retail establishments whose primary business is not the sale of adult material and which would otherwise be open and inviting to minors and the general public for other retail purposes such as convenience store, party store, or liquor store.

The provisions of this Ordinance are not intended to offend the guarantees of the First Amendment to the United States Constitution or to deny adults access to adult materials, or to deny adult materials access to their intended market. Neither is it the intent of this Ordinance to legitimize activities which are prohibited by Township ordinance, state or federal law. If any portion of this Ordinance relating to the regulation of adult materials referenced in these sections is found to be invalid or unconstitutional by a court of competent jurisdiction, the township intends said portion to be disregarded, reduced and/or revised so as to be recognized to the fullest extent possible by law., The Township further states that it would have passed and adopted what remains of any portion of this Ordinance relating to regulation of following the removal, reduction or revision of any portion so found to be invalid or unconstitutional.

B. Definitions

Adult Material means:

1. Books, magazines, periodicals or other printed materials or photographs, films, motion pictures, video cassettes or video reproductions, slides or other visual representations or media which depict or describe nudity displaying the female breast, human genitals, pubic region, buttocks or anus or describe sexual activities involving intercourse, oral copulation, sodomy, masturbation or
2. Instruments, devices or paraphernalia that are designed for use in connection with intercourse, oral copulation, sodomy or masturbation.

The definition of adult material herein is not meant to constitute obscene material as provided under Act 33 of 1978 or Act 343 of 1984.

Sexually Oriented Business means a business or commercial enterprise engaging in any of the following:

1. Adult arcade
2. Adult bookstore or adult video store
3. Adult cabaret
4. Adult motel
5. Adult motion picture theater
6. Adult theater
7. Escort agencies
8. Nude model studio
9. Sexual encounter center. (As defined by Ordinance No. 174 of the Cooper Charter Township Ordinances)

C. Prohibited Conduct

Retail business establishments selling adult materials, as defined herein, shall not openly display such material in an area open to minors and the general public if the same results in the display of the female breast, human genitalia, pubic region, buttocks or anus or display sexual activities involving intercourse, oral copulation, sodomy or masturbation or openly display instruments, devices or paraphernalia that are designed for use in connection with sexual activities involving intercourse, oral copulation, sodomy or masturbation. Such adult materials shall be restricted to an area within the retail establishment which cannot be accessed by the general public without a warning that adult materials are present within the restricted area where they are openly displayed, or the same shall be covered with an opaque covering leaving only the title of the book, magazine, periodical, photograph, film, motion picture, video cassette or video reproduction on display.

D. Nuisance Per Se

Violation of this Ordinance is deemed to be a nuisance per se. Nothing in this Ordinance shall prohibit the Township or any interested party from seeking such other relief as may be permitted in law or in equity regarding the existence of a nuisance

E. Severability

In any article, subsection, sentence, clause, phrase, or portion of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, the Township intends said portion to be disregarded, reduced and/or revised so as to be recognized to the fullest extent possible by law. The Township further states that it would have passed and adopted what remains of this Ordinance following the removal, reduction or revision of any portion so found to be invalid or unconstitutional.

F. Penalties

Any person who shall violate any provision of this Ordinance shall be responsible for a municipal civil infraction as provided in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101-600.9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than Five Hundred and 00/100 (\$500.00) Dollars. Each violation shall constitute a separate offense

G. Effective Date

This Ordinance took effect on October 24, 2002. All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.