

ZONING

270 Attachment 4

Town of Lansing

Appendix II: Adult Entertainment Ordinance

1) INTENT

It is the intent of this local law to regulate sexually oriented businesses, to promote the health, safety, morals and general welfare of the citizens of the Town of Lansing and to establish reasonable and uniform regulations to monitor the location and concentration of sexually oriented businesses within the town of Lansing. The provisions of this local law have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative material, including sexually oriented materials. Similarly it is not the intent or effect of this local law to restrict or deny access by adults to sexually oriented materials protected by the First Amendment or to deny access by distributors and exhibitors of sexually oriented entertainment to their market.

2) DEFINITIONS

SEXUALLY ORIENTED BUSINESSES shall be defined as:

Adult arcades where, for any form of consideration, one or more motion picture projectors, slide projectors or similar machines, for viewing by five or fewer persons each, are used to show films, motion pictures, video cassettes, slides or other photographic reproductions, which are characterized by emphasis upon the depiction or description of “specified sexual activities” or “specified anatomical areas.”

Adult bookstores/Adult videostores which have a substantial (50% or more) portion of their stock in trade or rental and offer for sale, for any consideration, any one 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 an emphasis upon the depiction or description of “specified sexual activities: or “specified anatomical areas,” or
- b. Instruments, devices or paraphernalia which are designed for use in connection with “specified sexual activities.”

Adult cabarets meaning any nightclub, bar, juice bar, restaurant, or similar establishment, which regularly features live performances characterized by exposure of “specified anatomical areas” or by “specified sexual activities” or films, motion pictures, video cassettes, slides or other photographic reproductions characterized by an emphasis upon the depiction or description of “specified sexual activities” or “specified anatomical area.”

Adult motion-picture theaters where, for any form of consideration, films, motion pictures, video cassettes slides or other photographic reproductions are shown, and in which a substantial

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portion of the total presentation time is regularly devoted to the showing of material characterized by an emphasis upon the depiction or description of “specified sexual activities” or “specified anatomical area.”

Adult theaters meaning a theater, concert hall, auditorium or similar establishment which for any form of consideration, regularly features live performances characterized by the exposure of “specified sexual activities” or “specified anatomical area.”

Escort agencies and sexual encounter centers where sexual services are provided to clientele.

Massage parlors where, for any consideration, massage, alcohol rub, fomentation, electric or magnetic treatment or manipulation of the human body is administered unless by a medical practitioner, chiropractor, acupuncturist, physical therapist, or similar professional person licensed by the state. This definition shall not be deemed to include an athletic club, health club, school, gymnasium, reducing salon, spa or similar establishment where massage or similar manipulation of the human body is offered as an incidental accessory service.

SPECIFIED SEXUAL ACTIVITIES

- (1) Human genitals in a state of sexual stimulation or arousal; or
- (2) Acts of human masturbation, sexual intercourse, sodomy, nude dancing, lap dancing; or
- (3) Fondling or other erotic touching of human genitals, pubic region, buttocks or female breasts.

SPECIFIED ANATOMICAL AREAS

- (1) Less than completely and opaquely covered human genitals, pubic region, buttocks, and female breasts below a point immediately above the top of the areola; and
- (2) Human male genitals in a discernible turgid state even if completely and opaquely covered.

3) USES PERMITTED - RESTRICTIONS

Sexually oriented business, as defined herein, shall be permitted in a Rural Agricultural district only, provided that a site plan review and special permit is obtained from the Town Board and the following:

A. A sexually oriented business, as defined herein, may not be operated within 1,000 feet of:

- (1) A church, synagogue or regular place of worship.
- (2) A public or private elementary, secondary school, or any public governmental buildings.

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- (3) A boundary line of any property zoned as a residential district or the nearest portion of any building used for residential purposes as a permitted use.
- (4) A public use park.
- (5) Day-care facilities.
- B. A sexually oriented business, as defined herein, may not be operated within 1,000 feet of another sexually oriented business as defined herein.
- C. A sexually oriented business, as defined herein, may not be operated in the same building, structure or portion thereof containing another sexually oriented business.
- D. For the purpose of this article, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building where a sexually oriented business, as defined herein, is conducted, to the nearest portion of the premises of a church, public or private elementary or secondary school, residence, or to the nearest boundary of an affected public park, or residential district.
- E. For purposes of subsection B of this section, the distance between any two sexually oriented businesses, as defined herein, shall be measured in a straight line, without regard to intervening structures or objects.
- F. All sexually oriented businesses, as defined herein, shall be conducted in an enclosed building. No specified anatomical area or any specified sexual activity, as defined herein, or any display, decoration, sign, or similar depiction of specific anatomical area or any specified sexual activity, as defined herein, shall be visible from the exterior of any building containing a sexually oriented business, as defined herein, regardless of location or distance.

4) LOCATION IN RURAL AGRICULTURAL DISTRICT; SUSPENSION OF BUSINESS

- A. A sexually oriented business, as defined herein, may be operated only within a rural agricultural district in the TOWN OF LANSING and only in accordance with the provisions of this article.
- B. Prior to the commencement of any sexually oriented business, as defined herein, or upon any transfer of ownership or control of any sexually oriented business, or upon commencing any adult use, as defined herein, the premises housing such business or use must be inspected and found to be in compliance with all laws, rules and regulations of the health department, fire department, town code enforcement officer, fire marshal and other code enforcement officers.
- C. The health department, fire department, town code enforcement officer, fire marshal and other code enforcement officials shall complete their certification that the premises is in compliance or not in compliance within 20 days of the inspection of the premises by such

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officials. Such certification shall be promptly presented to the town code enforcement officer.

- D. An applicant, permittee, and/or licensee shall permit representatives of the town administration, or other town departments or agencies to inspect the premises of a sexually oriented business, as defined herein, for the purpose of ensuring compliance with the law at any time it is occupied or open for business, or at such other times as may be reasonable or appropriate.
- E. The town code enforcement officer shall suspend the right to conduct any sexually oriented business, as defined herein, for a period not to exceed 30 days if it is determined that the owner and/or operator or an employee of the owner and/or operator of the sexually oriented business, as defined herein, has:
 - (1) Violated or is not in compliance with any section of this article.
 - (2) Engaged in use of alcoholic beverages while on the sexually oriented business premises, as defined herein.
 - (3) Refused to allow an inspection of the sexually oriented business premises, as defined herein, as authorized by this article.
 - (4) Knowingly permitted gambling by any person on the sexually oriented business as defined herein, premises.
 - (5) Knowingly allowed possession, use or sale of controlled substances by any person on the sexually oriented business premises, as defined herein.
 - (6) Knowingly allowed prostitution on the sexually oriented business premises, as defined herein.
 - (7) Knowingly allowed any act of sexual intercourse, sodomy, oral copulation, lap dances, masturbation or other sexual conduct to occur in or on the permitted and/or licensed premises.
 - (8) Any other act prohibited by law.
- F. Prior to any suspension, the town code enforcement officer shall provide the owner and/or operator of a sexually oriented business, as defined herein, with a written notice stating the grounds for suspension. The owner and/or operator has the right to submit a response to this notice to the town code enforcement officer within 10 days of receipt of said notice. Such response shall be made in writing.
- G. The town code enforcement officer may not suspend the right to conduct a sexually oriented business, as defined herein, until 15 days after the notice is given to the owner and/or operator, or until after receiving the owner's and/or operator's response, whichever is sooner.

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5) SEVERABILITY

- A. Should any section or provision of this article be declared to be unconstitutional or invalid by the courts, such decision shall not affect the validity of the balance of this article.