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Dimondale, MI Code of Ordinances

CHAPTER 810 Adult Businesses

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CROSS REFERENCES

Indecency and immorality – see M.C.L.A. Secs. 750.335 et seq.

Prostitution – see M.C.L.A. Secs. 750.448 et seq.

810.01 PURPOSE AND INTENT.

The purpose and intent of this section are to regulate the location of, but not to exclude, adult businesses in the Village by preventing the concentration of such uses in close proximity to each other and to minimize the negative impacts of their operation by separating such uses from residential, office/commercial and other areas of public congregation. This regulation is done with the understanding that the Village recognizes that there are some uses which, because of their very nature, have serious objectionable operational characteristics, particularly if several of them are concentrated under circumstances having a deleterious effect upon adjacent residential, office and commercial areas. The Village recognizes that the regulation of such uses is necessary to ensure that adverse effects will not contribute to the blighting or downgrading of surrounding residential neighborhoods, nonresidential areas or other places of public congregation.

(Ord. 2000-2. Passed 3-13-00.)

810.02 DEFINITIONS.

As used in this section:

(a) "Adult bookstore" means an establishment which excludes minors, as defined in M.C.L.A. 722.51 et seq., and has, as a significant portion of its stock in trade, books, periodicals, magazines, newspapers, pamphlets, pictures, photographs, motion pictures films and/or videotapes, or novelty items or paraphernalia which are distinguished or characterized by their emphasis on matter depicting, describing or

relating to "specified sexual activities" or "specified anatomical areas," or an establishment with a segment or section devoted to the sale or display of such material which exceeds thirty-five percent of the floor area of the establishment.

(b) "Adult business" means adult bookstores, adult movie theaters, adult personal service businesses, adult cabarets, adult novelty businesses, massage parlors and nude modeling studios, or any combination thereof, as defined in this section, which meets one or more of the criteria defined in this section.

(c) "Adult business, significant portion" means a business where a significant portion of the stock in trade or services provided meets at least one of the following criteria:

(1) Thirty-five percent or more of the stock, materials, novelties or services provided are classified as adult materials and/or services as defined herein.

(2) Thirty-five percent or more of the usable floor area of the building in which the adult business is located is used for the sale, display and/or provision of services classified as adult materials and/or services, as defined herein.

(3) The advertising (signs, publications, television, radio, and other media) associated with the business depicts, describes or relates to specified sexual activities and/or specified anatomical areas.

(d) "Adult cabaret" means an establishment (which may or may not include the service of food or beverages) having as an activity the presentation or display of male or female impersonators, dancers, entertainers, waiters, waitresses or employees who display specified anatomical areas as defined herein.

(e) "Adult motion picture theater" means an establishment, in a completely enclosed building or room, which excludes minors, as defined in M.C.L.A. 722.51 et seq., and offers, for an admission fee, membership fee or other valuable consideration, the viewing of motion picture films, videotapes, pictures or photographs, cable television, satellite transmissions or the visual media, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activity or specified anatomical areas, as defined herein, for the observation of patrons therein.

(f) "Adult novelties" means objects, items, and/or devices offered for sale which are designed for sexual stimulation or which stimulate human genitals.

(g) "Adult personal service business" means a business having as its principal activity a person, while nude or while displaying specified anatomical areas, as defined herein, providing personal services for another person. Such businesses include, but are not limited to, modeling studios, body painting studios, wrestling studios, personal dance rooms, and conversation parlors.

(h) "Buttock" includes the perineum and anus of any person.

(i) "Massage" means offering for sale through the use of physical, mechanical or other devices, the manipulation of body muscle or tissue by rubbing, stroking, kneading, tapping or vibrating of the body of another.

(j) "Massage parlor" means an establishment wherein private massage is practiced, used or made available as a principal use of the premises.

(k) "Nude modeling studio" means a place which offers as its principal activity the providing of models to display specified anatomical areas, as defined herein, for artists and photographers for a fee.

(l) "Offered for sale" means offered in exchange for money, a membership fee or any other valuable consideration.

(m) "Sexual intercourse" includes genital coitus, fellatio, cunnilingus, anal intercourse or any other intrusion, however slight, of any person's body.

(n) "Sodomy" means sexual bestiality.

(o) "Specified anatomical areas" means:

(1) Human male genitals in a discernible turgid state, even if completely and opaquely covered; or

(2) Less than completely covered:

A. Female breasts below a point immediately above the top of the areola.

B. Human genitalia and the pubic region; and

C. A buttock and anus.

(p) "Specified sexual activities" are defined as:

(1) Acts of human masturbation, sexual intercourse or sodomy;

(2) Fondling or other erotic touching of human genitalia, a pubic region, a buttock, an anus or a female breast.

(3) Human genitalia in a state of sexual stimulation or arousal.

(Ord. 2000-2. Passed 3-13-00.)

810.03 LOCATION OF USES.

Any existing building or land, or new building hereinafter erected, converted or structurally altered, used for an adult business, shall meet all of the following conditions:

(a) Adult businesses, as defined herein, may be located in the B-1 Business District located north of East Road and east of Creyts Road subject to the requirements of this section and the approval of a special use permit. The Village believes that the location of adult business in this geographic area will minimize the negative impacts of their operation by separating such uses from the majority of residential and non-residential land use and other areas of public congregation.

(b) No adult business, as defined herein, shall be permitted within a 1,000 foot radius of an existing adult business. Measurement of the 1,000 foot radius shall be made from the outermost boundaries of the lot or parcel upon which the proposed adult use will be situated.

(c) No adult business, as defined herein, shall be permitted within a 1,000 foot radius of a school, library, park, playground, licensed group day care center, church, convent, monastery, synagogue or similar place of worship or other place of public congregation. Measurement of the 1,000 foot radius shall be made from the outermost boundaries of the lot or parcel upon which the proposed adult use will be situated.

(Ord. 2000-2. Passed 3-13-00.)

810.04 RESIDING ON PREMISES; EXEMPTIONS FROM MASSAGE PARLOR REGULATION.

- (a) No person shall reside in or permit any person to reside in the premises of an adult business.
- (b) The provisions of this section regarding massage parlors shall not apply to hospitals, sanitariums, nursing homes, medical clinics or the offices of a physician, surgeon, chiropractor, osteopath, psychologist, clinical social worker or family counselor who is licensed to practice his or her respective profession in the State of Michigan, or who is 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 Myomassethics Federation who have a current massage therapist license.

(Ord. 2000-2. Passed 3-13-00.)

810.99 PENALTY.

(EDITOR'S NOTE: See Section 202.99 for general Code penalty if no specific penalty is provided.)