

## ORDINANCE NUMBER 62

Adoption of new law general ordinance, *Controlled Uses*, was approved by the Manchester Township Board:

### CONTROLLED USES

MANCHESTER TOWNSHIP, MICHIGAN

An ordinance regulating adult-oriented businesses, hereinafter referred to as Controlled Uses.

The Township of Manchester, Washtenaw County, Michigan ordains:

#### **Section 1. Title**

This ordinance shall hereinafter be known and cited as the Manchester Township Controlled Uses Ordinance.

#### **Section 2. Purpose**

Manchester Township recognizes that there are some uses, which, because of their very nature, have operational characteristics that have a serious and deleterious impact upon residential, office and commercial areas. Regulation of the locations of these uses is necessary to ensure that the negative secondary impact, that such businesses have been documented to have will not cause or contribute to the blighting or downgrading of the Township's residential neighborhoods, community uses which support a residential environment, and commercial centers. The regulations in this section are for the purpose of locating these uses in areas where the adverse impact of their operations may be minimized by the separation of such uses from one (1) another and from residential neighborhoods and places of public congregation. The provisions of this section 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 neither the intent nor effect of this section 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.

#### **Section 3. Definitions**

**Controlled Uses:** An establishment which draws its customers from one (1) or more segments of the public including but not limited to the following:

- A. **Adult Book Store.** An establishment which has a substantial or significant portion of its stock in trade sexually explicit verbal material. Sexually explicit verbal material is defined as a book, pamphlet, magazine, video, movie, printed matter reproduced in any manner, or sound recording that contains an explicit and detailed verbal description or narrative account of sexually explicit activity.
- B. **Adult Cabaret.** An establishment whose principal activity is the conducting or presenting of any sexually explicit performance. Sexually explicit performance is defined as a motion picture, video, digital presentation, exhibition, show, representation, or other presentation that, in whole or in part, depicts sexually explicit activity.
- C. **Adult Video/Motion Picture Theater.** An establishment, which, as its principal activity, presents or offers for sale or rents, any sexually explicit visual material. Sexually explicit visual material is defined as a picture, photograph, drawing, sculpture, motion picture film, or similar visual representation that depicts sexually explicit activity, or a book, magazine, or pamphlet that contains such a visual representation. An undeveloped photograph, mold or similar visual material may be sexually explicit material notwithstanding that processing or other acts may be required to make its sexually explicit content apparent.
- D. **Adult Retail Store.** An establishment which has a substantial or significant portion of its stock in trade in items used or advertised as sexually explicit entertainment gimmicks, novelties, paraphernalia, any sexually explicit matter or any combination thereof. Sexually explicit matter is defined as any sexual explicit verbal material, sexually explicit visual material, or sexually explicit performance.
- E. **Body Painting or Nude Modeling Studio.** Any building, structure, premise or part thereof used primarily as a place which offers as its principal activity the providing of models to exhibit, display or perform any sexually explicit performance for a fee, or which provides the services of body painting of the human body in conjunction with any sexually explicit activity.
- F. **Sexually Explicit Activity.** Sexually explicit activity is defined as any presentation, exhibition, narrative, show, representation, depiction, or other description of any of the following:
1. **Erotic Fondling.** The touching of a person's clothed or unclothed genitals, pubic area, buttocks or, if the person is female, breasts, for the purpose of sexual gratification or stimulation.
  2. **Nudity.** The showing of the male or female genitals, pubic area, vulva, anus, the showing of the female breast with less than a fully opaque covering of any part of

the nipple, the showing of the covered male genitals in a discernibly turgid state or any lewd display of the human male or female genitals or pubic area.

3. **Sadomasochistic Abuse.** Means either of the following: (1) Flagellation, or torture, for sexual stimulation or gratification, by or upon a person who is nude or clad only in undergarments or in a revealing costume, or (2) the condition of being fettered, bound, or otherwise physically restrained for sexual stimulation or gratification, of a person who is nude or clad only in undergarments or in a revealing costume.
  4. **Sexual Excitement.** The condition of human male or female genitals when in a state of sexual stimulation or arousal.
  5. **Sexual Intercourse.** Intercourse, real or simulated, whether genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between a human and an animal; or any intrusion, however slight, into the genital or anal openings of another's body.
- G. **Escort.** A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.
- H. **Escort Agency.** A person or business association that furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.
- I. **Pawnbrokers and Pawnshops.** The term "pawnbroker" as used herein is defined as any person, corporation or member or members of a co-partnership or firm, who loans money on deposit, or pledge of personal property, or other valuable things, other than securities or printed evidence of indebtedness, or who deals in the purchasing of personal property or other valuable things on condition of selling the same back again at a stipulated price. The term "pawnshop" is defined as any location where a pawnbroker conducts business.
- J. **Tattoo/Body-Piercing Branding Parlor.** An establishment which provides external body modification, through the application of a tattoo, body-piercing, or branding.
- K. **Body-Piercing.** The perforation of human tissue other than an ear for a non-medical purpose.
- L. **Branding.** A permanent mark made on human tissue by burning with a hot iron or other instrument.

M. **Tattoo.** An indelible mark made upon the body of another individual by the insertion of a pigment under the skin or an indelible design made upon the body of another by production of scars other than by branding.

N. **Massage Parlor or Massage Establishment.** A place where manipulated massage or manipulated exercises are practiced for pay upon the human body by anyone using mechanical, therapeutic, or bathing devices or techniques, other than the following: a duly licensed physician, osteopath, or chiropractor; a registered or practical nurse operating under a physician's directions; or, registered physical or occupational therapists or speech pathologists who treat patients referred by a licensed physician and operate only under such physician's direction. A massage establishment may include, but is not limited to, establishments commonly known as massage parlors, health spas, sauna baths, turkish bathhouses, and steam baths. Massage establishments, as defined herein, shall not include properly-licensed hospitals, medical clinics, or nursing homes, or beauty salons or barber shops in which massages are administered only to the scalp, the face, the neck or the shoulders.

#### **Section 4.0 Applicability**

All Controlled Uses are subject to the regulations contained in this ordinance and any other applicable statutes, ordinances, rules, and regulations.

A. **Location.** The location of Controlled Uses within the Township shall be subject to the following conditions:

1. No Controlled Use shall be permitted within a one thousand (1,000) foot radius of an existing Regulated Use. Measurement of the one thousand (1,000) foot radius shall be made from the outermost boundaries of the lot or parcel upon which the respective uses are or would be situated.
2. No Controlled Use shall be permitted with within a one thousand (1,000) foot radius of a school, library, park, playground, license group daycare home or center, or church, convent, monastery, synagogue or similar place of worship. Measurement of the one thousand (1,000) foot radius shall be made from the outermost boundaries of the lot or parcel upon which the respective uses are or would be situated.
3. No Controlled Use shall be permitted within a five hundred (500) foot radius of any residential zone. Measurement of the five hundred (500) foot radius shall be made from the outermost boundaries of the lot or parcel upon which the respective uses/zones are or would be situated.

B. **Miscellaneous Requirements.**

1. No person shall reside in or permit any person to reside in the premises of a Controlled Use.
2. An adult-oriented commercial enterprise use is in violation of this section if:
  - a. The merchandise or activities of the establishment are visible from any point outside the establishment.
  - b. The exterior portions of the establishment or signs have any words, lettering, photographs, silhouettes, drawings or pictorial representations of any specified anatomical area or sexually explicit activity as defined in this Ordinance.
3. The provision of this section regarding massage establishments shall not apply to hospitals, sanitariums, nursing homes, medical clinics or the offices of a physician, surgeon, chiropractor and osteopath licensed to practice their respective professions in the State of Michigan, or who are permitted to practice temporarily under the auspices of an associate who is duly licensed in the State of Michigan and is normally on the same premises.

This Ordinance shall take full force and effect upon March 31, 2007 following final publication of said ordinance.

1. The preceding ordinance was adopted by the Manchester Township Board of Trustees at their regular meeting held on February 13, 2007, and that members Widmayer, Macomber, Becktel, Huber, Kolon and Mann voted in favor of adoption, none voted against. Absent: Schmitt
2. A summary of the ordinance was published in the *Manchester Enterprise* on March 1, 2007.
3. The effective date of the ordinance is March 31, 2007.

Ann M. Becktel