

**TOWNSHIP OF NAPOLEON
COUNTY OF JACKSON, STATE OF MICHIGAN
AN AMENDMENT TO THE
ADULT ENTERTAINMENT ORDINANCE, NO. 62**

At a regular meeting of the Napoleon Township Board held in the Township Hall on the _____ day of _____, 2004, at _____ p.m., the following Amendment to the Adult Entertainment Ordinance, No. 62, was offered by Member _____ and supported by Member _____.

IT IS HEREBY ORDAINED, by the Township Board for the Township of Napoleon, Jackson County, Michigan, that Ordinance No. 62 shall, and the same is hereby, amended to read as follows:

NOW THEREFORE, the Township Board for the Township of Napoleon, County of Jackson, State of Michigan, hereby ordains that the following ordinance dealing with Adult Entertainment be enacted as follows:

The purpose of this Ordinance is to regulate public commercial Adult Entertainment, including, but not limited to those forms of public commercial entertainment involving dancing, monologues, pantomimes, other types of personal body exhibitions, contortions or displays, motion pictures, still slides and closed circuit television, and establishments within the Township where such public commercial entertainment is presented, promoted, or permitted, to thereby prohibit any lewd, obscene, immoral, or unduly sexually stimulating entertainment acts, shows or personal exhibitions, and to promote the health, safety and general welfare of the inhabitants of the Township. This Ordinance does not apply to any publicly broadcast television transmission from a federally licensed station.

Because some uses of Adult Entertainment are recognized as having a harmful effect upon adjacent areas, causing a distressing effect upon other businesses and occupants, and a disruption in planned district development, it is considered necessary and in the best interest for the orderly development of Napoleon Township to prohibit widespread distribution of such uses, and require, instead, their placement in a specific district or districts as authorized by the zoning ordinance of Napoleon Township to thereby minimize their adverse impact on any specific neighborhood.

The following uses and activities shall be located only in the districts provided by the Napoleon Township Ordinance and shall not be located within 500 feet of any residentially zoned district, or within 1,000 feet of any place of worship or from any school. All measurements are based along a line forming the shortest distance between any portion of the respective properties of the existing and proposed following specified uses and activities and between the adjoining uses cited above.

- a. Adult bookstore.
- b. Adult mini motion-picture theater.
- c. Adult motion-picture theater.
- d. Adult sexual paraphernalia store.
- e. Massage parlor.
- f. Adult live-entertainment establishment.
- g. Any combination of the above.

Vehicular ingress and egress shall be directly onto a major thoroughfare having an existing or planned right-of-way of at least one hundred twenty (120) feet in width and shall have one property line abutting said thoroughfare.

The Napoleon Township Planning Commission and/or the Napoleon Township Zoning Board of Appeals may waive the foregoing distance requirements if it finds that all of the following conditions exist:

- a. The proposed use will not be contrary to the public interests or injurious to nearby properties in the proposed location and the spirit and intent of the purpose of the spacing regulations will still be observed;
- b. The proposed use will not create or promote a harmful effect upon adjacent areas.
- c. The establishment of the additional regulated use in the area will not be contrary to any program of neighborhood conservation nor interfere with any program of urban renewal; and
- d. Where all other applicable regulations with the Napoleon Township Zoning Ordinance or other pertinent Napoleon Township ordinances and state and federal law will be observed.

For the purpose of interpreting the application of the foregoing limitations on certain business locations, the following terms or designations shall have the following meanings:

- a. Adult Bookstore: An establishment having, as a substantial or significant portion of its stock in trade, books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to “specific sexual activities” or “specified anatomical areas,” as hereinafter defined, or an establishment with a significant segment or section devoted to the sale or display of such material.
- b. Adult Mini-Motion Picture Theater: An enclosure with a capacity or less than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas,” as hereinafter described for observation by patrons therein.
- c. Adult Motion-Picture Theater: An enclosure with a capacity of 50 or more persons for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas,” as hereinafter described for observation by patrons therein.
- d. Adult Sexual Paraphernalia Store: An establishment having, as a substantial or significant portion of its stock in trade, paraphernalia designed or usable for sexual stimulation or arousal.
- e. Massage Parlor: An establishment where persons conduct or permit to be conducted or engaged in, massages of the human body or parts thereof for the purpose of sexual stimulation and sexual enjoyment by means of pressure,

imposed friction, stroking, kneading, rubbing, tapping, pounding, vibrating, or other stimulation with hands, other parts of the human body, mechanical or electronic devices, creams, ointments, oils, or any other means.

- f. Adult Live Entertainment Establishment: An establishment which features dancers, waiters, waitresses, employees, patrons, exotic dancers, strippers, or similar entertainers who expose any or all of the “specified anatomical areas” to view by less than full opaque covering.

- g. Specified Sexual Activities:
 - 1. acts of human masturbation, sexual intercourse, or sodomy;
 - 2. fondling or other erotic touching of human genitals, pubic regions, buttocks, or female breasts; or
 - 3. human genitals in a state of sexual stimulation or arousal.

- h. Specified anatomical areas:
 - 1. less than completely and opaquely covered human genitals, public regions, buttocks, and female breasts below a point immediately above the top of the areola;
 - 2. human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
 - 3. human male or female anal orifices.

Procedure for License Issuance:

- A. Applicant shall submit an application to the Township Clerk not less than 60 days prior to the proposed commencement of such business, which application shall disclose such pertinent information as the Clerk may require about applicant, specific type of adult entertainment proposed, the proposed business location, facilities, maximum capacity to be admitted, business history, and business responsibility.

- B. The Township Board may require that applicant obtain liability insurance with limits of not less than \$300,000/\$500,000 and property damage insurance with a limit of not less than \$100,000 from a company or companies approved by the Commissioner of Insurance of the State of Michigan.

- C. The Township Board may require that applicant obtain a corporate surety bond in the amount of \$50,000 in a form to be approved by the township attorney, conditioned upon applicant’s faithful compliance with all of the terms and provisions of this ordinance, and all applicable provisions of The Napoleon Township Zoning Ordinance.

Requirements for Operation:

- A. Applicant shall permit township, county, and state officials to enter upon the premises at all reasonable times to determine compliance with the requirements of this ordinance and other applicable township, county, and state ordinances and statutes.
- B. Applicant shall not admit to his/her premises any person who is then under the influence of intoxicating beverages or of controlled substances, nor shall he/she knowingly permit the possession, sale, or consumption of intoxicating beverages, narcotics, or hallucinogenic drugs or controlled substances on his/her business premises.
- C. Business activities of applicant shall be limited to the hours specified by the Napoleon Township Planning Commission and/or the Napoleon Township Board.
- D. Applicant shall not knowingly permit violations of any Napoleon Township ordinance, county ordinance, or state statute or regulation by any of his/her patrons.

IT IS HEREBY FURTHER ORDAINED that the Adult Entertainment Ordinance, No. 62, as the same previously existed, shall be, and is hereby, repealed, effective upon the effective date of this Amendment.

The foregoing Amendment, or a synopsis thereof, shall, promptly after its adoption, be published in a newspaper of general circulation within the boundaries of the Township of Napoleon and qualified under state law to publish legal notices. The foregoing Amendment, further, shall become the Adult Entertainment Ordinance, No. 62, and shall be effective thirty (30) days after the date of publication.

MEMBERS PRESENT: _____

MEMBERS ABSENT: _____

MEMBERS VOTING IN FAVOR OF ADOPTION : _____

MEMBERS VOTING AGAINST ADOPTION: _____

Adopted: _____

Effective : _____

Lawrence S. Kujawa, Supervisor

Janet L. Day, Clerk