

**ARTICLE XII
SPECIAL LAND USES**

Section 12.1 Intent and Purpose: Act 110 of 2006 as amended, permits the legislative body to provide for special land uses in a zoning district as long as the following requirements are specified in the Ordinance:

- A. A listing of the special land uses and activities eligible for approval and the body or official responsible for reviewing and granting approval.
- B. The requirements and standards for approving a request for a special land use.
- C. The procedures and supporting material required for the application, review, and approval of a special land use.

Uses requiring special approval shall be subject to the general provisions of the zoning district where located, in addition to applicable provisions of this Article, to prevent conflict with or impairment of the other uses permitted by right of the district. Each use shall be considered as an individual case.

Rather than permitting all of the many and varied land use activities within individual and limited zoning districts, it is the intent of this Ordinance to provide a set of procedures and standards for specific uses of land or structures that will allow, on one hand practical latitude for the investor or developer, but that will at the same time, maintain sound provisions for the protection of the health, safety, convenience, and general welfare of Township inhabitants. In order to provide controllable and reasonable flexibility, the following sections permit detailed review of certain specified types of land use activities which, because of their particular and unique characteristics, require special consideration in relation to the welfare of adjacent properties and to the community as a whole. Land and structure uses possessing these characteristics may be authorized within certain zone districts by the issuance of a Special Land Use Permit.

Section 12.2 Review and Approval:

The special land uses and activities eligible in a respective zoning district may be permitted only after review and approval by the Planning Commission. Such special uses shall also be subject to site plan review and approval as provided for in Article XI of this ordinance.

A request for approval of a land use or activity shall be approved if the request is in compliance with the standards stated in this ordinance, the conditions imposed under the ordinance, other applicable ordinances, and state and federal statutes.

Public Hearing Procedures: Before making a decision on an application for a Special Land Use Permit, the Planning Commission shall hold a hearing on the application.

Notice of the public hearing shall be given in the manner provided for special land uses by Section 502 of the MZEA.

Subject to Subsection (1) below, the hearing shall be open to the public and all persons interested in the outcome of the application shall be given an opportunity to present evidence and arguments.

1. The Planning Commission may place reasonable and equitable limitations on the presentation of evidence and arguments.
2. The public hearing may be continued until a subsequent meeting and may keep the public presentation portion of the hearing open to take additional information up to the point a final decision is made. No further notice of a continued hearing need be published when the subsequent hearing date is set during the open session of the hearing and there is continued compliance with the Open Meetings Act (Public Act 267 of 1976, as amended).

Section 12.3 Application Procedure:

A request for a special use permit shall be made by filing with the Zoning Administrator the following:

- A. A permit fee as specified in Article XIV of this ordinance and as adopted from time to time by the Lake Township Board of Trustees.
- B. A copy of the completed application form for special use permit which shall contain at a minimum the following information:
 1. The applicant name, address and phone number in full.
 2. Proof of ownership of the property, and whether there are operations on the property and any easements that limit its use, and any leasehold interest in the property.
 3. The name and address of the owners(s) of record if the applicant is not the owner of record, or the firm or corporation having a legal or equitable interest in the property, and if that firm or corporation is a subsidiary of another firm or corporation, and the signatures, in legible form, of all of the owners having equitable interest in the land.
 4. Legal description, property parcel number and street address of the subject parcel of land.
 5. Area of the subject parcel of land stated in acres, or if less than one acre, in square feet.
 6. Present zoning classification on parcel.

7. Present and proposed land use.
8. Applicant's statement, as appropriate, of the expected effect on emergency service requirements, schools, storm water systems and automobile and truck circulation patterns and local traffic volume.
9. Any additional information necessary to consider the impact of the project upon adjacent properties and the general public as may be requested by the Zoning Administrator or the Township.

Section 12.4 Standards for Decisions:

In considering special land uses as a discretionary decision under this Article, the statute requires that the ordinance shall specify the regulations and standards upon which those decisions are made. The standards shall be consistent with and promote the intent and purpose of the zoning ordinance and insure that the land use activity authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land use. The standards shall also insure that the land use or activity is consistent with the public health, safety, and welfare of the Township.

Standards - Special approval shall be based on the determination that the proposal complies with all applicable requirements of this Ordinance, including site plan review criteria set forth in Article XI, and applicable site development standards for specific uses set forth in this Article, and the following standards:

General Standards:

The Planning Commission shall approve, or approve with conditions, an application for a special land use permit only upon a finding that the proposed special land use complies with all of the following general standards:

- A. The property subject to the application is located in a zoning district in which the proposed special land use is allowed.
- B. The proposed special land use will not involve uses, activities, processes materials, or equipment that will create a substantially negative impact on the natural resources of the Township or the natural environment as a whole.
- C. The proposed special land use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on other conforming properties in the area by reason of traffic, noise, smoke, fumes, glare, odors, or the accumulation of scrap material that can be seen from any public highway or seen from any adjoining land owned by another person.
- D. The proposed special land use will be designed, constructed, operated, and maintained so as not to diminish the opportunity for surrounding properties to be used and developed as zoned.

- E. The proposed special land use will not place demands on fire, police, or other public resources in excess of current capacity.
- F. The proposed special land use will be adequately served by public or private streets, water and sewer facilities, and refuse collection and disposal services.
- G. The proposed special land use complies with all specific standards required under this Ordinance that are applicable to it.
- H. The proposed special land use complies with the Environmental Provisions of this Ordinance contained in Article III, Section 3.18.
- I. The proposed special land use complies with any pertinent provisions of the Crystal Lake Watershed Overlay District and the Platte Lakes Area Management Plan as applicable to the property included in the application.

Section 12.5 Conditions of Approval:

The Planning Commission may attach conditions when granting special use approval. These conditions may include those necessary to insure the adequacy of public services and facilities affected by a proposed land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Any conditions imposed, however, shall meet all of the following requirements:

- A. Be designed to protect natural resources, the health, safety, and welfare, as well as the social and economic well-being, of those who will utilize the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
- B. Be related to the valid exercise of the police power which are affected by the proposed use or activity.
- C. Be necessary to meet the intent and purpose of the zoning requirements, be related to the standards established in the ordinance for the land use activity under consideration, and be necessary to insure compliance with those standards.

The conditions imposed as part of an approval of a land use or activity shall be recorded in the record of the approval action and remain unchanged except upon mutual consent of the approving authority and the landowner. The approving body shall maintain a record of conditions which are changed.

The Zoning Administrator, or designee, shall have the right to periodically inspect any special approvals, to ensure continued compliance with the conditions of the special approvals.

Section 12.6 Minor and Major Amendments to a Special Land Use:

Amendments to an approved special use permit shall be permitted only under the following circumstances:

- A. The owner of property for which a special land use has been approved shall notify the Zoning Administrator for any desired change to the approved special use permit. Minor changes may be approved by the Zoning Administrator upon determining that the proposed revision(s) will not alter the basic design and character of the special land use, nor any specified conditions imposed as part of the original approval.

Minor changes shall include the following:

1. Reduction in size of any building and/or sign.
 2. Movement of buildings and/or signs by no more than ten (10) feet.
 3. Landscaping approved in the special use permit that is replaced by similar landscaping to an equal or greater extent.
 4. Changes in floor plans that do not exceed five (5%) percent of the total floor area and which do not alter the character of the uses or increase the amount of required parking.
 5. Internal re-arrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design.
 6. Changes related to items 1 through 5 above, required or requested by the Township, Benzie County, or other state or federal regulatory agencies in order to conform with other laws or regulations; provided the extent of such changes does not alter the basic design and character of the special land use, nor any specified conditions imposed as part of the original approval.
- B. All amendments to a special land use permit approved by the Zoning Administrator shall be in writing. After approval by the Zoning Administrator, the applicant shall prepare a revised site plan showing the approved amendment. The revised site plan shall contain a list of all approved amendments and a place for the Zoning Administrator to sign and date all approved amendments.
- C. Major Changes: An amendment to an approved special use permit that cannot be processed by the Zoning Administrator under subsection A above, shall be processed in the same manner as the original special use permit application.

Section 12.7 Written Decision

Any decision made by the Planning Commission or Zoning Administrator regarding the issuance or revocation of a Special Land Use permit shall be reduced to writing and served on the applicant within fourteen (14) days following the date of the decision. The written decision shall incorporate a statement of findings and conclusions relative to the Special Land Use application which specifies the basis for the decision and any conditions imposed.

Section 12.8 Supplemental Regulations – Sexually Oriented Businesses

There is convincing documented evidence that sexually oriented businesses, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them; and, have serious objectionable characteristics, particularly when they are located in close proximity to each other.

It is not the intent of this Section to suppress any activity protected by the First Amendment of the United States Constitution or the Michigan Constitution, but to enact neutral content regulations which address the adverse secondary effects of sexually oriented businesses.

The Township recognizes that state and federal law prohibits the distribution of obscene materials and expects and encourages state enforcement officials to enforce state and federal obscenity statutes against any such illegal activities within the Township.

A. It is the purpose of this Section to regulate sexually oriented businesses and related activities to promote and ensure the health, safety, and general welfare of the citizens of the Township and to establish reasonable and uniform regulations to prevent the deleterious effects of sexually oriented businesses within the Township. The provisions of this Section do not have the purpose of imposing a limitation or restriction on the content of any communicative material, including sexually oriented materials. Similarly, it is not the intent of this Section to restrict or deny access by adults to sexually oriented materials protected by the First Amendment of the United States Constitution, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent of this Section to condone or legitimize the distribution of obscene materials.

B. Definitions As used in this Section, the following terms shall have the indicated meanings:

ADULT BOOK OR VIDEO STORE An establishment having as a substantial or significant portion of its stock in trade, books, magazines, periodicals, films, computer software or video tapes which are distinguished or characterized by their emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas,” as defined herein.

ADULT ENTERTAINMENT ESTABLISHMENT A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances presented for the enjoyment of the audience which has paid or promised to pay an admission fee and which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities”.

ADULT MINI-THEATER: A commercial establishment where, for any form of consideration, in an enclosed area with a capacity of less than ten (10) persons, films, motion pictures, video cassettes, slides, or similar photographic reproductions are shown which are characterized by an emphasis on the depiction or description of “specified sexual activities” or “specified anatomical areas”.

ADULT MOTION PICTURE THEATER: A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas,” as defined herein.

ADULT NOVELTY BUSINESS: A business that has as a substantial or significant portion of its activity in the sale of devices which stimulate human genitals or devices designed for sexual stimulation.

NUDITY or STATE OF NUDITY: The appearance of a human bare buttock, anus, male genitals, female genitals, or female breast without a fully opaque complete covering or the breast below a point immediately above the top of the areola, or human male genitals in a discernible turgid state even if complete and opaquely covered.

PERMIT: A Special Land Use Permit for the operation of a sexually oriented business and issued pursuant to this Article.

PERMITTEE: A person in whose name a permit to operate a sexually oriented business has been issued as well as the individual listed as an applicant on the application for a permit.

PERSON: An individual, proprietorship, partnership, limited liability company, corporation, association, or other legal entity.

SEXUALLY ORIENTED BUSINESS: An adult book or video store, adult motion picture theater, adult mini-theater, adult novelty business, or adult entertainment establishment.

SPECIFIED ANATOMICAL AREAS Includes: Less than completely and opaquely covered human genitals, pubic regions, buttocks and female breasts below a point immediately above the top of the areola;
Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES Includes: Acts of human masturbation, sexual intercourse, or sodomy. Fondling or other erotic touching of human genitals pubic regions, buttocks or female breasts; human genitals in a state of sexual stimulation or arousal.

SUBSTANTIAL OR SIGNIFICANT PORTION: A business will be deemed to have a substantial or significant portion of its stock in trade or services if it meets at least one of the following criteria:

1. Thirty-five (35) percent or more of the stock, materials, or services provided describes or relates to specified sexual activities, specified anatomical areas, or both.
2. Thirty-five (35) percent or more of the usable floor area of the building is used for the sale, display, or provision of services describing or relating to specified sexual activities, specified sexual activities, specified anatomical areas, or both.
3. The advertising (on signs, in publications, on television or radio and/or other media forms) associated with the business, describes or relates to specified sexual activities, specified anatomical areas, or both.

TRANSFER OF OWNERSHIP OR CONTROL OF A SEXUALLY ORIENTED BUSINESS means and includes any of the following:

1. The sale, lease, or sublease of the business;
2. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means;
3. The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

C. Permit Required

It shall be unlawful for a person to operate a sexually oriented business without a valid permit issued by the Planning Commission.

An application for a permit must be made on a form provided by the Township. The application must be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.

An application for a permit shall be made and delivered to the Zoning Administrator by the intended operator of the establishment. The intended operator shall be required to give the following information on the application form:

1. The name and street address (and mailing address, if different) and driver's license number of the intended operator if he/she has such a driver's license.
2. The name and street address (and mailing address, if different) of the owner(s), if different.
3. The name under which the establishment is to be operated and a general description of the services to be provided.

4. The telephone number of the establishment or, if unavailable, the operator's.
5. The address, tax parcel number, and legal description, of the tract of land on which the establishment is to be located.

The fact that a person possesses other types of state or county permits and/or licenses does not exempt him/her from the requirement of obtaining a sexually oriented business permit from the Township.

The application shall be accompanied by the following:

1. Payment of the application fee in full;
2. Proof of current fee ownership of the tract of land on which the establishment is to be situated in the form of a copy of the recorded deed, land contract, or other instrument of conveyance;
3. If the persons identified as the fee owner(s) of the tract of land in Item 2 above, are not also the owners of the establishment, then the lease, purchase contract, purchase option contract, lease option contract or other documents(s) evidencing the legally enforceable right of the ownership or proposed owners of the establishment or have or obtain the use and possession of the tract or portion thereof that is to be used for the purpose of the operation of the establishment.
4. The application shall contain a statement under oath that:
 - a. The applicant has personal knowledge of the information contained in the application and that the information contained therein and furnished therewith is true and correct; and
 - b. The applicant has read the provisions of this Section.

D. Issuance of Permit

The Planning Commission shall approve the issuance of a permit to an applicant within sixty (60) days after receipt of an application unless he/her finds one or more of the following to be true:

1. An applicant is under eighteen (18) years of age.
2. An applicant is overdue in his payment of fines, or penalties assessed against him or imposed upon him in relation to a sexually oriented business.
3. An applicant has failed to provide information reasonably necessary for issuance of the permit or has falsely answered a question or request for information on the application.

4. An applicant who has been denied a permit by the Township to operate a sexually oriented business within the preceding twelve (12) months, or whose license to operate a sexually oriented business has been revoked within the proceeding twelve (12) months.

5. The premises to be used for the sexually oriented business has not been approved by the health department for the use intended, if applicable.

6. The permit fee, as established by the Lake Township Board of Trustees, has not been paid.

7. An applicant has been convicted of any of the following criminal offenses in any jurisdiction:

Prostitution, procuring a prostitute, or solicitation of a prostitute; sale, distribution or display of obscene material; soliciting, procuring or aiding and abetting an unlawful sexual performance by a minor; possession, sale or distribution of child pornography; public lewdness; indecent exposure; indecent conduct with a child; sexual assault or rape; incest; or sexual solicitation of a child.

8. The applicant shall certify, as a part of the application, that he/she has not been convicted of any one or more of the foregoing criminal offenses. The applicant further shall authorize the release of any criminal history.

The permit, if granted, shall state on its face the name of the person or persons to whom it is granted, and the address of the sexually oriented business. The permit shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.

The Zoning Administrator may also take all steps necessary to revoke a permit if he/she determines that a permittee gave false or misleading information in the material submitted during the application process.

E. Inspection An applicant or permittee shall allow the Zoning Administrator or representatives of the County to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law at any time it is occupied or open for business.

F. Action to Revoke Permit The Zoning Administrator shall take enforcement action, including the commencement of suit seeking revocation of a permit, if any of the following occurs:

1. A permittee gave false or materially misleading information in the application process.

2. A permittee has been convicted of using and/or allowing the use of the controlled substances within the establishment.
3. A permittee has been convicted of prostitution or other activity fostering, promoting or otherwise facilitating prostitution, within the establishment or elsewhere.
4. A permittee or employee of the sexually oriented business has been convicted of any crime of a sexual nature or involving sexual conduct or the solicitation thereof within the establishment or elsewhere.
5. A permittee has been convicted of knowingly allowing a person under eighteen (18) years of age to enter the establishment.
6. There has been a transfer of ownership or control of an establishment without the prior consent of the Zoning Administrator, as required herein.

G. Transfer of Permit A permittee shall not transfer his/her permit to another, nor shall a permittee operate a sexually oriented business under the authority of a permit at any place other than the address designated in the application. Permittee must complete application.

H. Location Restrictions

A. A sexually oriented business may not be operated within one thousand (1,000) feet of :

1. A church, synagogue or regular place of religious worship;
2. A public or private school; or
3. Another sexually oriented business.

B. A sexually oriented business may not be operated within seven hundred fifty (750) feet of:

1. A boundary of any residential zoned district or any residential structure;
2. A licensed day care center; or
3. A public park.

A sexually oriented business may not be operated in the same building, structure, or portion thereof, containing another sexually oriented business.

For the purpose of this Section, measurement shall be made in a straight line, without regard to intervening structure or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted to

the nearest property line of the premises of a church, synagogue, regular place of worship, or public or private school, or to the nearest boundary of an affected public park, residential district, or residential lot, or licensed day-care center.

For purpose of SubsectionH-3 of this section, the distance between any two (2) sexually oriented business uses shall be made from the closest exterior wall of the structure in which each business is located.

A sexually oriented business may only be operated in a commercial (C-1) zoning district as designated in the Lake Township Zoning Ordinance.

I. Regulations Pertaining to Adult Entertainment Establishments - A person who operates or causes to be operated an adult entertainment establishment which presents live entertainment for the enjoyment of an audience which has paid or promised to pay an admission fee and which depicts specified sexual activities or displays specified anatomical areas, shall comply with the following requirements:

1. Upon application for a sexually oriented business permit, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures (indicating the type of illumination intensity of each such fixture) and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty (30) square feet of floor area.
2. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted.
3. Unless it is for a new commercial structure to be built, a professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises.
4. The application shall be sworn to be true and correct by the applicant.
5. No alteration in the configuration or location of a manager's station may be made without the prior approval of the Zoning Administrator.
6. It is the duty of the owners and operator of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
7. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose excluding restrooms.

8. Restrooms may not contain video reproduction equipment.
9. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.
10. It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present in the premises to ensure that the view area specified in Subsection 7 remains unobstructed by any doors, wall, merchandise, display racks or other materials at all times and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to Subsection 1 of this section.
11. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one (1.0) foot-candle as measured at the floor level.
12. It shall be the duty of the owners and operator and it shall also be the duty of any agents and employees present in the premises to ensure that the illumination described above is maintained at all times that any patron is present in the premises.
13. The premises shall meet all barrier free requirements and building code requirements imposed by the County Building and Inspections Department.
Hours of operation shall be limited to 8:00 a.m. to 10:00 p.m.
14. When live performers are involved in the sexually oriented business, privacy dressing rooms are to be provided, and an aisle between the performance area and the dressing room shall be kept clear and unobstructed so the performers can pass through without contact with patrons.
15. Parking layouts shall not adversely affect the flow of traffic within the site, or to and from the adjacent streets.
16. All off street parking areas shall be sufficient for all vehicles patronizing the establishment, shall be illuminated during all hours of operation with down shining lighting, and shall be open to view from the adjacent street.
17. Ground maintenance shall include routine clearing of rubbish and trash from the grounds, and hauling away of same at least once-per-week.
18. No person shall reside in or permit any person to reside in the premises of an adult oriented business.

19. All performers shall be salaried by the operators/owners of the sexually oriented business.

20. No person shall become the lessee or sublessee of any property for the purpose of using said property for a sexually oriented business without the express written permission of the owner of the property.

21. The maximum number of persons, including patrons, performers and operators, allowed in a structure at any one time shall be as established by the current Building Officials and Code Administration, Inc. (BOCA) Code, however, the number of patrons allowed on premises at any one time shall be limited to the amount of seating available, but shall not exceed one person for each fifteen (15) square feet of public net floor space, exclusive of restrooms, dance floor, administrative areas, hallways, etc.

J. Exterior Portions of Sexually Oriented Business

It shall be unlawful for an owner or operator of a sexually oriented business to allow the merchandise or activities of the establishment to be visible from a point outside the establishment.

It shall be unlawful for the owner or operator of a sexually oriented business to allow the exterior portion of the sexually oriented business to have any words, lettering, photographs, silhouettes, drawings, or pictorial representations of a sexual or explicit manner except to the extent otherwise permitted by the provisions of this Ordinance.

Signs shall contain no photographs, silhouettes, drawings or pictorial representations of any manner, and may contain only the name of the enterprise.

K. Persons Younger Than Eighteen Prohibited From Entry; Attendant Required

It shall be unlawful to allow a person who is younger than eighteen (18) years of age to enter or be on the premises of a sexually oriented business at any time that the sexually oriented business is open for business.

It shall be the duty of the operator of each sexually oriented business to ensure that an attendant is stationed at each public entrance to the sexually oriented business at all times during such sexually oriented business's regular business hours. It shall be the duty of the attendant to not allow any person under the age of eighteen (18) years to enter the sexually oriented business. It shall be presumed that an attendant knew a person was under the age of eighteen (18) unless such attendant asked for and was furnished:

A valid operator's, commercial operator's, or chauffeur's license; or

A valid personal identification certificate reflecting that such person is eighteen (18) years of age or older.

L. Exemption It is a defense to prosecution under this Ordinance that a person appearing in a state of nudity did so in a modeling class operated:

1. By a proprietary school, licensed by the State of Michigan, a college, junior college, or university supported entirely or partly by taxation;
2. By a private college or university that maintains and operates education programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.

M. Notices

Any notice required or permitted to be given by the Township or other agency under this Ordinance to any applicant, operator or owner of an establishment may be given either by personal delivery or by certified United States mail, postage prepaid, return receipt requested, addressed to the most recent address as specified in the application for the permit, or transfer application that has been received by the Township, or any notice of address change that has been received by the Township. Notices mailed as above shall be deemed given upon their deposit in the United States mail. In the event that any notice given by mail is returned by the postal service, the Township shall cause it or a replica thereof to be posted at the principal entrance to the establishment.

Any notice required or permitted to be given to the Township by any person under this Ordinance shall not be deemed given until and unless it is received in the Township Hall office.

It shall be the duty of each owner who is designated on the permit application and each operator to furnish notice to the Township, in writing, of any change of residence or mailing address.

Notices shall also comply with the requirements of Act 110 of 2006, as amended, being the Michigan Zoning Enabling Act.

N. Non-conforming Uses Any business lawfully operating on the effective date of this Ordinance that is in violation of the location or structural configuration requirements of this Section shall be deemed a non-conforming use. The non-conforming use will be permitted to continue for a period not to exceed one (1) year, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. If two or more sexually oriented businesses are within one thousand (1,000) feet of one another and otherwise in a permissible location, the sexually oriented business which was first established and continually operating at a particular location is the conforming use and the later-established business(es) is non-conforming.

A sexually oriented business lawfully operating as a conforming use is not rendered a non-conforming use by the subsequent location of a church, synagogue, or regular place of religious worship, or public or private school, within one thousand (1,000) feet, or the location of a boundary of any residential zoned district or any residential structure, a licensed day care center or public park, within seven hundred fifty (750) feet. This provision applies only to the renewal of a valid permit and does not apply when an application for a permit is submitted after a permit has expired or has been revoked.

O. Injunction A person who operates or causes to be operated a sexually oriented business without a valid permit or otherwise violates this Ordinance shall be subject to a suit for injunctive relief and/or revocation of the sexually oriented business permit, as well as fines or other penalties as provided by this Zoning Ordinance.

P. Variances and Limitation on Reapplication Relief from any dimensional requirement of this Ordinance may be granted by the Zoning Board of Appeals in accordance with Article XV. Any evidence and any guarantee may be required as proof that the conditions stipulated in connection therewith will be fulfilled.

No application for a waiver of a spacing requirement or other Zoning Board of Appeals approval for a Regulated Use which has been denied wholly or in part, or granted with conditions shall be resubmitted for a period of one (1) year from the date of said order, except on the grounds of new evidence not previously available or proof of changed conditions.

Q. Expansion and Discontinuance

Once established, a sexually oriented business may not be expanded in any manner without first applying for and receiving approval of the Zoning Administrator or Planning Commission.

If the regulated use is voluntarily discontinued, the use may not be re-established without first applying for and receiving the approval of the Zoning Administrator or Planning Commission.

Nothing herein shall prevent the reconstruction, repairing, or rebuilding and continued use of any building or structure under the regulation of this Section, which is damaged by fire, collapse, explosion, or any other in-voluntary cause.