

CHAPTER 860
Adult Entertainment Establishments

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860.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (a) "Adult bookstore." An establishment that has a substantial portion of its stock-in-trade and offers for sale, for any form of consideration, any one or more of the following:
 - (1) Books, magazines, periodicals or other printed matter, or photographs, films, movies, motion pictures, video cassettes, slides, or other visual representations that are characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas;
 - (2) Instruments, devices, or paraphernalia designed for use as part of or in connection with specified sexual activities.
- (b) "Adult motion picture theater." An establishment, where, for any form of consideration, films, motion pictures, videos, slides, or other photographic reproductions are shown and in which a substantial portion of the total presentation is devoted to the showing of material characterized by an emphasis on the depiction or description of specified anatomical areas or specified sexual devices.
- (c) "Massage parlor." An establishment or place which is primarily in the business of providing massage services and which is not a myotherapy establishment.
- (d) "Specified anatomical areas." Specified anatomical areas means and includes any one or more of the following:
 - (1) Less than completely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areola; or
 - (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

- (e) "Specified sexual activities." Includes any one or more of the following:
- (1) The fondling or erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
 - (2) Human sex acts, normal or perverted, actual or simulated, including but not limited to intercourse, oral copulation, and sodomy;
 - (3) Human masturbation, actual or simulated;
 - (4) Human excretory functions as part of or as related to any of the activities described above; and
 - (5) Physical violence, bondage, mutilation, or rape, actual or simulated, as part of or as related to any of the activities described above.
- (f) "Substantial portion." A use or activity accounting for more than twenty percent of any one or more of the following: stock-in-trade, display space, floor space, or viewing time, movie display time, or entertainment time measured per month.
- (Ord. 2007-08. Passed 6-11-07.)

860.02 LICENSES.

(a) Requirement. From and after the effective date of this chapter, no adult bookstore, adult motion picture theater or massage parlor, hereinafter referred to as adult entertainment establishments, shall be operated or maintained in the Village without first obtaining a license to operate issued by the Village.

(b) Limitation. No license shall be issued to any adult entertainment establishment located within 1,000 feet of any school or church. A license may be issued only for one adult entertainment establishment located at a fixed and certain place. Any person, partnership, or corporation which desires to operate more than one adult entertainment establishment must have a license for each.

(c) Non-transferability. No license or interest in a license may be transferred to any person, partnership or corporation.

(d) Exclusions. All private schools and public schools located within the Village are exempt from obtaining a license hereunder when instructing pupils in sex education as part of its curriculum.

(Ord. 2007-08. Passed 6-11-07.)

860.03 APPLICATION FOR LICENSE.

(a) Any person, partnership, or corporation desiring to secure a license shall make application to the Village Clerk. The application shall be dated by the Village Clerk. A copy of the application shall be distributed promptly by the Village Clerk to the Department of Public Safety and to the applicant.

(b) The application for a license shall be upon a form provided by the Village Clerk. An applicant for a license, which shall include all partners or limited partners of a partnership applicant, and all officers and directors of a corporate applicant and all stockholders including more than five percent of the stock of a corporate applicant, or any other person who is interested directly in the ownership or operation of the business, shall furnish the following information under oath:

- (1) Name and address, including all aliases.
- (2) Date of birth.
- (3) Social Security number.
- (4) Michigan vehicle operator's license number.
- (5) Written proof that the individual is at least eighteen years of age.
- (6) All residential addresses of the applicant for the past three years.
- (7) The applicant's height, weight, color of eyes and hair.
- (8) The business, occupation, or employment of the applicant for five years immediately preceding the date of application.
- (9) Whether the applicant previously operated in this or any other county, city, or state under an adult entertainment establishment license or similar business license; whether the applicant has ever had such a license revoked or suspended, the reason therefor, and the business entity or trade name under which the applicant operated that was subjected to the suspension or revocation.
- (10) All criminal statues, whether Federal or State, or city ordinance violation convictions, forfeiture of bond, or pleadings of nolo contendere on all crime charges, except minor traffic violations.
- (11) Fingerprints and two portrait photographs at least two inches by two inches of the applicant.
- (12) The address of the adult entertainment establishment to be operated by the applicant.
- (13) If the applicant is a corporation, the application shall specify the name of the corporation, the date and state of incorporation, the name and address of the registered agent, and the name and address of all shareholders owning more than five percent of the stock in said corporation and all officers and directors of the corporation.

(c) Within twenty-one days of receiving an application for a license the Village Clerk shall notify the applicant whether application is granted or denied.

(d) Whenever an application is denied, the Village Clerk shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten days of receipt of notification of denial, a public hearing shall be held within thirty days thereafter before the Village Council, as hereinafter provided.

(e) Failure or refusal of the applicant to give any information relevant to the investigation of the application or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the Village Clerk.

(Ord. 2007-08. Passed 6-11-07.)

860.04 STANDARDS FOR ISSUANCE OF LICENSE.

(a) To receive a license to operate an adult entertainment establishment, an applicant must meet the following standards:

- (1) If the applicant is an individual:
 - A. The applicant shall be at least eighteen years of age.
 - B. The applicant shall not have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity, or other crime of a sexual nature in any jurisdiction within five years immediately preceding the date of the application.
 - C. The applicant shall not have been found to have previously violated this chapter or a substantially similar ordinance within five years immediately preceding the date of the application.
- (2) If the applicant is a corporation:
 - A. All officers, directors, and stockholders required to be named under Section 860.03(b) shall be at least eighteen years of age.
 - B. No officer, director, or stockholder required to be named under Section 860.03(b) shall have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity, or other crime of a sexual nature in any jurisdiction within five years immediately preceding the date of the application.
 - C. No officer, director, or stockholder required to be named under Section 860.03(b) shall have been found to have previously violated this chapter or a substantially similar ordinance within five years immediately preceding the date of the application.
- (3) If the applicant is a partnership, joint venture, or any other type of organization where two or more persons have a financial interest:
 - A. All persons having a financial interest in the partnership, joint venture, or other type of organization shall be at least eighteen years of age.
 - B. No person having a financial interest in the partnership, joint venture, or other type of organization shall have been convicted of or pleaded nolo contendere to a felony or any crime involving moral

- turpitude, prostitution, obscenity, or other crime of a sexual nature in any jurisdiction within five years immediately preceding the date of the application.
- C. No person having a financial interest in the partnership, joint venture, or other type of organization shall have been found to have violated any provision of this chapter or a substantially similar ordinance within five years immediately preceding the date of the application.
 - D. No license shall be issued unless the Police Department has investigated the applicant's qualifications to be licensed. The results of the investigation shall be filed in writing with the Village Clerk no later than fourteen days after the date of the application. (Ord. 2007-08. Passed 6-11-07.)

860.05 FEE.

A license fee, that will be set by the Village Council, shall be submitted with the application for a license. If the application is denied, one-half of the fee shall be returned.

(Ord. 2007-08. Passed 6-11-07.)

860.06 DISPLAY OF LICENSE OR PERMIT.

The license shall be displayed in a conspicuous public place in the adult entertainment establishment.

(Ord. 2007-08. Passed 6-11-07.)

860.07 RENEWAL OF LICENSE OR PERMIT.

(a) Every license issued pursuant to this chapter will terminate at the expiration of one year from the date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the Village Clerk. The application for renewal must be filed not later than sixty days before the license expires. The application for renewal shall be filed in triplicate with and dated by the Village Clerk. A copy of the application for renewal shall be distributed promptly by the Village Clerk to the Police Department and to the business operator. The application for renewal shall be upon a form provided by the Village Clerk and shall contain such information and data, given under oath or affirmation, as is required for an application for a new license.

(b) A license renewal fee of two hundred fifty dollars (\$250.00) shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of one hundred dollars (\$100.00) shall be assessed against the applicant who files for a renewal less than sixty days before the license expires. If the application is denied, one-half of the total fees collected shall be returned.

(c) If the Police Department is aware of any information bearing on the operator's qualifications, that information shall be filed in writing with the Village Clerk.
(Ord. 2007-08. Passed 6-11-07.)

860.08 REVOCATION OR SUSPENSION OF LICENSE.

(a) The Village Council can revoke or suspend a license or permit for any of the following reasons:

- (1) Discovery that false or misleading information or data was given on any application or material facts were omitted from any application.
- (2) The operator or any employee of the operator has violated any provision of this chapter or any rule or regulation adopted by the Village Council pursuant to this chapter, provided however, that in the case of a first offense by an operator where the conduct was solely that of an employee, the penalty shall not exceed a suspension of thirty days if the Council shall find that the operator had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge.
- (3) The operator becomes ineligible to obtain a license or permit or the operator is convicted of or pleads nolo contendere to any felony or any crime involving moral turpitude, prostitution, obscenity, or other crime of a sexual nature.
- (4) Any cost or fee required to be paid by this chapter is not paid.
- (5) Any intoxicating liquor or cereal malt beverage is served or consumed on the premises of the adult entertainment establishment.
- (6) The operator fails to maintain a special use permit for the site as required by the zoning ordinance or fails to comply with conditions of the special use permit.

(b) The Council, before revoking or suspending any license or permit, shall give the operator at least ten days written notice of the charges against the operator and the opportunity for a public hearing before the Village Council, as hereinafter provided:

- (1) Before the Village Council revokes or suspends a license issued herein, the Village Council shall cause written notice to be sent by certified mail to the licensee or applicant affected, at the address stated in the license or application, informing such person of the right to a hearing upon request.
- (2) If the licensee does not request a hearing within fourteen days of the date the notice was sent, the license may be forthwith revoked or suspended. If the licensee requests a hearing before the Village Council regarding the proposed revocation or suspension, the hearing shall be held within twenty-one days after the date of the written request.

- (3) Any license issued by the Village may be immediately suspended by the Village Administrator or duly appointed Village official if it is determined that the licensee has violated or someone at or upon the licensed location has violated this chapter or State law and that continued operation under the license is contrary to the public health, safety, and welfare. A licensee shall have the right to a hearing before the Village Council on any license suspension by the Village Administrator and notice thereof shall be given in accordance with paragraphs (b)(1) and (2) hereof.
 - (4) Both the Village and the licensee shall be afforded a reasonable opportunity to present evidence on the issue at the hearing. Action taken by the Village Council shall be final and any fees hereunder shall not be refunded to the applicant or licensee.
- (c) The transfer of a license or any interest in a license shall automatically and immediately revoke the license.
- (d) Any operator whose license is revoked shall not be eligible to receive a license for one year from the date of revocation. No location or premises for which a license has been issued shall be used as an adult entertainment establishment for six months from the date of revocation of the license.
(Ord. 2007-08. Passed 6-11-07.)

860.09 PHYSICAL LAYOUT OF ADULT ENTERTAINMENT ESTABLISHMENT.

Any adult entertainment establishment having available for customers, patrons, or members any booth, room, or cubicle for the private viewing of any adult entertainment must comply with the following requirements:

- (a) Access. Each booth, room, or cubicle shall be totally accessible to and from aisles and public areas of the adult entertainment establishment and shall be unobstructed by any door, lock, or other control-type devices.
- (b) Construction. Every booth, room or cubicle shall meet with the following construction requirements:
 - (1) Each booth, room, or cubicle shall be separated from adjacent booths, rooms, and cubicles, and any non-public areas by a wall.
 - (2) Each booth, room, or cubicle shall have at least one side totally open to a public lighted aisle so that there is an unobstructed view at all times of anyone occupying the same.
 - (3) All walls shall be solid and without any openings, extended from the floor to a height of not less than six feet and be light colored, nonabsorbent, smooth textured, and easily cleanable.
 - (4) The floor must be light colored, nonabsorbent, smooth textured, and easily cleanable.

- (5) The lighting level of each booth, room, or cubicle, when not in use shall be a minimum of ten foot candles at all times, as measured from the floor.
- (c) Occupants. Only one individual shall occupy a booth, room, or cubicle at any time. No occupant of same shall engage in any type of sexual activity, cause any bodily discharge, or litter while in the booth. No individual shall damage or deface any portion of the booth.
(Ord. 2007-08. Passed 6-11-07.)

860.10 RESPONSIBILITIES OF THE OPERATOR.

- (a) The operator shall maintain a register of all employees, showing the name and aliases used by the employee, home address, age, date of birth, sex, height, weight, color of hair and eyes, phone numbers, Social Security numbers, date of employment and termination, and duties of each employee. The above information on each employee shall be maintained in the register on the premises for a period of three years following termination.
- (b) Daily hours of operation of any adult entertainment establishment shall be limited to the period of time from 8:00 a.m. to 2:00 a.m.
- (c) The operator shall make the register of employees available immediately for inspection by police upon demand of a member of the Police Department at all reasonable times.
- (d) No merchandise or pictures of the products or entertainment on the premises shall be displayed in window areas or any areas where they can be viewed from a public sidewalk adjacent to the establishment.
- (e) Any individual viewing booths, entertainment rooms, or similar cubicles designed or used for individuals to view specified anatomical areas or to view specified sexual activities shall not be completely enclosed from the common areas, hallways, or other areas of the adult entertainment business.
- (f) No employee or patron under eighteen years of age shall be allowed on the premises of an adult entertainment establishment.
- (g) No intoxicating liquor or cereal malt beverage shall be served or consumed on the premises of an adult entertainment establishment.
- (h) The operator shall maintain the premises in a clean and sanitary manner at all times.

(i) Every act or omission by an employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator, if such act or omission occurs either with the authorization, knowledge, or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.

(j) Any act or omission of any employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended, or renewed.

(k) No employee of an adult entertainment establishment shall allow any minor to loiter around or to frequent an adult entertainment establishment or to allow any minor to view adult entertainment as defined herein.

(l) The operator shall maintain at least ten foot candles of light in the public portions of the establishment, including aisles, at all times measured from the floor. However, if a lesser level of illumination in the aisles shall be necessary to enable a patron to view the adult entertainment in a booth, room, or cubicle adjoining an aisle, a lesser amount of illumination may be maintained in such aisles, provided, however, that at no time shall there be less than one foot candle of illumination in the aisles, as measured from the floor.

(m) The operator shall insure compliance of the establishment and its patrons with the provisions of this chapter.
(Ord. 2007-08. Passed 6-11-07.)

860.99 PENALTY.

(a) Terms. Any person convicted under this chapter shall be subject to a maximum penalty of ninety days in jail, or an equal amount of time of community service, or any combination thereof not exceeding ninety days, plus five hundred dollars (\$500.00) fine, plus actual costs of prosecution, plus mandatory restitution to victims.

(b) Continuing Violations. In addition to the penalty provided in subsection (a) hereof, any condition caused or permitted to exist in violation of the provisions of this Code, or any ordinance, shall be deemed a new and separate offense for each day that such condition continues to exist.
(Ord. 2007-08. Passed 6-11-07.)