

**HEATH TOWNSHIP
ALLEGAN COUNTY, MICHIGAN**

ORDINANCE NO. 48

**ORDINANCE AMENDING CHAPTER XI TO PROVIDE FOR
REGULATION OF ADULT BUSINESSES**

Adopted: December 11, 2000

Effective: December 28, 2000

An Ordinance amending Chapter XI by the addition of Section 11.23 to regulate adult businesses; and to set an effective date and repeal all existing ordinances or parts of ordinances in conflict herewith.

**THE TOWNSHIP OF HEATH
ALLEGAN COUNTY, MICHIGAN**

ORDAINS:

SECTION I

AMENDMENT TO CHAPTER XI

Chapter XI of the Heath Township Zoning Ordinance is amended by the addition of the following:

Section. 11.23 Adult Entertainment Regulation

This Section has been adopted to regulate certain uses which, because of their nature, have serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances or when one or more of them are located in near proximity to a residential zone, church or house of religious worship, school, park, and/or a playground or public recreational area, thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. The controls contained within the Ordinance are for the purpose of preventing a concentration of these uses within any one area, and to prevent deterioration or blighting of a nearby residential neighborhood. The following regulated uses are subject to these controls:

1. Activities:

- a. Adult bookstore or adult video or videocassette store: An establishment having more than 10% of its stock in trade books, magazines, other periodicals, and/or video cassettes, videodiscs, or videotapes for sale, rent, or viewing which are distinguished or characterized by the emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined herein.
- b. Adult cabaret: An establishment including, but not limited to, cafes, restaurants, or bars where patrons are entertained by live performances featuring go-go dancers, erotic dancers, strippers, male or female impersonators, or similar entertainers where said performances depict, describe, or relate to specified sexual activities or specified anatomical areas as defined herein.
- c. Adult mini motion picture theater: An enclosure with a capacity for 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 defined for observation by patrons therein.
- d. Adult motion picture theater: Any establishment used for presenting material, including, but not limited to, live performances as defined in Section I, motion pictures, slides or similar photographs or laser reproductions, shown on a regular basis which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined herein for observation by patrons.
- e. Adult personal service businesses: A commercial business or private business having as a principal activity a person, while nude, providing personal services for another person on an individual basis. Such a business includes, but is not limited to, the following activities and services:
 - i. Modeling studios.
 - ii. Body painting studios.
 - iii. Wrestling studios.

- iv. Individual theatrical performances or dance performances.
- v. Barber shops or hair salons.
- vi. Car washes.

- vii. Convenience stores or other commercial business establishments where food or goods are sold.

- viii. Massage parlors

- ix. Tattoo parlors.

- f. Adult smoking or 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 or for smoking, ingesting or inhaling marijuana, narcotics, or other stimulating or hallucinogenic drug-related substances.

- g. Host or hostess establishment: Establishments or clubs offering socialization with a host or hostess for a consideration to the host or hostess, or for an admission or membership fee.

- h. Massage establishment: An establishment having a fixed place of business where massages are administered for pay, including, but not limited to, massage parlors, health clubs, health spas, sauna baths, and steam baths. This definition shall not be construed to include any hospital, nursing home, medical clinic or the office of a physician, surgeon, chiropractor, osteopath, or physical therapist duly licensed by the State of Michigan; a certified masseuse holding a Michigan Certification; or barbershops or beauty salons in which massages are administered only to the scalp, face, neck or shoulder. This definition shall not be construed to include a nonprofit organization operating a community center, swimming pool, tennis court, or other educational, cultural, recreational, and athletic facilities for the welfare of the residents of the area.

2. Definitions:

In reference to the above activities the following definitions shall apply:

- a. Specified anatomical areas:

- I. Less than completely and opaquely covered human genitals, pubic region, buttocks and female breasts below a point immediately above the top of the areola.
 - ii. Human male genitals in a discernable turgid state, even if completely and opaquely covered.
 - b. Specified sexual activities:
 - I. Human genitals in a state of sexual stimulation or arousal.
 - ii. Acts of human masturbation, sexual intercourse, or sodomy.
 - iii. Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.
- 3. Restrictions:

Any use or activity listed in Section 11.23.1 shall not be:

 - a. Located within a one thousand (1,000) foot radius of any residence, church or house of religious worship, school, park, playground or public recreational area unless a petition requesting waiver of this requirement is received and verified by the Township Clerk, signed by fifty-one (51%) percent of those adult persons residing within or owning property within a one thousand (1,000) foot radius of the proposed location, in which case the Planning Commission may waive this requirement.
 - b. Located within a one thousand (1,000) foot radius of any other such regulated use except that such restriction may be waived by the Planning Commission if the following findings are made:
 - I. That the proposed use will not be contrary to the public interest or injurious to nearby properties, and the spirit and intent of this Ordinance is observed.
 - ii. That the proposed use will not enlarge or encourage the development of a blighted or deteriorating area or its immediate surroundings.

- iii. That all applicable state laws and local ordinances will be observed.

4. Design Standards:

All building openings, entries, windows, and doorways for adult bookstores, adult personal service businesses, adult videocassette or video stores, adult cabarets, adult motion picture theaters, and massage establishments shall be located, covered or screened in such a manner as to prevent a view into the interior from any public area.

5. Conditions and Limitations:

- a. Prior to the granting of any waiver as herein provided, the Planning Commission may impose any such conditions or limitations upon the establishment, location, construction, maintenance, or operation of the regulated use as may in its judgment be necessary for the protection of the public interest. Any evidence and any guarantee may be required as proof that the conditions stipulated in connection therewith will be fulfilled.
- b. The Planning Commission shall have the authority to impose additional conditions and restrictions for a particular use where it deems it necessary to protect adjoining property, the traveling public, and the health, safety and welfare of the area.

6. Limit on Reapplication:

No application for a regulated use which has been denied wholly or in part shall be resubmitted for a period of one (1) year from the date of said order of denial, except upon the grounds of new evidence not previously available or proof of changed conditions.

SECTION II

REPEAL OF EXISTING ORDINANCES AND EFFECTIVE DATE

All ordinances or parts of ordinances in conflict herewith are hereby repealed. This ordinance shall take effect eight days following proper publication of notice of its adoption in accordance with and subject to Michigan Public Act 297 of 1996.

HEATH TOWNSHIP

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