

## CHAPTER XIII

117.1300

### "C" COMMERCIAL ZONE

#### 117.1301 Description and purpose.

Sec. 13.01. It is the intent of this district to provide areas for business, professional, service and water related businesses which are in scale with rural and village character and are further intended to serve only the daily needs of the community. It is expected that major commercial needs and the needs for comparison shopping will be provided for outside of Milton Township.

#### 117.1302A Permitted uses.

Sec. 13.02A. No building or any part thereof shall be hereafter used, erected, altered or converted, or land used in the Commercial Zone in whole or in part except for:

No commercial building shall contain more than ten thousand (10,000) square feet of floor area.

Business and Professional Offices (except drive-in facilities).

Barber and Beauty Shops with limit of four (4) chairs.

Restaurants (except drive-in) and limited to twenty-five (25) seats.

Food stores.

Hardware stores.

Motels limited to ten (10) units.

General sales of durable goods, merchandise and products.

Drug Stores.

Private garage or yard sales for the sale of personal property belonging to the owner or occupant of such property, provided that there shall be no more than two (2) such sales per calendar year of no more than three (3) days duration each, with one (1) sign no more than four (4) square feet in area and not illuminated or animated.

**117.1302B Uses Permitted When Authorized by Special Use Permit.**

Section 13.02B. The following use of and structures may be permitted by the application to the Planning Commission for the issuance of a Special Use Permit (Special Exception) when the procedure and requirements, as outlined in Chapter XVIII, Section 18.07 of this Ordinance are complied with:

Any Commercial Building containing more than ten thousand (10,000) square feet of floor area.

Bowling alleys.

Clothes cleaning, dry cleaning (including drive-in).

Laundry pick-up stations, laundromats.

Nursery school or day care nurseries.

Nurseries selling live plants.

Medical clinics.

Parking lots.

Farm markets, sale of fruits and vegetables.

Consumption of intoxicating beverages.

Service stations including auto repair.

Drive-in facilities of financial institutions, food service, restaurants and cafes that include dancing and/or floor shows.

Barber and beauty shops with greater than four (4) chairs.

Restaurants containing more than twenty-five (25) seats.

Motels with more than ten (10) units.

**117.1302C Sexually Oriented Businesses--Regulations and Requirements for Operation Within a Commercial Zone.**

Sec. 1302C. Sexually oriented businesses require special supervision in order to protect and preserve the health, safety, and welfare of the patrons of such business as well as the citizens of the communities where they are located.

There is convincing documented evidence that sexually oriented businesses, because of their nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, causing increased crime and downgrading of property values.

It is recognized that sexually oriented businesses, due to their nature, have serious objectionable characteristics, particularly when they are located in close proximity to each other, thereby contributing to urban blight and downgrading the quality of life in the adjacent area.

The Township of Milton desires to prevent these adverse affects and thereby protect the health, safety, and welfare of the citizenry, preserve the property values and character of surrounding neighborhoods and deter the spread of urban blight.

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

It is not the intent of the Township of Milton to condone or legitimize the distribution of the obscene materials, and the Township of Milton 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 of Milton.

#### PURPOSE AND INTENT:

It is the purpose of this ordinance to regulate sexually oriented businesses and related activities to promote the health, safety, and general welfare of the citizens of the Township, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the Township. The provisions of this Ordinance 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 Ordinance to restrict or deny access by adult 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 Ordinance to condone or legitimize the distribution of obscene materials.

#### DEFINITIONS:

1. ADULT BOOKSTORE OR ADULT VIDEO STORE means a commercial establishment which, as one of its principal business purposes, offers for sale or rental for any for of consideration any one or more of the following:

(A) books, magazines, periodicals or other printed matter, or photographs, film, motion pictures, video cassettes or video reproductions, slides, or other visual representations which

depict or describe "specified sexual activities" or "specified anatomical areas"; or

(B) instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities."

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and may still be categorized as ADULT BOOKSTORE or ADULT VIDEO STORE. The sale or rental of those items described in Subparagraphs (A) and (B) above shall be deemed to constitute a principal business purpose of an establishment if it comprises 35% or more of sales volume or occupies 35% or more of the floor area or visible inventory within the establishment.

2. ADULT ENTERTAINMENT ESTABLISHMENT means 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."

3. ADULT MINI-THEATER means 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 or description of "specified sexual activities" or "specified anatomical areas."

4. ADULT MOTEL means a hotel, motel or similar commercial establishment which:

(A) offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right of way which advertises the availability of the adult type of photographic reproductions; or

(B) offers a sleeping room for rent for a period of time that is less than twenty-four (24) hours.

5. ADULT MOTION PICTURE THEATER means 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."

6. ESCORT means 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.

7. ESCORT AGENCY means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

8. ESTABLISHMENT means and includes any of the following:

(A) the opening or commencement of any sexually oriented business as a new business;

(B) the conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;

(C) the additions of any sexually oriented business to any other existing sexually oriented business; or

(D) the relocation of any sexually oriented business.

9. PERMITTEE means a person in whose 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.

10. PERMIT means a special use permit for the operation of a sexually oriented business and issued pursuant to this Sexually Oriented Business Ordinance.

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

12. PERSON means an individual, proprietorship, partnership, limited liability company, corporation, association, or other legal entity.

13. SEXUALLY ORIENTED BUSINESS means an adult bookstore or video store, adult entertainment establishment, adult mini-theater, adult motel, adult motion picture theater, escort or escort agency.

14. SPECIFIED ANATOMICAL AREAS includes:

(A) less than completely and opaquely covered human genitals, pubic regions, buttocks and female breasts below a point immediately above the top of the areola;

(B) human male genitals in a discernible turgid state, even if completely and opaquely covered.

15. SPECIFIED SEXUAL ACTIVITIES includes:

(A) acts of human masturbation, sexual intercourse, or sodomy;

(B) fondling or other erotic touching of human genitals, pubic regions, buttocks, or female breasts;

(C) human genital in a state of sexual stimulation or arousal.

16. TRANSFER OF OWNERSHIP OR CONTROL of a sexually oriented business means and includes any of the following:

(A) the sale, lease, or sublease of a business;

(B) controlling interest in the business, whether by sale, exchange, or similar means;

(C) 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 death of the person possessing the ownership or control.

PERMIT AND/OR LICENSE REQUIRED:

A. It shall be unlawful for a person to operate a sexually oriented business without a valid permit issued by the Zoning Administrator.

B. An application for a permit must be made on a form provided by the Township of Milton. The application must be provided by the Township of Milton. 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. This 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.

C. Applications 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. a. 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.
- b. The name and street address (and mailing address, if different) of the owner(s), if different.
2. The name under which the establishment is to be prorated and a general description of the services to be provided.
  3. The telephone number of the establishment or, if unavailable, the operator's.
  4. The address, and legal description, of the tract of land on which the establishment is to be located.

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

- E. The application shall be accompanied by the following:
1. Payment of the application fee in full;
  2. Proof of current fee simple 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 simple owners(s) of the tract of land in item 2. are not also the owners of the establishment, then the lease, purchase contract, purchase option contract, lease option contract or other document(s) evidencing the legally enforceable right of the ownership or proposed by owners of the establishment to have or obtain the use and possession of the tract or portion thereof that is to be used for the establishment for the purpose of the operation of the establishment.

F. The application shall contain a notarized statement under oath that:

1. 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
2. The applicant has read the provisions of this article.

ISSUANCE OF PERMIT:

A. The Zoning Administrator shall approve the issuance of a permit to an applicant within thirty (30) days after receipt of

an application unless he 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 taxes, 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 form.
4. An applicant who has been denied a permit by the Township to operate a sexually oriented business within the preceding twenty-four (24) months, or whose license to operate a sexually oriented business has been revoked within the preceding twenty-four (24) months.
5. The premises to be used for the sexually oriented business have not been approved by the Health Department for the use intended, if applicable, or any occupancy permit has not been issued by the county building or Inspections Department, if applicable.
6. The permit fee required by this Ordinance has not been paid.
7. An application for the proposed establishment is in violation of or is not in compliance with any of the provisions of this Ordinance.
8. An applicant has been convicted of any of the following criminal offenses in any jurisdiction:
  - a. prostitution, procuring a prostitute, or solicitation of a prostitute;
  - b. sale, distribution or display of obscene material;
  - c. soliciting, procuring or aiding and abetting an unlawful sexual performance by a minor;
  - d. possession, sale or distribution of child pornography;
  - e. public lewdness;
  - f. indecent exposure;
  - g. indecent conduct with a child;
  - h. sexual assault or rape;
  - i. incest;
  - j. sexual solicitation of a child

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

B. 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.

C. In the event that the Zoning Administrator determines that an applicant is not eligible for a permit, the applicant shall be given notice in writing of the reasons of the denial withing sixty (60) days of the receipt of its application by the Zoning Administrator, provided that the applicant may request, in writing, that such period be extended for an additional period of not more tan ten (10) days at any time before the notice is issued in order to make modifications necessary to comply with this Ordinance.

D. An applicant may appeal the decision of the Zoning Administrator regarding a denial to the Milton Township Zoning Board of Appeals by filing a written notice of appeal within twenty-one (21) days after the applicant is provided with notice of the Zoning Administrator's decision.

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

INSPECTION:

An applicant or permittee shall allow the Township Zoning Administrator or his appointed representative 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.

FEES:

An annual fee for a sexually oriented business permit and/or license will be accessed. This fee is to be used to pay for the cost of the administration and enforcement of this ordinance. This annual fee will be determined by the Township Board.

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:

- A. A permittee gave false or materially misleading information in the application process.
- B. A permittee has been convicted of using and/or allowing the use of controlled substances within the establishment.
- C. A permittee has been convicted of prostitution or other activity fostering, promoting or otherwise facilitation prostitution, within the

- establishment or elsewhere.
- D. 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.
  - E. A permittee has been convicted of knowingly allowing a person under eighteen (18) years of age to enter the establishment.
  - F. There has been a transfer of ownership or control of an establishment without the prior consent of the Zoning administrator, as required herein.

TRANSFER OF PERMIT:

A permittee shall not transfer his 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 designed in the application. Permittee must complete application.

LOCATION RESTRICTIONS:

- A. A sexually oriented business may not be operated within 750 feet of:
  - 1. a church, synagogue or regular place of religious worship;
  - 2. a public or private elementary or secondary school;
  - 3. a boundary of any residential zoned district or any residential structure within or without a zoned area;
  - 4. a public park;
  - 5. a licensed day-care center; and/or
  - 6. another sexually oriented business.

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

C. For the purpose of this Ordinance, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business church, synagogue, regular place of worship, or public or private elementary or secondary school, or to the nearest boundary of an affected public park, residential district, or residential lot or licensed day-care center.

D. For purposes of Subsection C. of this section, the distance between any two sexually oriented business uses shall be made from the closest roof line of the structure in which each business is located.

REGULATIONS PERTAINING TO ADULT ENTERTAINMENT ESTABLISHMENTS:

A. 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 exceed thirty (30) square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. 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.
2. The application shall be sworn to be true and correct by the applicant.
3. No alteration in the configuration or location of a manager's station may be made without the prior approval the Township Zoning Administrator.
4. 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.
5. 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. Restrooms may not contain video reproduction equipment. If the premises have 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 he premises to which any patron is permitted access for any purpose from at least on the manager's stations. The view required in this subsection must be by direct line of sight from the managers station.
6. 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 5 remains unobstructed by any doors, walls, 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.

7. 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.) foot-candle as measured at the floor level.
8. 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.
9. The premises shall meet all barrier free requirements and building code requirements imposed by the County Building and Inspections Department.

EXTERIOR PORTIONS OF SEXUALLY ORIENTED BUSINESSES:

A. 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 of outside the establishment.

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

C. Proposed sign age shall not include animated or flashing illumination of any type and otherwise conforms with the requirements of Township Zoning Ordinance Sections 117.300, 117.301, 117.302. Proposed sign age may contain only the name of the sexually oriented business and shall not include photographs, silhouettes, drawings, or pictorial representations of any type.

D. All off-street parking areas shall be illuminated during all hours of operation in accordance with section 117.220 (lighting standards) of the Township Zoning Ordinance and shall otherwise be open to view from the adjacent roadway.

E. A sexually oriented business may not have outside

speakers on the exterior of any buildings or anywhere on the outside of their property.

PERSONS YOUNGER THAN EIGHTEEN PROHIBITED FROM ENTRY: ATTENDANT REQUIRED:

A. 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.

B. 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:

1. A valid operator's commercial operator's or chauffeur's license; or
2. A valid personal identification certificate reflecting that such person is eighteen (18) years of age or older.

C. Entrances to the proposed Adult Business will be posted on both the exterior and interior walls, clearly visible to the public, indicating in lettering no less than one and one-half inches in height that (a) "No one under the age of eighteen is permitted to enter the premises" and (b) "No alcoholic beverages of any type are permitted within the premises" unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission.

GENERAL AND SPECIFIC REQUIREMENTS:

A. General requirements: In reviewing an application for special use permit for a sexually oriented business, the Planning Commission shall determine whether the following general standards have been met:

1. That the applicant may legally apply for site plan review.
2. That all required information has been provided.
3. That the proposed use conforms to all specific density and set-back regulations, ect. Of the commercial zone in which it is located.
4. That the plan for the proposed use meets all applicable written and duly promulgated requirements of Milton Township for fire and enforcement protection, water supply, sewage disposal or treatment, storm drainage and other public facilities and services.

5. That the submitted Landscape Plan complies with the requirements of the Township Ordinance.
6. That parking layout will not adversely affect the flow of traffic within the site, or to and from the adjacent streets.
7. That the outdoor storage of garbage and refuse is contained, screened from view and located so as not to be visible from neighboring properties or the adjacent roadways.

B. Specific requirements: To operate a sexually oriented business within the boundary of Milton Township the following specific requirements must be met and agreed upon by the owner (s) and operators of the sexually oriented business:

1. Hours of operation shall be limited to 12:00 noon to 12:00 a.m. (Midnight).
2. The proposed business will not have a detrimental impact upon the property values of properties located within 750 feet of such a proposed sexually oriented business.
3. The proposed sexually oriented business owner/operator shall have provided an exterior maintenance program to the Township Zoning Administrator, together with its special use permit Application, which program shall provide for routine clearing of trash and rubbish from all parking areas and other portions of the premises not less than once-per-week. Continued adherence to such exterior maintenance program shall be a condition to the issuance of any special use permit pursuant to this section.
4. Persons may not reside in a sexually oriented business establishment. It may be allowed by permit only and based on the issuance of a permit on inspection of living arrangements.
5. The Planning Commission may impose such additional conditions and safeguards deemed necessary to mitigate negative secondary effect reasonably documented to emanate from sexually oriented businesses for the protection of the general welfare and individual property rights of affected property owners, and for insuring that the intent and objectives of this Ordinance will be observed. The breach of any condition, safeguard or requirement shall serve as grounds for revocation of the permit, after written notice and an opportunity to be heard.

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 educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.

NOTICES:

A. 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 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 to be posted at the principal entrance to the establishment.

B. 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 principal office of the Township.

C. 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 a residence or mailing address.

NON-CONFORMING USES:

Any business lawfully operating on the effective date of this ordinance that is violation of the location or structural non-conforming use. The non-conforming use will be permitted to continue for a period not to exceed two (2) years, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such non-conforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. If two or more sexually oriented businesses are within 750 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 the location, subsequent to the grant or renewal of the sexually oriented business permit and/or license, of a church, synagogue, or regular place of religious worship, public or private elementary or secondary school, licensed day-care center, public park, residential district, or residential structure, within 750 feet of the sexually oriented business. This provision applies only to the renewal of a valid permit and/or license, and does not apply when an application for a permit and/or license is submitted after a permit and/or license has expired or has been revoked.

INJUNCTION:

A person who operates or causes to be operated a sexually oriented business without a valid permit and/or license 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 the Township Zoning Ordinance.

SEVERABILITY:

If any section, subsection, or clause of this Ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby.

CONFLICTING ORDINANCES REPEALED:

To the extent that any conflict or inconsistency may arise between the provisions of the sexually Oriented business Ordinance and other provisions of the township zoning Ordinance, the provisions of the Ordinance shall control.

**117.1303 Required conditions.**

Sec. 13.03. The use of property in this Zone shall be subject to the following conditions:

- A. All business, service, and processing shall be conducted wholly within a completely enclosed building, except automobile service stations.
- B. All products produced on the premises, whether primary or incidental, shall be sold only at retail and on the premises where produced.
- C. Off-street parking shall be provided in accordance with Chapter XVI and at the ratio of two (2) square feet of total parking area for each square foot of floor area. Off-street loading and unloading space shall be provided as required under Chapter XVI.

**117.1304 Height, area and yard restrictions.**

Sec. 13.04.

- A. No building shall exceed a maximum of two and one-half stories or thirty-five (35) feet in height, whichever is the lesser.

- B. Each commercial building shall have a front yard of at least fifty (50) feet, provided that where an existing lesser setback line has been established by existing commercial buildings occupying (40) percent or more of the commercially-zoned frontage on the same block, said setback shall apply.
- C. No side yard shall be required for a commercial building, except that where a side yard adjoins a Residential or Agricultural Zone or a side street, a minimum ten (10) foot greenbelt side yard shall be required, unless a lesser side yard has been established by existing commercial buildings occupying forty (40) percent or more of the commercially-zoned frontage within the same block along the side street in which case the greenbelt shall conform to the established setback.
- D. Where the rear of a lot in a Commercial Zone abuts upon a lot in a Residential or Agricultural Zone, there shall be a rear yard of not less than twenty-five (25) feet including a greenbelt.
- E. Lot Area. Every lot shall have a minimum width at the right of way of 100 feet continuous throughout and a minimum lot area of 20,000 square feet.

**117.1305 Uses permitted by special use permit (special exception).**

Section 13.05 The following uses of land and structures may be permitted by the application to the Planning Commission for the issuance of a special use permit (special exception Chapter XVIII, Section 18.07) when specified procedures and requirements, as outlined in the article in section cited, are complied with:

1. Open Space Storage provided that all such open space storage shall be screened on all sides by a solid uniformly finished and maintained wooded or masonry wall or fence of durable material, or a well maintained greenbelt, each of which shall be no less in height than the enclosed storage.
2. Outside sales and display.