

25.00

**ARTICLE XXV
SITE PLAN REVIEW AND SPECIAL LAND USES**

25.10 SITE PLAN REVIEW AUTHORIZATION

A. The Zoning Administrator and/or Planning Commission as specified in this section shall review and approve, approve with conditions or deny all site plans submitted under this Ordinance. Each action taken with reference to site plan review shall be duly recorded in the official record by the Zoning Administrator or in the minutes of the Planning Commission. Those site plans which require Planning Commission review will then be submitted to the Planning Commission for action along with the recommendation of the Zoning Administrator as to compliance with Ordinance requirements. The Zoning Administrator shall also seek the recommendation of the Fire Chief, Road Commission, Drain Commission, Health Department and Michigan Department of Environmental Quality, where applicable.

B. Following approval of a site plan, the petitioner shall apply for the appropriate Township, County and/or State permits as may be required by said agencies.

25.11 SITE PLAN REVIEW: REQUIREMENTS AND PROCEDURES:**A. SITE PLAN REVIEW: WHERE REQUIRED:**

Site plan review shall be required for any of the following activities:

1. Erection, moving, conversion or structural alteration to a building or structure other than a single-family dwelling.
2. Development of non single-family residential uses in single-family districts and development of non-agricultural uses in the agricultural district except for single-family dwellings.
3. All special land uses.
4. Any excavation, filling, soil removal or mining, except for the creation of ponds for agricultural use.
5. All site condominiums, condominium subdivisions and PUD's.
6. All proposed uses or developments in environmentally sensitive areas as required under Article 27.00, Environmentally Sensitive Areas.

B. PROCEDURES AND REQUIREMENTS

The Township has established a range of site plan review procedures intended to allow the appropriate level of review relative to the scope of the project. The more complex the project, the more detailed the review process. The Township has also established two optional review procedures with staff and with the Planning Commission intended to provide applicants an opportunity to discuss projects on a conceptual level with minimal upfront expenditure.

C. OPTIONAL PRE-APPLICATION CONFERENCE

In order to facilitate processing of a site plan in a timely manner, the applicant may request a pre-application conference with the Zoning Administrator, up to three (3) members of the Planning Commission and such other Township representatives as appropriate. The purpose of such a conference is to provide information and guidance to the applicant that will assist in preparation of the site plan. The applicant is encouraged to provide rough conceptual drawings or site plans

indicating the location and boundaries of the subject property. No formal action shall be taken on a site plan at a pre-application conference. There is no fee to the applicant for the pre-application conference.

D. PRELIMINARY SITE PLAN REVIEW

The applicant shall submit the following prior to being scheduled for Planning Commission review:

1. Township Review Fee.
2. Township Application.
3. The name and address of the owner and any designated representative of the owner.
4. Written description of the proposed use.
5. Ten copies of the preliminary site plan, illustrating existing features, lot dimensions, general footprints for proposed buildings and parking, relationship to adjacent land uses and a location map.
6. One digital copy of the site plan in a form acceptable to the Township.

Upon review, the Planning Commission may approve, approve with conditions or deny the preliminary site plan. If the site plan is denied, the Planning Commission shall state the reasons for such denial.

The Zoning Administrator may waive the preliminary site plan review step upon a written request by the applicant provided that all information required for final site plan review is provided by the applicant.

E. FINAL SITE PLAN REVIEW

The applicant shall submit the following prior to being scheduled for Planning Commission review:

1. Township Review Fee (if applicable).
2. Township Application (if applicable).
3. A written description of the proposed of the proposed project or use.
4. Any additional information the Planning Commission finds necessary to make determinations required herein.
5. A ten complete site plans that include the information listed in section 25.11 (F), Required Information.
6. One digital copy of the site plan in a form acceptable to the Township.

Upon review, the Planning Commission may approve, approve with conditions or deny the final site plan. If the site plan is denied, the Planning Commission shall state the reasons for such denial.

F. REQUIRED INFORMATION

1. Each submittal for site plan review shall contain all information required in this Ordinance including the following:
 - a. The applicant's name, address and phone number in full.
 - b. Proof of property ownership, and whether there are any options on the property, or liens against it.
 - c. A signed statement that the applicant is the owner of the property or officially acting on the owner's behalf.
 - d. The name and address of the owner(s) of record if the applicant is not the owner of record (or firm or corporation having a legal or equitable interest in the land) and the signature of the owner(s).

- e. The address and/or parcel number of the property.
 - f. Name and address of the developer (if different from the applicant).
 - g. Name and address of engineer, architect, planner and/or land surveyor.
 - h. Project title.
 - i. Project description, including the total number of structures, units, bedrooms, offices, square feet, total and usable floor area, parking spaces, carports or garages, employees by shift, amount of recreation and open space, type of recreation facilities to be provided, and related information as pertinent or otherwise required by the Ordinance.
 - j. A vicinity map drawn at a scale of 1" = 2000' with the north point indicated.
 - k. The gross and net acreage of all parcels in the project.
 - l. Land uses, zoning classification and existing structures on the subject parcel and adjoining parcels within 300 feet of the site.
 - m. Project completion schedule/development phases.
 - n. Written statements relative to project impacts on existing infrastructure (including traffic capacity of streets, schools and existing utilities) and on the natural environment of the site and adjoining lands. A formal impact statement may be required.
 - o. A listing of types and quantities of hazardous substances and polluting materials which will be used, stored or generated on-site at the facility, and completion of the "Hazardous Substance Reporting Form for Site Plan Review".
- 2.** The site plan shall consist of an accurate, reproducible drawing at a scale of not less than 1" = 20' or more than 1"=200', showing the site and all land within 300' of the site. If multiple sheets are used, each shall be labeled and the preparer identified. Each site plan shall depict the following:
- a. Location of proposed and/or existing property lines, dimensions, legal descriptions, setback lines and monument locations.
 - b. Existing topographic elevations at two foot intervals, proposed grades and direction of drainage flows.
 - c. The location and type of existing soils on the site at least to the detail provided by U. S. Soil Conservation Service and any certification of borings.
 - d. Location and type of significant existing vegetation.
 - e. Location and elevations of existing water courses and water bodies, including county drains and man-made surface drainage ways, floodplains and wetlands.
 - f. Location of existing and proposed buildings and intended uses thereof, as well as the length, width, and height of each building and typical elevation views of proposed structures.
 - g. Proposed location of accessory structures, buildings and uses, including but not limited to all flagpoles, light poles, bulkheads, docks, storage sheds, transformers, air conditioners, generators and similar equipment, and the method of screening where applicable.
 - h. Location of existing public roads, rights-of-way and private easements of record and abutting streets.
 - i. Location and dimensions of proposed streets, drives, curb cuts, and access easements, as well as acceleration, deceleration and passing lanes (if any) serving the development. Details of entryway and sign locations should be separately depicted with an elevation view.
 - j. Location, design and dimensions of existing and/or proposed curbing, barrier free access, carports, parking areas (including indication of all spaces and method of surfacing), fire lanes and all lighting thereof.
 - k. Location, size and characteristics of all loading and unloading areas.
 - l. Location and design of all sidewalks, walkways, bicycle paths and areas for public use.

m. Location, design and specifications of existing and proposed service facilities and structures, above and below ground, including:

- (1) Public and private groundwater supply wells on-site and related distribution systems including fire hydrants and shut off valves.
- (2) Septic systems and other waste water treatment systems
- (3) Areas to be used for the storage, use, loading/unloading, recycling, or disposal of hazardous substances and polluting materials, including interior and exterior areas as well as any containment structures or clear zones required by government regulation or designed to meet the standards of this Article.
- (4) Underground storage tank locations together with connected distribution and collection systems.
- (5) Location of exterior drains, dry wells, catch basins, retention/detention areas, sumps and other facilities designed to collect, store or transport wastewater or stormwater to the naturally occurring aquifer. The point of discharge for all drains and pipes shall be specified on the site plan.

n. Location of all other utilities on the site including, but not limited to natural gas, electric, cable TV, telephone and steam.

o. Proposed location, dimensions and details of common open spaces and common facilities such as community buildings or swimming pools if applicable.

p. Location, size and specifications of all signs, both temporary and permanent, and advertising features, with cross-sections, if applicable.

q. Exterior lighting locations with area of illumination illustrated as well as the type of fixtures and shielding to be used.

r. Location and specifications for all fences, walls, and other screening features with cross sections.

s. Location and specifications for all proposed perimeter and internal landscaping and other buffering features. For each new landscape material the proposed size at the time of planting must be indicated. All vegetation to be retained on the site must also be indicated, as well as its typical size by general location or range of sizes as appropriate.

t. Location, size and specifications for screening and fencing of all trash receptacles and other solid waste or liquid waste disposal facilities.

u. Delineation of areas on the site which are known or suspected to be contaminated, together with a report on the status of site clean-up.

v. Identification of any significant site amenities or unique natural features.

w. Identification of any significant views onto or from the site to or from adjoining areas.

x. A scale model of the proposed development may be required for all projects greater than 40 acres, with more than 200 dwelling units, more than 40,000 square feet of building space or a proposed height of a principal structure of greater than 35 feet.

y. North arrow, scale and date of original submittal and last revision.

z. Seal of the registered engineer, architect, landscape architect, surveyor, or planner who prepared the plan.

25.12 STANDARDS FOR DECISIONS:

Each site plan shall conform to all provisions of the Zoning Ordinance and the standards listed below (unless variances have been granted):

- A. All elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of the lot or unit, the character of adjoining property and the type and size of buildings. The site shall be so developed as not to impede the normal and orderly development or improvement of the surrounding property for uses permitted in this Ordinance.
- B. The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal, and by topographic modifications which result in maximum harmony with adjacent areas and will not adversely affect adjacent properties.
- C. Special attention shall be given to proper site drainage so that removal of storm waters will not adversely affect neighboring properties.
- D. The site plan shall provide reasonable visual and sound privacy for all dwelling units located therein. Fences, walks, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.
- E. All buildings or groups of buildings shall be so arranged as to permit emergency vehicle access by some practical means to all sides.
- F. Every structure or dwelling unit shall have access to a public street, walkway or other area dedicated to common use.
- G. There shall be provided a pedestrian circulation system which is insulated as completely as reasonably possible from the vehicular circulation system.
- H. All loading and unloading areas and outside storage areas, including areas for the storage of trash, which face or are visible from residential districts or public thoroughfares, shall be screened, by a vertical screen consisting of structural or plant materials no less than six feet in height unless modified by the Planning Commission.
- I. Exterior lighting shall be designed and installed to conform with the standards required in Article 29.00, Exterior Lighting Regulations.
- J. All signs and advertising features shall be designed and installed to conform with the standards and requirements of Article 30.00, Sign Regulations.
- K. The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the area. Streets and drives which are part of an existing or planned street pattern which serves adjacent development shall be of a width appropriate to the traffic volume they will carry and shall have a dedicated right-of-way equal to that specified in the Comprehensive Master Plan.
- L. All streets including streets in condominium developments shall be developed in accordance with the Subdivision Control Ordinance and County Road Commission or Township Private Road Standard specifications.

- M.** Site plans shall conform to all applicable requirements of state and federal statutes and approval may be conditioned on the applicant receiving necessary state and federal permits before final site plan approval or an occupancy permit is granted.
- N.** All land use developments shall be consistent with and promote the intent and purpose of this ordinance and shall not be contrary to the public health, safety and welfare.
- O.** All land uses and developments shall conform with the applicable goals, policies and objectives in the Township Master Plan.
- P.** Standards for Groundwater Protection:
- 1.** The project and related improvements shall be designed to protect the natural environment, including lakes, ponds, streams, wetlands, floodplains, groundwater and steep slopes.
 - 2.** Stormwater management and drainage facilities shall be designed to retain the natural retention and storage capacity of any wetland, water body or watercourse and shall not increase flooding or the potential for pollution of surface or groundwater, on-site or off-site.
 - 3.** General purpose floor drains shall be allowed only if they are connected to a public sewer system, an on-site holding tank, or a system authorized through a state groundwater discharge permit.
 - 4.** Sites at which hazardous substances or polluting materials are stored, used, or generated shall be designed to prevent spills and discharges to the air, surface of the ground, groundwater, lakes, streams, rivers or wetlands. In addition, an up-to-date contingency plan for the handling and clean-up of uncontained spills of hazardous substances and polluting materials shall be placed on file in the offices of the Zoning Administrator and the Fire Chief. The requirement to report all uncontained spills immediately to both the Zoning Administrator and the Fire Chief shall be required as a condition of Site Plan approval.
 - 5.** Local, State and Federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances and polluting materials shall be met. No discharges to groundwater, including direct and indirect discharges, shall be allowed without required permits and approvals.
 - 6.** In determining conformance with the standards in this zoning ordinance, the municipality shall take into consideration the publication titled "Small Business Guide to Secondary Containment" and other references.
- Q.** Standards for Aboveground Storage and Use Areas for Hazardous Substances and Polluting Materials:
- 1.** Secondary containment, for above ground areas where hazardous and polluting materials are stored or used, shall be provided. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance.
 - 2.** Outdoor storage of hazardous substances and polluting materials shall be prohibited except in product-tight containers which are protected from weather, leakage, accidental damage and vandalism.
 - 3.** Secondary containment structures such as out buildings, storage rooms, sheds and pole barns, shall not have floor drains which outlet to soils, groundwater, or nearby drains or rivers.

4. Areas and facilities for loading and unloading of hazardous substances and polluting materials, as well as areas where such materials are handled and used, shall be designed and constructed to prevent discharge or runoff to floor drains, rivers, lakes, wetlands, groundwater and soils.

R. Standards for Underground Storage Tanks when Permitted:

1. Existing and new underground storage tanks shall be registered with the authorized state agency in accordance with the requirements of the U. S. Environmental Protection Agency and the State Police Fire Marshal Division.

2. Installation, operation, maintenance, closure and removal of underground storage tanks shall be in accordance with the requirements of the Michigan Department of Environmental Quality. Leak detection, corrosion protection, spill prevention and overfill protection requirements shall be met. Records of monthly monitoring or inventory control must be retained and available for review by government officials.

3. Out-of-service abandoned underground tanks shall be emptied and removed from the ground in accordance with the requirements of the Michigan Department of Environmental Quality.

25.13 CONFORMITY TO APPROVED SITE PLANS

Following Final Approval of a site plan by the Zoning Administrator or the Planning Commission, the applicant shall construct the site plan improvements in complete conformity with the approved plan. Failure to do so is a violation of this ordinance and subject to the sanctions of Article 21.00, Violations.

25.14 MODIFICATIONS TO APPROVED SITE PLANS

If the Zoning Administrator finds that a proposed amendment to an approved site plan does not qualify for administrative approval as defined in 25.17 (A), Zoning Administrative Approval, he or she shall forward the to the Planning Commission for consideration.

25.15 FAILURE TO INITIATE CONSTRUCTION

A. Failure to initiate construction of an approved site plan within 365 days of approval shall require the applicant to appear before the Planning Commission and demonstrate why the approval should not be revoked. After a hearing the Planning Commission may revoke a previously approved site plan for property on which no physical development activity has occurred upon making written findings that one or more of the following circumstances exist:

1. An error in the original approval is discovered either because of inaccurate information supplied by the applicant or administrative error by a staff member or other agency;

2. Zoning regulations applicable to the project have been changed and the previously approved site plan does not comply with them;

3. A change in state law, local charter, or other local ordinance affecting the previous approval has occurred;

4. Pollution, impairment or destruction of the environment or to another legally protected public interest would occur if the project were to be constructed as previously approved.

- B.** Thirty days prior to expiration of an approved site plan, an applicant may make application for a one year extension of the site plan at no fee. The applicant shall explain in writing why the development has not proceeded, what the current time frame is and why an extension should be granted. If the original approval of the site plan was by the Planning Commission, the applicant shall present his/her case in person or by representative at the next meeting of the Planning Commission.
- C.** Revocation of an approved site plan shall be communicated in writing by certified mail to the property owner.
- D.** Any subsequent re-submittal shall be processed as a new request with new fees.

25.15 PERFORMANCE GUARANTEE

In the interest of insuring compliance with the Zoning Ordinance provisions, protecting the natural resources and the health, safety and welfare of the residents of the Township and future users or inhabitants of an area for which a site plan for a proposed use has been submitted, the Planning Commission or Zoning Administrator may require the applicant to deposit a performance guarantee as set forth herein. The purpose of the performance guarantee is to insure completion of improvements connected with the proposed use as required by this Ordinance, including, but not limited to, roadways, lighting, utilities, sidewalks, drainage, fences, screens, walls and landscaping.

A. Performance guarantee as used herein shall mean a cash deposit, certified check or irrevocable bank letter of credit in the amount of 125% of the estimated cost of the improvements to be made as determined by the applicant and verified by the Zoning Administrator.

B. Where the Zoning Administrator or Planning Commission requires a performance guarantee, said performance guarantee shall be deposited with the Treasurer prior to the issuance of a Land Use Permit for the development and use of the land. Upon the deposit of the performance guarantee the Township shall deposit the performance guarantee, if in the form of cash deposit or certified check, in an interest bearing escrow account.

C. An approved site plan shall also prescribe the period of time within which the improvements for which the performance guarantee has been required are to be completed. The period will begin from the date of the issuance of the Land Use Permit.

D. In the event the performance guarantee deposited is a cash deposit or certified check, the township shall rebate to the applicant fifty (50) percent of the deposited funds when sixty (60) percent of the required improvements are completed as confirmed by the Zoning Administrator, and the remaining fifty (50) percent of the deposited funds when one hundred (100) percent of the required improvements are completed as confirmed by the Zoning Administrator.

E. In the event the applicant defaults in making the improvements for which the performance guarantee was required within the time period established by the Township, the Township shall have the right to use the performance guarantee deposited and any interest earned thereon to complete the improvements through contract or otherwise, including specifically the right to enter upon the subject property to make improvements. If the performance guarantee is not sufficient to allow the Township to complete the improvements for which it was posted, the applicant shall be required to pay the township the amounts by which the costs of completing the improvements exceeds the amount of the performance guarantee deposited. Should the Township use the

performance guarantee or a portion thereof, to complete the required improvements, any amounts remaining after said completion shall be applied first to the Township administrative costs in completing the improvement with any balance remaining being refunded to the applicant. If the applicant has been required to post a performance guarantee or bond with another governmental agency other than the Township to insure completion of an improvement associated with the proposed use prior to the Township's conditional approval, the applicant shall not be required to deposit with the township a performance guarantee for that specific improvement. At the time the performance guarantee is deposited with the township and prior to the issuance of a Land Use Permit, the applicant shall enter an agreement incorporating the provisions hereof with the township regarding the performance guarantee.

25.16 AS-BUILT SITE PLAN

Upon completion of the installation of required improvements as shown on the approved site plan, including changes and/or amendments, the property owner shall submit to the Zoning Administrator 3 copies of an "as built" site plan, certified by the engineer or surveyor, at least one week prior to the anticipated occupancy of any building. The Zoning Administrator shall circulate the "as built" plans among the appropriate departments for review to insure conformity with the approved site plan and other township requirements. Once each department has approved the "as built" plans the Zoning Administrator may make the final inspection and issue the Occupancy Permit.

25.17 ZONING ADMINISTRATIVE APPROVAL

A. The Zoning Administrator shall review and approve, approve with conditions or deny the following site plans without their submission to the Planning Commission except where the applicant so requests:

1. Accessory uses or buildings not to exceed 400 square feet, incidental to a conforming existing use where said use does not require any variance and where said site plan conforms with all requirements of this Ordinance.
2. Expansion and/or addition to an existing conforming use where said site plan conforms with all requirements of this Ordinance and does not increase the size of the existing or proposed structure by more than 1000 square feet or does not increase the existing or proposed use by more than ten (10) percent, whichever is less.
3. A change in the internal floor plan which does not increase the intensity of use or parking requirements.
4. Movement of a building, drive, road or parking by up to twenty (20) feet during construction due to unanticipated and documented constraint, to improve safety or to preserve natural features. The site plan shall still meet all required setbacks and other standards of this Ordinance.
5. An existing building and site to be re-occupied by a use permitted in the subject zoning district where the new use will not require significant changes in the existing site facilities.
6. Expansion and alterations of landscaping areas, sidewalks, bike paths and fences consistent with this Ordinance.
7. Relocation of a trash receptacle and/or installation of screening.
8. Relocation or replacement of a sign meeting the dimensional and locational standards.
9. Modifications to upgrade a building to state barrier free design.

10. Increases in off-street parking areas, parking buildings and/or structures, increases in loading/unloading spaces in commercial and industrial Zoning Districts, and landscape improvements as required by this Ordinance.
11. Alterations to the off-street parking layout or installation of pavement and curbing improvements provided that the total number of spaces remains constant and meets, or if necessary has been modified to meet, the ordinance requirements for the building and/or use.
12. Changes to lighting consistent with this Ordinance.
13. Situations similar to the above.

B. The Zoning Administrator shall apply all applicable standards and procedures of this Ordinance in approving, conditionally approving or denying site plans and determine if the submittal shall comply with Section 25.11 (F), Required Information, or Section 25.19, Plot Plans in Lieu of a Site Plan.

C. The applicant shall submit the Township application and established fee.

D. The Zoning Administrator shall make a report of all administrative approvals to the Planning Commission.

25.18 APPEALS OF FINAL SITE PLANS

A. Any person aggrieved by a decision of the Planning Commission or Zoning Administrator in granting or denying approval of a final site plan may appeal the decision to the Zoning Board of Appeals. The appeal must be filed within seven (7) days of the decision and shall state the factual basis for the appeal. An appeal shall stay action on the issuance of any permit pursuant to an approved site plan.

B. The Zoning Board of Appeals shall review the record of action taken on the final site plan and shall determine whether the record supports the action taken. No new evidence shall be presented. The Zoning Board of Appeals shall approve the final site plan if the requirements of this Section and other applicable ordinance requirements are met. The Zoning Board of Appeals shall make written findings in support of its opinion on the appeal.

25.19 PLOT PLANS IN LIEU OF A SITE PLAN

A. The Zoning Administrator may accept a plot plan in specific instances upon determining a complete site plan is not considered essential to ensure compliance with the intent and standards of this Ordinance.

B. A plot plan may be permitted for the following uses, when permitted in the zoning district:

1. Group Day Care Homes.
2. Essential Services Buildings.
3. Home Occupations.
4. Two-family Dwellings.
5. Accessory Open Air Businesses.
6. Accessory Buildings and Structures.
7. Outdoor Recreational Facilities.

8. Temporary Uses and Seasonal Sales Activities.
9. Bed and Breakfast Establishments.

C. Plot plan submittals shall include the following:

1. Application form and fee.
2. Name, address and phone number of the applicant.
3. North arrow.
4. Legal description of the property.
5. A plan drawn to scale.
6. Property lines and dimensions.
7. Existing and proposed parking including the number of spaces provided and the number required according to Section 34.00, Off Street Paring and Loading. If changes are made to the parking area, a detail of the pavement, storm water runoff calculations and a description of detentions methods shall be provided.
8. Details of any existing, new, or changes to driveways.
9. Location and details of existing or proposed signage.
10. General illustration of existing or proposed landscaping.
11. Layout of existing or proposed utilities.
12. Layout of existing or proposed drainage.
13. Floor plan of the building under consideration and building elevations if applicable.
14. Any other items as requested by the Zoning Administrator.

25.20 SPECIAL USE PERMIT APPLICATION REQUIREMENTS:

A public hearing shall be required for all special use applications. When an application has been filed in proper form and with the required data, the Zoning Administrator shall immediately place the said application upon the calendar for the hearing and cause notices stating the time, place and object of the hearing to be served.

One (1) notice that said hearing is to be held shall be published in a newspaper that circulates in the Township and shall be served personally or by mail not less than fifteen (15) days prior to the day of such hearing, upon the applicant, or the appellant, the Zoning Administrator and all persons assessed for any real property within three hundred (300) feet, and to the occupants of any structure within three hundred (300) feet of the premises in question. Such notices shall be served personally or by regular mail, addressed to the respective owners and tenants at the address given in the last assessment roll. If the name of the occupant is unknown, the term "occupant" may be used in making notification. Any party may appear at such hearings in person or by agent or by attorney.

25.21 ADDITIONAL CONDITIONS OF SPECIAL USES.

A. BED AND BREAKFAST ESTABLISHMENTS.

1. Statement of Intent. It is the intent of this Section to establish reasonable standards for Bed and Breakfast Establishments to assure that:

- a. The property is suitable for transient lodging facilities.
- b. The use is compatible with other uses in the residential and agricultural districts.
- c. Residential and agricultural lands shall not be subject to increased trespass.

d. The impact of the establishment is no greater than that of a private home with house guests.

2. Minimum Requirements. The following requirements for Bed and Breakfast Establishments together with any other applicable requirements of this Ordinance shall be complied with:

- a. The minimum lot size shall be one (1) acre.
- b. Off-street parking shall be provided (one space per room). Vehicle parking is prohibited between the front of the building and public right-of-way.
- c. One non-illuminated sign, identifying the establishment, not to exceed four (4) square feet in area and not closer to the street line than fifteen (15) feet shall be allowed.
- d. Such Bed and Breakfast Establishments shall not be located less than fifteen hundred (1500) feet apart.
- e. The residence shall be the principal dwelling unit on the property and shall be owner-occupied at all times.
- f. The residence shall have at least two (2) exits to the outdoors.
- g. Not more than three (3) sleeping rooms in the residence may be used for rental purposes.
- h. Not more than eight (8) overnight guests may be accommodated at any time.
- i. The rooms utilized for sleeping shall be a part of the primary residential use and not specifically constructed for rental purposes.
- j. The rental sleeping rooms shall have a minimum size of one hundred (100) square feet for each two occupants with an additional thirty (30) square feet for each occupant to a maximum of four (4) occupants per room.
- k. Proof of evaluation of the well and septic system by the Health Department and conformance to the agency's requirements shall be supplied by the owner/occupant.
- l. The Planning Commission shall require that a floor plan drawn to an architectural scale of not less than 1/8 inch = 1 foot be on file with the Fire Department.
- m. Each owner/operator of a Bed and Breakfast Establishment shall keep a guest registry which shall be available for inspection by the Zoning Administrator, police and fire officials during normal business hours.
- n. The length of stay for each guest shall not exceed seven (7) days within any thirty (30) day period.
- o. In the event that the Planning Commission determines that noise generation may be disturbing to neighbors, or that the location of the establishment is in an area where trespass onto adjacent properties is likely to occur, then the Planning Commission may require that fencing and/or a planting buffer be constructed and maintained.
- p. Rental of snowmobiles, ATVs or similar vehicles, boats and other marine equipment, in conjunction with the operation of the establishment shall be prohibited.
- q. A special use permit shall not be granted if the essential character of a lot or structure within a residential or agricultural district, in terms of use, traffic generation or appearance will be changed substantially by the occurrence of the bed and breakfast use.

B. Sexually Oriented Businesses.

1. INTENT:

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 Whitewater 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 Whitewater to condone or legitimize the distribution of the obscene materials, and the Township of Whitewater 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 Whitewater.

2. **PURPOSE:**

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 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 Ordinance to condone or legitimize the distribution of obscene materials.

3. **DEFINITIONS:**

- a. ADULT BOOKSTORE OR ADULT VIDEO STORE means a commercial establishment, which, as one of its principal business purposes, offers for sale or rental one or more of the following:
 1. books, magazines, periodicals or other printed matter, 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
2. 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 if it comprises 50% or more of sales volume or display area of visible inventory within the establishment.

For purposes of this section 25.20B the sales volume will mean – the total amount of sales in a six (6) month period. Thus, if more than 50% of the total sales comes from sexually oriented items, then it will be considered an adult bookstore or adult video store;

$$\frac{\text{Sales of Sexually Oriented Items}}{\text{Total Sales}} = \frac{\text{Sales Volume of Sexually Oriented Items}}{\text{Total Sales}}$$

Display Area – For purposes of this section 25.20B the display area shall comprise the area utilized for the display of merchandise and/or inventory including, but not limited to, the surface areas of wall displays.

$$\frac{\text{Sexually Oriented Items Display Area}}{\text{Total Display Area}} = \frac{\text{Display Area of Sexually Oriented Items}}{\text{Total Display Area}}$$

- b. 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."
- c. 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, videocassettes, 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."
- d. D. ADULT MOTEL means a hotel, motel or similar commercial establishment which:
 1. 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

2. (b) offers sleeping rooms for _____ rent for a period of time that is less than twenty-four (24) hours.
- e. 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."
- f. ESCORT means a person who, for a fee, tip, or other 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.
- g. 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.
- h. ESTABLISHMENT means and includes any of the following:
1. the opening or commencement of any sexually oriented business as a new business;
 2. the conversion of an existing business to any sexually oriented business;
 3. the additions of any sexually oriented business to any other existing sexually oriented business; or
 4. the relocation of any sexually oriented business.
- i. PERMITTEE means a person to whom 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.
- j. PERMIT means a special use permit for the operation of a sexually oriented business and issued pursuant to this section 25.20 B.
- k. 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.
- l. PERSON means an individual, proprietorship, partnership, Limited Liability Company, corporation, association, or other legal entity.
- m. 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.
- n. SPECIFIED ANATOMICAL AREAS includes:
1. less than completely and opaquely covered human genitals, pubic regions, buttocks and/or female breasts below a point immediately above the top of the areola;
 2. human male genitals in a discernible turgid state even if completely and opaquely covered.
- o. SPECIFIED SEXUAL ACTIVITIES includes:
1. acts of human masturbation, sexual intercourse, or sodomy;
 2. fondling or other erotic touching of human genitals, pubic regions, buttocks, or female breasts;
 3. human genital in a state of sexual stimulation or arousal.

- p. TRANSFER OF OWNERSHIP OR CONTROL of a sexually oriented business means and includes any of the following:
1. the sale, lease, or sublease of a business;
 2. 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 death of the person possessing the ownership or control.
4. SPECIAL LAND USE PERMIT REQUIREMENTS: In addition to the requirement for Site Plan Review (Article XXV).
- A. It shall be unlawful for a person to operate a sexually oriented business without a valid Special Use Permit issued by the Planning Commission.
 - B. An application for a permit must be made on a form provided by the Township of Whitewater. The Township of Whitewater must provide the application. A sketch or diagram showing the configuration of the premises, including a statement of display area occupied by the business, must accompany the application. This sketch or diagram need not be professionally prepared if the building is already established in the township, but it 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. The applicant shall be required to give the following information on the application form:
 1. The name, street address, and mailing address, if different, and driver's license number of the applicant if he/she has such a driver's license.
 2. The name, 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 applicant's.
 5. The address and legal description of the tract of land on which the establishment is to be located.
 6. All information necessary to answer the requirements in subsection 5(A.).
 - D. 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 Special Land Use Permit to run a sexually oriented business from the Township of Whitewater.
 - 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. 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, if the persons identified as the fee simple owners(s) of the tract of land in subsection {4. E (2)} are not also the owners of the establishment.
4. A letter from the owner acknowledging the building is to be used for a Sexually Oriented Business, if the applicant is not in fact the owner of the building or tract of land.
 5. Proof of application to Grand Traverse County Health Department, Construction Code, Drain Commission or Department of Environmental Quality or other agency for the required permits, if applicable.
- 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 XXV (Site Plan Review).
5. ISSUANCE OF PERMIT:
- A. The Planning Commission shall approve the issuance of a Special Land Use Permit so long as the applicant conforms to all the terms and conditions of this Zoning Ordinance specifically Articles XXV (Site Plan Review). The Planning Commission shall issue a permit within Ninety (90) days after receipt of a complete application unless they find 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 required by this Ordinance 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 permit to operate a sexually oriented business has been revoked within the proceeding twenty-four (24) months.
 5. The permit fee required by this Ordinance has not been paid.
 6. The proposed establishment is in violation of or is not in compliance with any of the provisions of the Whitewater Township Zoning Ordinance.
 7. 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 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 Planning Commission determines that an applicant is not eligible for a permit, the applicant shall be given notice in writing of the reasons for the denial within sixty (60) days of the receipt of a complete application to the Zoning Administrator. The applicant shall have 10 days from the date of the notice to correct the grounds for denial. If the corrections are not made and notice of the corrections are not received in writing to the Township within the 10 days then the denial shall be deemed to be in effect.
- D. An applicant may appeal the decision of the Planning Commission regarding a denial to the Whitewater 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 Planning Commission's decision.
- E. 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.

6. 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.

7. FEES:

An annual fee for a sexually oriented business permit will be assessed. This fee is to be used to pay for the cost of the administration and enforcement of this ordinance. The Township Board will determine this annual fee.

8. ACTION TO REVOKE PERMIT:

The Whitewater Township Board 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 Planning Commission, as required herein.

9. TRANSFER OF PERMIT:

A permittee shall not transfer his permit to another without prior approval of the Planning Commission, 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. An application must be completed by the proposed permittee prior to the transfer and reviewed by the Planning Commission for continued compliance with section 25.20B.

10. 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 boundary of a public park;
 5. a boundary of 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 is conducted to the nearest property line of the premises of a 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 licensed day-care center or residential structure in a non-residential district.
- D. For purposes of subsection { 10. C } of this section, the distance between any two sexually oriented businesses shall be made from the closest roofline of the structure in which each business is located.

11. 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 excess of 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 shall

be oriented to the north or to some designated street or object and shall 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 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.
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 { 11. A(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 {11 A(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.

12. 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 that is outside the establishment.
- B. 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, drawing, or pictorial representations of a

sexual or explicit manner except to the extent otherwise permitted by the provisions of this Ordinance.

- C. Proposed signage shall not include animated or flashing illumination of any type and otherwise conforms to the requirements of Township Zoning Ordinance Article XXX (Signs). Proposed signage 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 Article XXIX (Exterior Lighting Regulations) of the Whitewater 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.

13. 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 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 Sexually Oriented 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.

14. 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 has met all the requirements for Article XXV (Site Plan Review) which pertain to one's application.
 - 2. that all required information has been provided.
 - 3. That the proposed use conforms to all specific density and setback regulations, etc. of the zoning district and Article XXV section 25.20 B.
 - 4. That the plan for the proposed use meets all applicable written and duly promulgated requirements of Whitewater 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 this 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 Whitewater Township the following specific requirements must be met and agreed upon by the owner (s), applicant and operators of the sexually oriented business:

1. Hours of operation shall be limited to 10:00 a.m. to 2:00 a.m.
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 applicant shall have provided an exterior maintenance program to the Township Zoning Administrator, together with its special use permit. The Applicant shall provide for the 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.

15. 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.

16. 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.

17. 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 the Whitewater Township Zoning Ordinance.

18. 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.

19. 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.