

ARARAT TOWNSHIP
ORDINANCE NO. 01-03
ADULT ORIENTED BUSINESS ORDINANCE

§ 101 Title

An Ordinance regulating the establishment of an adult-oriented business in Ararat Township, Susquehanna County, Pennsylvania. This Ordinance may be referred to as the "Ararat Township Adult Oriented Business Ordinance".

§ 102 Purpose

This Ordinance is adopted pursuant to the authority of Sections 1506, 1517, 1529 and 1532 of the Pennsylvania Second Class Township Code and regulates the location and operation of adult oriented businesses within Ararat Township so as to protect and preserve the health, safety, and welfare of the citizens of Ararat Township. Adult oriented businesses can have serious negative impacts on surrounding areas, including declines in property values, degradation of neighborhoods, increases in crime and deterioration of community character. This has been substantiated by a number of studies conducted throughout the United States. Ararat Township has considered the findings of these studies and those incorporated in the cases of; a) City of Renton v. Playtime Theatres, Inc., 475 U.S. 41 (1986); b) Young v. American Mini Theatres, 426 U.S. 50 (1976); and c) Northend Cinema. Inc. V. Seattle, 585 P.2d 1153 (Wash. 1978). The Township's intent in enacting this section is not to restrict speech protected by the First Amendment but rather to provide for it in a way that is consistent with the demands of the U.S. Constitution as expressed in the referenced cases. It is also, however, intended to address, in a practical way, the very real secondary effects of adult-oriented businesses on the peace, good order and safety of Ararat Township residents.

§ 103 Definition

An "adult oriented business" is hereby defined for purposes of this Ordinance, as the use of a building or property for a business that has adult materials as a significant portion of its stock-in-trade or involves the sale, lease, trade, gift or display of drug paraphernalia. Adult materials include any literature, book, magazine, and pamphlet, newspaper, paper, comic book, drawing, computer or other image, motion picture, sound recording, article, instrument, display or any other written or recorded material which depicts or describes: a) any nudity as defined herein; or b) the specific sexual activities listed herein. The Township shall also rely upon the general meaning given to these two terms by the Commonwealth of Pennsylvania and in the various decisions of the U.S. Supreme Court referenced herein, should further clarification be required.

§ 104 Standards

So as to limit these impacts, such activities shall be subject to the following standards:

- A. Because adult oriented businesses can lend themselves to ancillary unlawful and unhealthy activities they shall be separated from other uses which could be severely impacted by their presence or which, in combination with the adult oriented business, exacerbate the negative impacts on the area. Adult oriented businesses, therefore, shall not be

located within two-thousand five hundred (2,500) feet of any residence, residential facility, institution, health facility, church, synagogue, school, public or semi-public use, public park or recreation facility, any other establishment which sells alcoholic beverages or any other existing adult oriented business. This setback is consistent with the open rural character of the Township within which numerous locations exist that can meet this standard.

- B. Sale of alcoholic beverages at an adult oriented business shall not be permitted unless the business is being operated as a bona-fide restaurant or eating and drinking establishment.
- C. No exterior display or interior display which is visible from outside the business shall be made to identify or portray the type of activity which occurs at an adult oriented business excepting for one (1) approved ground sign not to exceed a surface area of thirty-two (32) square feet for both sides combined. Such sign shall be subject to all other limitations applicable to signs. It shall not incorporate any obscene material but shall be otherwise unlimited as to message.
- D. No building or lot that does not conform to this Ordinance shall be used for an adult oriented business. No other existing building, lot or use shall be added to, enlarged, expanded in size or program or converted for purposes of conducting an adult oriented business unless application to do so has been made pursuant to this section and the approval of the Township Board of Supervisors has been granted.
- E. Because they are known to encourage prostitution, increase sexual assaults and attract criminal activity, the following activities shall not be permitted in any adult oriented business within Ararat Township:
 - 1. Public appearance by a person knowingly or intentionally engaged in sexual intercourse, deviate sexual conduct or the fondling of the genitals of himself, herself or another person.
 - 2. The knowing and intentional public appearance of a person in a state of nudity. Nudity means the showing of the human male or female genitals, pubic area, or buttocks, or the nipple part of the female breast, with less than a fully opaque covering, or the showing of the covered male genitals in a discernibly turgid state.

These prohibitions are further based on the findings of the U.S. Supreme Court in the case of *Barnes v. Glen Theatre*, 501 U.S. 560, 115 LEd 2d 504 (1991) and are intended to fulfill purposes identical to those upheld in that case.

§ 105 FEES

1. A non-refundable application and investigation fee of \$500.00 shall accompany every new application for an Adult Oriented Business Permit. If a history of violations is found, no permit will be issued.
2. In addition to the application fee required above in Number 1, every Adult Oriented Business that is granted a permit shall make application to Ararat Township annually for permit renewal. A non-refundable fee in the amount of \$100.00 must accompany application for Permit Renewal.
3. All applications for permits must be submitted to Ararat Township Board of Supervisors on an application furnished by the Township and be accompanied by the required fee.
4. Ararat Township Board of Supervisors may review all fees from time to time and may change them by Resolution duly adopted by the Board.
5. All permits shall expire one (1) year from the date of issue and must be renewed annually.

§ 106 INSPECTION

- A. An applicant or permittee shall permit authorized Ararat Township Officials and their agents or consultants 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.
- B. A person who operates a sexually oriented business or his agent or employee commits a violation of this Ordinance if he refuses to permit such lawful inspection of the premises at any it is occupied or open for business.

§ 107 ENFORCEMENT AND FINES

- A. Any person, firm or corporation who violates or permits the violation of any provisions of this Ordinance or the rules and regulations approved and hereinafter adopted shall pay a fine not exceeding \$1,000.00 for each violation. Whenever such person shall have been officially notified by the Township that he is committing a violation of this Ordinance or any rules and regulations approved and hereinafter adopted, each day that he shall continue such violation after such notification, shall constitute a separate violation punishable by a like fine.
- B. If there are three (3) violations in a 3-year period, the permit shall be revoked.
- C. Any person who violates or permits the violation of this Ordinance shall pay, in addition to the fine set forth above, all court costs and reasonable attorney's fees incurred by the Township in connection with any civil enforcement proceedings brought to enforce this Ordinance.

- D. The Township may commence civil enforcement proceedings to assess fines for violations of this Ordinance. In addition to such civil enforcement proceedings, the Township may commence, at any time, appropriate actions in equity or otherwise to prevent, restrain, correct, enjoin, or abate violations of this Ordinance.

§ 108 Interpretation

The provisions of this Ordinance, in their interpretation and application, shall be held to the minimum requirements for the promotion of the public health, safety, and general welfare.

A. Conflict

This Ordinance is not intended to interfere with, abrogate, or annul any other Ordinance, rule or regulations, statute or provision of law. Where any of the provisions of these regulations impose restrictions different than any other Ordinance, rule or regulation or other provision of law, whichever provisions are more restrictive or impose higher standards shall control.

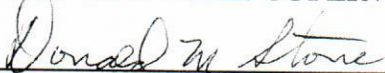
B. Separability

If any part or provision of this Ordinance or application thereof to any person or circumstances is judged invalid by any Court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in all controversy in which judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Ordinance or the application thereof to other persons or circumstances. The Township hereby declares it would have enacted the remainder of this Ordinance even without such part, provision or application.

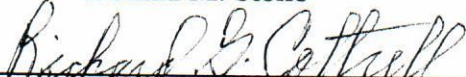
C. Enactment

This Ordinance is hereby enacted this day 3rd of June 2003 by the Board of Supervisors of Ararat Township, to be effective immediately.

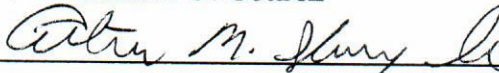
ARARAT TOWNSHIP SUPERVISORS



Donald M. Stone



Richard G. Cottrell



Arthur M. Straway Sr.

ATTEST:




Secretary

CERTIFICATION OF ADOPTION

I hereby certify the foregoing to be an exact copy of Ordinance No. 01-03

Adopted by the Ararat Township Board of Supervisors at a regular meeting held
on June 3, 2003.



Irene Seney,
Ararat Township Secretary