

**WYSOX TOWNSHIP
ORDINANCE NO. 2008-0 /**

AN ORDINANCE OF WYSOX TOWNSHIP, BRADFORD COUNTY, COMMONWEALTH OF PENNSYLVANIA, AMENDING THE PRIOR ZONING ORDINANCE, TO CORRECT OR CLARIFY LANGUAGE IN THE PRIOR ORDINANCE AND ALLOW ADDITIONAL PERMITTED USES AND/OR SPECIAL EXCEPTIONS IN EXISTING DISTRICTS IN WYSOX TOWNSHIP WHICH IS CONSISTENT WITH THE CONCERNS FOR PUBLIC HEALTH AND SAFETY AND THE GROWING ECONOMY IN THE TOWNSHIP. BE IT ORDAINED AND ENACTED BY WYSOX TOWNSHIP, BRADFORD COUNTY AS FOLLOWS:

The General Definition Section of the Wysox Township Zoning Ordinance section 201 shall be deleting the current definition of "DAY CARE CENTER":

The General Definition Section of the Wysox Township Zoning Ordinance section 201 shall be amended by adding the following definitions some of which are new and others shall replace and supercede existing definitions of the same term and shall read as follows:

ADULT ARCADE: Any place to which the public is permitted or invited wherein coin operated or token-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors; or other image-producing devices are maintained to show images to five or fewer persons per machine at anyone time, and where the images so displayed are distinguished or characterized by" the depicting or describing of "SPECIFIED SEXUAL ACTIVITIES" or "SPECIFIED ANATOMICAL AREAS."

ADULT CABARET: A bar, lounge, club , restaurant, or similar commercial establishment which features Persons who appear in a STATE OF NUDITY, Live performances which are characterized by the exposure of "SPECIFIED ANATOMICAL AREAS" or "SPECIFIED SEXUAL ACTIVITIES or topless or bottomless dancers, strippers or similar entertainers, whether male or female, whose acts are characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined by this Ordinance.

ADULT DRIVE-IN: An open-air establishment in which a substantial or significant

portion of the material presented is distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as so defined by this Ordinance, for observation by patrons therein.

ADULT FILM STORE: An establishment having as a substantial or significant portion of its stock in films, video tapes, video disks, or similar items which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as so defined by this Ordinance.

ADULT MOTION PICTURE THEATER: 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" for observation by patrons therein. This definition applies regardless of whether the structure is enclosed or unenclosed and without regard to the capacity for the number of patrons the structure can accommodate.

ADULT NOVELTY STORE: An establishment that has a substantial or significant portion of its activity in the sale of devices that simulate human genitals or devices designed for sexual stimulation or other sexual paraphernalia. Drug store or medical facilities are excluded from this definition so long as they are properly licensed and/or regulated by appropriate state or federal agencies. The sale of condoms and other forms of legal birth control methods or devices are also excluded from this definition.

ADULT THEATER: A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of "SPECIFIED SEXUAL ACTIVITIES" or "SPECIFIED ANATOMICAL AREAS."

AMUSEMENT ARCADE: A structure or portion of a structure in which five or more pinball machines, video-games, or other similar player-operated amusement devices are maintained.

BLOCK: An area of land bounded by streets or bounded by any combination of intersecting streets, railroad or waterway.

Child Day Care Facility means a facility that provides nonmedical care to children under 18 years of age in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis. Child Day Care Facility includes day care centers, employer-sponsored child care centers, and family day care homes.

COMMERCIAL OUTDOOR RECREATION FACILITY: Commercial uses, areas,

buildings and structures utilized for recreational activities having an out-of-doors orientation. Such uses include community swimming pools, ski athletic fields, tennis and basketball camps, golf driving ranges and other outdoor recreation activities available on a commercial basis for a fee or other form of compensation.

ESCORT: 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, to privately perform a striptease for another person, or to otherwise display specified sexual activities or specified anatomical areas.

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

FAMILY: One or more persons related by birth, blood or marriage occupying a dwelling unit and living as a single, nonprofit housekeeping unit, or no more than ten (10) unrelated individuals living together in one dwelling, under one head, whose relationship is based upon a bond of a permanent and distinct domestic character and comprising a single housekeeping unit. This definition does not include a collective body of persons occupying a hotel, dormitory, fraternity, sorority, society, club association, lodge, boarding/rooming house, family care/group care facility, commune, federation, group or organization or institution, nor shall it include a group of persons whose association is temporary or seasonal in character or nature.

GRADE, ESTABLISHED: The elevation of the center line of the streets, as officially established by the municipal authorities or other proper government agency.

GRADE - NATURAL: The elevation of the undisturbed natural surface of the ground adjoining a building or structure.

MASSAGE: Massage shall mean a method of treating external parts of the body for remedial or hygienic purposes, consisting of rubbing, stroking, kneading, adjusting or tapping with the hand or any instrument, electric, magnetic or otherwise, with or without supplementary aids.

MASSAGE PARLOR: Any establishment having a fixed place of business where massages are administered solely or in combination with any other services or activity for pay, including but not limited to massage parlors, sauna baths, and steam baths. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or physical therapist duly licensed by the State, nor barber shops, beauty salons or athletic facilities in which massages are administered only to the scalp, the face, the neck, the shoulder, the back above the waist or the legs below the knees. This definition shall not be construed to include a nonprofit organization operating a community center, swimming pool or tennis court, or other educational, cultural,

recreational, and athletic facilities for the welfare of the residents of the area. Only "lawful" massages as defined by statute or applicable court decisions shall be performed in a massage parlor.

NUDE MODEL STUDIO: Any place where a person who appears in a "STATE OF NUDITY" or displays "SPECIFIED ANATOMICAL AREAS" is provided solely to be sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons.

NUDITY OR A STATE OF NUDITY: Includes any of the following:

- A. The appearance' of a human bare buttock, anus, genitals, or areola of the female breast; or
- B. A state of dress which fails to cover opaquely a human buttock, anus, or genitals, or areola of the female breast.

NURSERY SCHOOL. A facility, not in a private residence, enrolling four (4) or more children no more than six (6) years of age and where tuition, fees, or other forms of compensation for the instruction and care of the children is charged. Such facility shall employ licensed personnel and shall be licensed by the Commonwealth of Pennsylvania.

SEXUALLY-ORIENTED BUSINESS: Those uses herein specified and defined as an adult bookstore, adult cabaret, adult drive-in, adult film store, adult motion picture theater, adult theater, adult novelty store, adult arcade, escort agency, massage parlor, and/or nude model studio.

SEXUALLY ORIENTED BUSINESS EMPLOYEE: Any person who works or performs in and/or for a Sexually Oriented Business, including the manager, regardless of whether or not said person is paid a salary, wage or other form of compensation.

SEXUALLY ORIENTED BUSINESS ENTERTAINER: Any person who performs any entertainment, exhibition or dance of any type within a Sexually oriented Business, whether or not such person or anyone else charges or accepts a fee for such entertainment, exhibition, or dance.

SEXUALLY ORIENTED BUSINESS OPERATOR: All persons who own, operate, direct, oversee, conduct, maintain, or effectively exert management Control or authority over a Sexually Oriented Business or its affairs, or manage or supervise its employees without regard to whether such person(s) owns the premises in which the Sexually Oriented Business does business. An Operator effectively exerts

management control or authority when he or she actually does, or is in a position to, participate in the management, direction or oversight of a Sexually Oriented Business or its affairs, whether or not such person's name appears on any public record filed with any government agency in connection with a Sexually Oriented Business or any parent company or affiliate.

SEXUALLY ORIENTED BUSINESS OWNER: A person owning, directly or beneficially, any interest or part interest, however identified, in a Sexually Oriented Business.

SPECIFIED ANATOMICAL AREAS: Includes any of the following:

- (1) Less than completely and opaquely covered human genitals, pubic region, buttocks, and female breasts below a point immediately above the top of the areola; and
- (2) Human male genitals in a discernible turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES: Includes any of the following:

- (1) Human genitals in a state of sexual stimulation or arousal;
- (2). Sex acts, normal or perverted, actual or simulated, including sexual intercourse, oral copulation or sodomy;
- (3). Acts of masturbation actual or simulated.
- (4). The fondling or other erotic touching of human genitals, pubic regions, buttocks, anus, or female breasts.

TEMPORARY SIGN: A sign intended to be displayed for a limited period of time and in no event shall be displayed more than 180 days in any calendar year. This definition shall include, but not be limited to, strings of lights, balloons, banners, wooden signs and signs constructed of fabric, or other material.

Article X (CG) COMMERCIAL GENERAL DISTRICT of the Wysox Township Zoning Ordinance section 1103 titled SPECIAL EXCEPTIONS shall be amended by adding a subsection "D" & "E" to section 1003 of the Wysox Township Zoning Ordinance.

Subsection 1003(D) of the Wysox Township Zoning Ordinance shall read as follows:

D. Personal residences or apartments on the first floor of a permitted commercial use so long as a business activity occupies at least Fifty One Percent (51%) of the front portion of the first floor and the personal residence occupies Forty Nine percent (49%) or less of the rear portion of the first floor..

Subsection 1003(E) of the Wysox Township Zoning Ordinance shall read as follows:

E. Child Day Care Facility.

Article XI (M-1) GENERAL MANUFACTURING DISTRICT of the Wysox Township Zoning Ordinance section 1103 titled SPECIAL EXCEPTIONS shall be amended by adding a subsection "K" & "L" to section 1103 of the Wysox Township Zoning Ordinance.

Subsection 1103(K) of the Wysox Township Zoning Ordinance shall read as follows:

K. Automobile Dealerships including the sale or resale of cars, trucks, motor cycles, ATVs, boats, campers and trailers.

Subsection 1103(L) of the Wysox Township Zoning Ordinance

shall read as follows:

L. Any Sexually-Oriented Business as defined by this ordinance. All Adult Uses permitted by Special Exception within the General Manufacturing District. Shall be subject to the following criteria:

a) An adult use shall not be permitted to be located within one thousand (1 ,000') feet of any other adult related use;

b) No adult use shall be located within one thousand (1 ,000') feet of any parcel of land within either the R-2 Residential District or the Commercial General District;

c) No adult use shall be located within one thousand (1 ,000') feet of any parcel of land which contains anyone or more of the following specified land uses:

Amusement Park

Camp

Child Care Facility

Church or other religious facility

Community Center

Museum

Park

Playground

School

Other lands where minors would reasonably be expected to congregate, including but not necessarily limited to arcades, baseball fields, basketball courts, tennis courts, facilities for the use of bicycles, skates or skateboarding open for use by children or the general public whether admission is free or subject to a charge or fee.

d) The distance between any two adult uses shall be measured in a straight line, without regard to intervening structures, from the closest point on the exterior parcel line of each establishment. The distance between any adult-related use and any land use specified above shall be measured in II. straight line,

without regard to intervening structures, from the closest point on the exterior property line of the adult-related use to the closest point on the property line of said land use.

e) No materials, merchandise or film offered for sale, rent, lease, loan, or for view upon the premises shall be exhibited or displayed outside of a building or structure.

f) No sign shall be erected upon the premises pictorially depicting or giving any visual representation of the type of materials, merchandise or film offered therein.

g) Each entrance to the premises shall be posted with a notice specifying that persons under the age of eighteen (18) years are not permitted to enter therein and warning all other persons that they may be offended upon entry;

h) No unlawful sexual activity or conduct shall be permitted.

i) Any building or structure used and occupied as an adult use shall be windowless, or have an opaque covering over all windows or doors of any area in which materials, merchandise or film are exhibited or displayed, and no sale of materials, merchandise or film shall be visible from the outside of the building or structure.

TOWNSHIP OF WYSOX SUPERVISORS

DATE: 5-6-08

*Abstained due to
conflict of interest*
**William Shoemaker,
CHAIR SUPERVISOR**

DATE: 5-6-08

Gary Foster
Gary Foster, SUPERVISOR

DATE: 5-6-08

James Roof
James Roof, SUPERVISOR

ATTEST:

James Ward
James Ward, Secretary