

**Township of Acme  
County of Grand Traverse  
State of Michigan**

**SEXUALLY ORIENTED BUSINESS ORDINANCE**

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## SEXUALLY ORIENTED BUSINESS ORDINANCE

AN ORDINANCE to provide for the regulation of sexually oriented businesses within Acme Township.

THE TOWNSHIP OF ACME, COUNTY OF GRAND TRAVERSE, STATE OF MICHIGAN, ORDAINS:

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 Acme Township.

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

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

Acme Township desires to prevent these adverse effects and thereby protect the health, safety and welfare of its citizens, preserve the property values and maintain the character of surrounding neighborhoods.

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 secondary effects of sexually oriented businesses.

It is not the intent of Acme Township to condone or legitimize the distribution of obscene material and Acme Township recognizes that state and federal law prohibits the distribution of obscene materials. Acme Township encourages state enforcement officials to enforce state and federal obscenity statutes against any such illegal activities within Acme Township.

The implementation of appropriate regulations is necessary to insure that negative secondary effects will not contribute to the blighting or downgrading of surrounding areas and will not otherwise be injurious to the health, safety and welfare of Acme Township residents.

**SECTION 1. Purpose and Intent.** It is the purpose of this Ordinance to regulate sexually oriented businesses and related activities to promote the health, safety and general welfare of the citizens of the Township, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the Township. The provisions of this Ordinance do not have the purpose of imposing a limitation or restriction on the content of any communicative material, including sexually oriented materials. Similarly, it is not the intent of this Ordinance to restrict or deny access by 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.

**SECTION 2. Definitions.** In construing this Ordinance, the terms and words hereinafter defined, unless the context clearly indicates otherwise, shall be given the meaning hereinafter set forth.

**A. Township** shall be defined to mean Acme Township, Grand Traverse County, Michigan.

**B. Adult Arcade** means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images for any form of consideration to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

**C. Adult Bookstore or Adult Video Store** means a commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

1. books, magazines, periodicals or other printed matter, or photographs, films, 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 purpose of an establishment if it comprises 35% or more of sales volume or occupies 35% or more of the floor area or visible inventory within the establishment.

**D. Adult Cabaret** means a nightclub, bar, restaurant, or similar commercial establishment which regularly features:

1. persons who appear in a state of semi-nudity or nudity; or
2. live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities";  
or
3. 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"; or
4. persons who engage in lewd, lascivious or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

**E. 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 this adult type of photographic reproductions; or
2. offers a sleeping room for rent for a period of time that is less than twelve (12) hours; or

3. allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than twelve (12) hours.

F. 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."

G. Adult Theater means 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 anatomical areas" or by "specified sexual activities".

H. Escort means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

I. 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.

J. 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, whether or not a sexually oriented business, to any sexually oriented business;
3. the addition of any sexually oriented business to any other existing sexually oriented business; or
4. the relocation of any sexually oriented business.

K. Licensed Day Care Center means a facility licensed by the State of Michigan that provides care, training, education, custody, treatment or supervision for more than twelve (12) children under fourteen (14) years of age, where such children are not related by blood, marriage or adoption to the owner or operator of the facility, for less than twenty-four (24) hours a day,



regardless of whether or not the facility is operated for a profit or charges for the services it offers.

L. Permittee means a person in whose name a permit to operate a sexually oriented business has been issued as well as the individual listed as an application on the application for a permit.

M. Permit means a special land use permit for the operation of a sexually oriented business, authorized pursuant to procedures outlined in the Acme Township Zoning Ordinance and issued pursuant to this Sexually Oriented Business Ordinance.

N. Nude Model Studio means any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration.

O. 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.

P. Person means an individual, proprietorship, partnership, corporation, association or other legal entity.

Q. Semi-nude means a state of dress in which clothing covers no more than the 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.

R. Sexual Encounter Center means a business or commercial enterprise that, as one of its principle business purposes, offers for any form of consideration:

- I. physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

2. activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity.

**S. Sexually Oriented Business** means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

**T. Specified Anatomical Areas** means the male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals.

**U. Specified Sexual Activities** means and includes any of the following:

1. the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
2. sexual acts of all types, actual or simulated, including intercourse, oral copulation, or sodomy;
3. masturbation, actual or simulated; or
4. excretory functions as part of or in connection with any of the activities set forth in 1 through 3 above.

**V. Substantial Enlargement** of a sexually oriented business means the increase in floor areas occupied by the business by more than twenty-five (25) percent, as the floor area exists as of the date of enactment of this Ordinance.

**W. Transfer of Ownership or Control** of a sexually oriented business means and includes any of the following:

1. the sale, lease, or sublease of the business;
2. the transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
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 the death of the person possessing the ownership or control.

**SECTION 3. Classification.** Sexually oriented businesses are classified as follows:

- A. adult arcades;
- B. adult bookstores;
- C. adult cabarets;
- D. adult motels;
- E. adult motion picture theaters;
- F. adult theaters;
- G. escort agencies;
- H. nude model studios; and
- I. sexual encounter centers.

**SECTION 4. Permit and/or License Required.**

- A. It shall be unlawful for a person to operate a sexually oriented business without a valid special use permit approved by the Acme Township Board of Trustees and issued by the Acme Township Zoning Administrator.
- B. An application for a permit must be made on a form provided by Acme Township. The application must be accompanied by:
  - (i) Site plan, plot plan, or development plan, drawn to scale (no larger than 1"=50'), of total property involved showing the location of all abutting streets, the location of all existing and proposed structures and their uses, the location and extent of all above-ground development, both existing and proposed, site lighting, proposed signage, and exterior elevations of the proposed Adult Business depicting it, to the extent feasible, in what will become its "as-built" condition.
  - (ii) Preliminary plans and specifications of the proposed development.

(iii) A description of the proposed use, including references to definitions under Section 2 of this Ordinance.

(iv) An area map, in a scale (no smaller than 1"=200'), depicting and describing all land uses situated within 1,200 feet of the boundaries of the property upon which the proposed Adult Business is to be located.

C. Applications for a permit shall be made and delivered to the Acme Township Zoning Administrator by the intended operator of the establishment. The intended operator shall be required to give the following information on the application form:

1. The name and street address (and mailing address, if different) and driver's license number of the intended operator if he or she has such a driver's license.

2. The name and 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 operator's.

5. The address, and legal description, of the tract of land on which the establishment is to be located.

6. The name and address of all investors.

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

E. The application shall be accompanied by the following:

1. Payment of the application fee in full;

2. Proof of the current fee ownership of the tract of land on which the establishment is to be situated in the form of a copy of the recorded deed;

3. If the persons identified as the fee owner(s) of the tract of land are not also the owners of the establishment, then the lease, purchase contract, purchase option contract, lease option contract or other document(s) evidencing the legally enforceable right of the owners or proposed owners of the establishment to have or obtain the use and possession of the tract or portion thereof that is to be used for the establishment for the purpose of the operation of the establishment;

F. The application shall contain a 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.

**SECTION 5. Planning Commission and Township Board Review and Hearing.** The Acme Township Planning Commission shall make a recommendation with respect to whether the proposed Adult Business is in compliance with the standards contained in this Ordinance within sixty (60) days from its first regularly scheduled meeting which takes place subsequent to the date upon which a completed application for special land use permit is submitted to the Acme Township Zoning Administrator in accordance with the requirements of Acme Township. In the event the Acme Township Planning Commission has not made a recommendation to the Acme Township Board of Trustees within the sixty (60) day period provided herein, then such special land use shall be deemed to have been approved. The Acme Township Board of Trustees shall make a final decision on the requested special land use permit within forty-five (45) days of the Acme Township Planning Commission making a recommendation. In the event the Acme Township Board of Trustees has not made its decision with respect to the proposed Adult Business within the forty-five (45) day period provided herein, then such special use permit shall be deemed to have been approved. Only upon approval, whether by the Acme Township Board of Trustees or upon automatic approval after the lapse of time as provided herein, may a special use permit be issued by the Acme Township Zoning Administrator.

**SECTION 6. Issuance of Special Use Permit.**

A. A special use permit under this Ordinance shall not be approved by the Acme Township Board of Trustees or be issued by the Acme Township Zoning Administrator if one or more of the following is true:

1. An applicant is under eighteen (18) years of age.
2. An applicant or an applicant's spouse, or any person or entity that has any ownership interest or financial relationship with the applicant, is overdue in his or her payment of taxes, fines, or penalties assessed against him or her or imposed upon him or her in relation to a sexually oriented business.
3. An applicant has failed to provide information reasonably necessary for issuance of the permit or has falsely answered a question or request for information on the application form.
4. An applicant or any person or entity that has any ownership interest or financial relationship with the applicant is residing with a person who has been denied a permit by Acme Township or any other township or municipality to operate a sexually oriented business within the preceding twelve (12) months, or residing with a person whose license to operate a sexually oriented business has been revoked within the preceding twelve (12) months.
5. The premises to be used for the sexually oriented business have not been approved by the health department for the use intended, if applicable.
6. The permit fee required by this Ordinance has not been paid.
7. An application for the proposed establishment is in violation of or is not in compliance with any of the provisions of this Ordinance.
8. An applicant or any person or entity that has any ownership interest or financial relationship with the 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) sale, distribution or display of material which is harmful to minors;

(d) soliciting, procuring or aiding and abetting an unlawful sexual performance by a minor;

(e) possession, sale or distribution of child pornography;

(f) public lewdness;

(g) indecent exposure;

(h) indecent conduct with a child;

(i) sexual assault or rape;

(j) incest;

(k) sexual solicitation of a child;

(l) contributing to the delinquency of a minor;

or

(m) harboring a runaway child.

The applicant or any person or entity that has any ownership interest or financial relationship with the applicant shall certify, as a part of the application, that he, she or it has not been convicted of any one or more of the foregoing criminal offenses.

9. That the proposed use does not conform to all specific density and setback regulations, etc. of the zoning district in which it is located.

10. That the plan for the proposed use does not meet all applicable written and duly promulgated requirements of Acme Township for fire and police protection, water supply, sewage disposal or treatment, storm drainage and other public facilities and services.

11. That the plan for the proposed use does not meet all applicable written and duly promulgated standards of other governmental agencies, and that the approval of these agencies has been obtained or is reasonably assured.

12. That parking layout will adversely effect the flow of traffic within the site, or to and from the adjacent streets.

13. That outdoor storage of garbage and refuse is not contained, screened from view and located so as not to be visible from neighboring properties or the adjacent roadways.

14. That the proposed use does not comply, in all other respects, with the Acme Township Zoning Ordinance.

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 Acme Township Board of Trustees determines that an applicant is not eligible for a permit, the applicant shall be given prompt notice of the reasons for the denial.

D. An applicant may appeal the decision of the Acme Township Board of Trustees regarding a denial to the Grand Traverse County Circuit Court by filing a written notice of appeal within twenty-one (21) days after the applicant is provided with notice of the Acme Township Board of Trustees' decision. The failure of the applicant to appeal the decision of the Acme Township Board of Trustees in writing within twenty-one (21) days shall eliminate and foreclose any and all legal rights the applicant may have to challenge the decision of the Acme Township Planning Commission, the Acme Township Board of Trustees or the Acme Township Zoning Administrator.

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



**SECTION 7. Inspection.** An applicant or permittee shall allow representatives of Acme Township 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.

**SECTION 8. Action to Revoke Permit.** The Acme Township Zoning Administrator shall take enforcement action, including but not limited to 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 or any person or entity that has an ownership interest or financial relationship with the permittee or any employee of the permittee has been convicted of using and/or allowing the use of controlled substances within the establishment.
- C. A permittee or any person or entity that has an ownership interest or financial relationship with the permittee or any employee of the permittee has been convicted of prostitution or any other activity fostering, promoting or otherwise facilitating prostitution, within the establishment or elsewhere.
- D. A permittee or any person or entity that has an ownership interest or financial relationship with the permittee or any employee of the permittee 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 or any person or entity that has an ownership interest or financial relationship with the 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 control of an establishment without the prior consent of the Acme Township Zoning Administrator.

**SECTION 9. Transfer of Permit.** A permittee shall not transfer his, her or its permit to another, nor shall a permittee operate a sexually oriented business under the authority of a permit at any place other than the address designated in the application.

**SECTION 10. Location Restrictions.**

- A. A sexually oriented business may not be operated within 1,200 feet of:

1. a church, synagogue or regular place of religious worship, except for Feast of Victory Lutheran Church. A sexually oriented business may not be operated within 500 feet of Feast of Victory Lutheran Church;

2. a public or private elementary or secondary school;

3. a licensed day-care center; and/or

4. another sexually oriented business.

B. A sexually oriented business may not be operated within three hundred (300) feet of a public park except for the Acme Township Boat Launch at the end of Bunker Hill Road and the TART trail.

C. A sexually oriented business may not be operated within two hundred (200) feet of a boundary of any residentially zoned district or any residential structure within or without a zoning area.

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

E. 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 residential lot, or licensed day-care center.

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

#### **SECTION 11. Additional Regulations for Adult Motels.**

A. Evidence that sleeping rooms in a hotel, motel, or a similar commercial establishment are being rented and vacated for periods of time less than five (5) hours in duration on a regular basis creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this Ordinance.

B. It is unlawful if a person, as the person in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have a sexually oriented business permit, rents or sub-rents a sleeping room to two or more persons for periods of twelve (12) hours or less duration at any time within a single twenty-four (24) hour period.

C. For purposes of subsection B. of this section, the terms "rent" or "sub-rent" mean the act of permitting a room to be occupied for any form of consideration.

**SECTION 12. Regulations Pertaining to Exhibition of Sexually Explicit Films or Videos.**

A. A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, or other video reproduction which depicts specified sexual activities or 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 and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises.

2. The application shall be sworn to be true and correct by the applicant.

3. No alteration in the configuration or location of a manager's station may be made without the prior approval of the Acme 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 5 remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to Subsection 1 of this section.
7. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one (1.0) 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.

**SECTION 13. 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 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, drawings, or pictorial representations of a sexual or explicit manner except to the extent otherwise permitted by the provisions of this Ordinance.

C. Signs shall contain no photographs, silhouettes, drawings or pictorial representations of any manner, and may contain only the name of the enterprise.

**SECTION 14. Persons Younger Than Eighteen Prohibited From Entry; Attendant Required.**

A. It shall be unlawful to allow a person who is younger than eighteen (18) years of age to enter or be on the premises of a sexually oriented business at any time that the sexually oriented business is open for business.

B. It shall be the duty of the operator of each sexually oriented business to ensure that an attendant is stationed at each public entrance to the sexually oriented business at all times during such sexually oriented business' 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 driver's license; or
2. A valid operator's identification certificate reflecting that such person is eighteen (18) years of age or older.

**SECTION 15. Exemptions.** 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.

**SECTION 16. Notices.**

- A. Any notice required or permitted to be given by Acme Township or any other agency under this Ordinance to any applicant, operator or owner of an establishment may be given either by personal delivery or by certified United States Mail, postage prepaid, return receipt requested, addressed to the most recent address as specified in the application for the permit, or in a transfer application that has been received by Acme Township, or in any notice of address change that has been received by Acme 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, Acme Township shall cause it to be posted at the principal entrance to the establishment.
- B. Any notice required or permitted to be given to Acme Township by any person under this Ordinance shall not be deemed given until and unless it is received in the principal office of Acme Township.
- C. It shall be the duty of each owner who is designated on the permit application and each operator to furnish notice to Acme Township in writing of any change of residence or mailing address.

**SECTION 17. Penalty.** A person who operates or causes to be operated a sexually oriented business without a valid permit and/or license or otherwise violates this Ordinance shall be subject to a suit for injunctive relief and/or revocation of the sexually oriented business permit, as well as fines or other penalties as provided by the Acme Township Zoning Ordinance. In addition, any person violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding Five Hundred (\$500.00) Dollars and cost of prosecution or by imprisonment for a period not exceeding ninety (90) days, or both such fine and imprisonment in the sole discretion of the Court. Each day during which a violation of a provision of this Ordinance continues shall be deemed a separate and distinct violation for the purpose of this section.

In addition to the penalties set forth in this section, Acme Township may maintain any equitable or legal action available to it for the abatement of any violation of this Ordinance. Violation of this Ordinance shall be a nuisance per se. Acme Township if it is successful in any lawsuit brought under this Ordinance, shall be reimbursed by the opposing party(s), including but not limited to the applicant and permittee, for all costs of the litigation, including but not limited to Acme Township's reasonable attorney fees and all other costs of litigation.

**SECTION 18. Administrative Liability.** No officer, agent or employee of Acme Township shall render himself or herself personally liable for any damages that may accrue to any person as a result of any act required or permitted in the discharge of his or her duties under or in the enforcement of this Ordinance.

**SECTION 19. Severability, Pronouns and Captions.** This Ordinance and the various sections, subsections, sentences, phrases, and clauses thereof are hereby declared to be severable. If any section, subsection, sentence, phrase or clause is adjudged unconstitutional or invalid, it is hereby declared that the remainder of this Ordinance shall not be affected thereby. Pronouns shall be read as masculine, feminine or neuter as may be appropriate. Captions appearing at the beginning of any section shall not be deemed a part of this Ordinance and shall have no independent significance.

**SECTION 20. Repeal.** All ordinances or parts thereof which are in conflict in whole or in part with any of the provisions of this Ordinance as of the effective date of this Ordinance are hereby repealed to the extent of such conflict.

**SECTION 21. Effective Date.** This Ordinance was approved and adopted by the Acme Township Board on \_\_\_\_\_, 1996. It shall be effective on \_\_\_\_\_, 1996.

\_\_\_\_\_  
Mark Ritter, Acme Township Supervisor

\_\_\_\_\_  
Victorine Knopf, Acme Township Clerk

This Sexually Oriented Business Ordinance Prepared by:

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