

# RECORD OF ORDINANCES

Dayton Legal Blank Co. 10114

Ordinance No. 1983-03

Passed \_\_\_\_\_

April 19, 1983

AN ORDINANCE PROVIDING ZONING REQUIREMENTS FOR ADULT ENTERTAINMENT FACILITIES WITHIN THE MUNICIPALITY OF BROOKVILLE, OHIO.

WHEREAS, IT HAS COME TO THE ATTENTION OF THE COUNCIL OF THE MUNICIPALITY OF BROOKVILLE, OHIO, THAT ADULT ENTERTAINMENT FACILITIES COULD BE LOCATED WITHIN THE MUNICIPALITY OF BROOKVILLE, OHIO, AND

WHEREAS, IT IS DESIRABLE TO REGULATE THE AREAS IN WHICH SUCH A FACILITY MIGHT BE LOCATED.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE MUNICIPALITY OF BROOKVILLE, OHIO, THAT:

## SECTION I:

A facility having a significant portion of its function as adult entertainment which includes the following listed categories:

- (a) Adult Book Store. An establishment having a substantial or significant portion of its stock in trade, books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting or relating to "specified sexual activities" or "specified anatomical areas" as herein defined or an establishment with a segment or section devoted to the sale or display of such material.
- (b) Adult Mini Motion Picture Theater. A facility with a capacity for less than fifty (50) persons, used for presenting material distinguished or characterized by an emphasis on matter depicting describing or relating to "specified sexual activities" or "specified anatomical areas", for observation by patrons therein.
- (c) Adult Motion Picture Theater. A facility with a capacity of fifty (50) or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas", for observation by patrons therein.
- (d) Adult Entertainment Business. Any establishment involved in the sale of services or products characterized by the exposure or presentation of "specified anatomical areas" or physical contact of live males or females, and which is characterized by salacious conduct appealing to prurient interest for the observation or participation in by

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patrons. Services or products included within the scope of adult entertainment business are photography, dancing, reading, massage, and similar functions which utilize activities as specified above.

(e) Specified Sexual Activities.

- 1) Human genitals in a state of sexual stimulation or arousal;
- 2) Acts, real or simulated, of human masturbation, sexual intercourse, sodomy, cunnilingus, or fellatio;
- 3) Fondling or other erotic touching of human genitals, pubic regions, buttock, or female breast.

(f) Specified Anatomical Areas.

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

(g) Massage Establishments. Any establishment having a fixed place of business where massages are administered for pay. 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 of Ohio, or barbershops or beauty salons in which massages are administered only to the scalp, the face, the neck, or the shoulder.

(f) Massage. A method of treating or stimulating the external parts of the human body by rubbing, stroking, kneading, tapping, touching or vibrating with the hand or any instruments for pay.

## SECTION II.

Adult entertainment facilities are conditionally permitted in the B-4 commercial zoning districts only, and subject to the conditions set forth hereafter.

## SECTION III.

- (1) No adult entertainment facility shall be established within 500 feet of any area zoned for residential use.

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- (2) No adult entertainment facility shall be established within a radius of 1000 feet of any school, library, or teaching facility, whether public or private, governmental or commercial, which school, library, or teaching facility is attended by persons under eighteen (18) years of age.
- (3) No adult entertainment facility shall be established within a radius of 1000 feet of any park or recreational facility attended by persons under eighteen (18) years of age.
- (4) No adult entertainment facility shall be established within a radius of 1000 feet of any other adult entertainment facility or within a radius of 2000 feet of any two of the following establishments.
  - (a) Cabarets, clubs, or other establishments which feature topless or bottomless dancers, go-go dancers, strippers, male or female impersonators, or similar entertainers.
  - (b) Establishments for the sale of beer or intoxicating liquor for consumption on the premises.
  - (c) Pawn shops.
  - (d) Pool or billiard halls.
  - (e) Pinball Palaces, halls, or arcades.
  - (f) Dance Halls or discotheques.
- (5) No adult entertainment facility shall be established within a radius of 1000 feet of any church, synagogue, or permanently established place of religious services which is attended by persons under eighteen (18) years of age.
- (6) No advertisements, displays or other promotional materials shall be shown or exhibited so as to be visible to the public from pedestrian sidewalks or walkways, or from other areas public or semi-public.
- (7) All buildings openings, entries, windows, etc. for adult uses shall be located, covered, or serviced in such a manner as to prevent a view into the interior from any public or semi-public area, sidewalk or street. For new construction, the building shall be oriented so as to minimize any possibility of viewing the interior from public or semi-public areas.

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- (8) No screens, loudspeakers or sound equipment shall be used for adult motion picture theaters (enclosing or drive-in) that can be seen or discerned by the public from public or semi-public areas.
- (9) Off-street parking shall be provided in accordance with ordinances for similar uses, as well as all other standards for permitted uses within the B-4 Zoning Districts as appropriate.
- (10) Divisions (1) through (5) above, may be waived by the Board of Zoning Appeals provided that the applicant provides affidavits of 51% of the property owners and resident freeholders within the above described radii, giving their consent to the establishment of adult entertainment facility, and if the board determined:
  - (a) That the proposed use will not be contrary to the public interest or injurious to nearby properties, and that the spirit and intent of this section will be observed.
  - (b) That the proposed use will not enlarge or encourage the development of a skid row or similar depressed area.
  - (c) That the establishment of an additional regulated use in the area will not be contrary to any program of neighborhood conservation nor will it interfere with any program of urban renewal, residential or commercial reinvestment, or renovation of a historical area.
  - (d) That all applicable regulations of this section will be observed.

PASSED this 19th day of April, 1983.

ATTEST:

E. Eugene Roeser  
E. Eugene Roeser, Clerk

Robert N. Apgar  
Robert N. Apgar, Mayor

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## CERTIFICATE

The undersigned, Clerk of the Municipality of Brookville, Ohio does hereby certify that the foregoing is a true and correct copy of Ordinance No. 1983-03 passed by the Council of said Municipality on the 19th day of April, 1983.

E. Eugene Roeser  
E. Eugene Roeser, Clerk

## CERTIFICATION OF POSTING

The undersigned, Clerk of Council of the Municipality of Brookville, Ohio hereby certifies that the foregoing Ordinance No. 1983-03 was posted at the Municipal Building, U. S. Post Office and the Brookville National Bank, Brookville, Ohio on the 21st day of April, 1983 to the 20th day of April, 1983 both days inclusive.

E. Eugene Roeser  
E. Eugene Roeser, Clerk