

**RESOLUTION NO.** 49-97  
**Rescind & Replace Resolution No. 13-96**

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**BE IT RESOLVED** by the Township Trustees of Union Township, Butler County, Ohio that:

**RESOLUTION AMENDING ADULT CABARET REGULATIONS AND ORDERING NOTICE.**

**Whereas:**

- A. The Board of Trustees of Union Township, Butler County, finds that, after reviewing the studies of the cities of Los Angeles, Phoenix, and Seattle, and other related information, in order to protect the public health, safety and welfare, by regulating the secondary effects associated with adult cabarets within the community, it is necessary to amend the adult cabaret regulations within the unincorporated areas of the township, pursuant to Ohio Revised Code Sections 503.51 to 503.59; and
- B. As required by law, at least two public hearings on the proposed regulations were held pursuant to notice at regular sessions of the Board on October 14, 1997 and October 28, 1997, at which interested persons were given an opportunity to state their views.

**It is therefore Resolved, that:**

- 1. The regulations governing adult cabarets and their employees within the unincorporated areas of the township are hereby amended, and a copy of the amended regulations are attached hereto and made a part of this resolution.
- 2. The Clerk is directed to keep the amended regulations available for public inspection and copying at the office of the Board.
- 3. The Clerk is further directed to cause the following notice to be published in a newspaper of general circulation in the township, within ten days after the date of this resolution.

The Board of Trustees of Union Township, Butler County, Ohio has amended the regulations governing adult cabarets and their employees. Such amended regulations are available to the public for inspection and copying at the office of the Board, 9113 Cincinnati-Dayton Road, West Chester, Ohio 45069.

- 4. The amended regulations take effect thirty days after the date of this resolution, unless a sufficient petition is timely filed requesting the Board to submit the same to the electors for approval or rejection, as provided by Ohio Revised Code Section 503.52.

**UNION TOWNSHIP, BUTLER COUNTY, OHIO REGULATIONS GOVERNING ADULT CABARETS AND EMPLOYEES**

**(A) Definitions**

As used in these regulations:

- (1) "**Adult Cabaret**" means a nightclub, bar, restaurant, or similar establishment in which persons appear in a state of nudity in the performance of their duties.

- (2) **"Background check"** means an investigation into the criminal history of a person or entity.
- (3) **"Church"** means a house used for public worship by a fellowship of believers, congregations, society, corporation, convention, or association that is formed primarily for or exclusively for religious purposes and that is not formed for the private profit of any person.
- (4) **"Employee"** means any person who works for, or may be directed by, an adult cabaret, whether with or without wages or salary, to go, or work, or be, at any time, in any adult cabaret. This definition includes, but is not limited to, officers, directors, and board members, or any similar person who can make policy for an adult cabaret. This definition specifically includes those persons who are classified by the adult cabaret as independent contractors.
- (5) **"Failed to cooperate"** means refusing to provide information, providing false or misleading information, or actively interfering with a reasonable request, when reasonably requested to do so by that person or entity conducting the investigation.
- (6) **"Hazardous"** means a condition that poses a present or potential threat to human health.
- (7) **"Nudity"** means the showing of either of the following:
  - (a) The human male or female genitals, pubic area or buttocks with less than a fully opaque covering;
  - (b) The female breast with less than a fully opaque covering on any part of the nipple.
- (8) **"Permit"** means a permit to operate an adult cabaret, issued pursuant to these regulations.
- (9) **"School"** means a place or institution, whether public or private, whether of high or low degree, where general education, learning, and mental training are provided, including, but not limited to, schools operated by agencies of the state of Ohio, parochial schools, day care centers, and pre-schools.
- (10) **"Unsafe"** means that which exposes any person to danger or to a potential hazard to a person's life, health, safety or welfare.
- (11) **"Unsanitary"** means not free from checking or reducing any condition that is injurious to any person's health or hygiene.

**(B) Scope of Regulations**

- (1) These regulations govern adult cabarets within the unincorporated area of the township, and the owners, operators, persons in charge, and employees of such establishments.

**(C) Permit Required**

- (1) No person or entity shall engage in, conduct or carry on an adult cabaret, or permit an adult cabaret to be engaged in, conducted or carried on, in or on premises owned or controlled by him or it, without a valid, current permit issued pursuant to these regulations. A separate permit is required for each location at which an Adult Cabaret establishment is operated.

**(D) Application For Permit**

- (1) Application for an original or renewal permit shall be in writing, addressed to the Board of Trustees of Union Township, Butler County, Ohio.
- (2) An application for a renewal permit shall be filed not later than thirty days prior to expiration of the permit to be renewed.
- (3) All applications shall be filed with the Clerk.
- (4) A non-refundable filing fee shall be paid at the time of filing the application, as follows:
  - (a) \$250 for an initial permit to operate an adult cabaret;
  - (b) \$125 for a renewal permit to operate an adult cabaret;
- (5) An application for an initial or renewal permit to operate an adult cabaret shall contain the following:
  - (a) The address where the adult cabaret is operated, or is to be operated, including a legal description of the property;
  - (b) The status of the applicant as an individual, partnership or limited partnership, domestic or foreign corporation, or other entity;
  - (c) The full name, residence address, date of birth, and social security number of the applicant or the person applying on behalf of a partnership, corporation, or other entity;
  - (d) If the applicant is a partnership or limited partnership, the name of the partnership; the status of the partnership as a general or limited partnership; the state or other jurisdiction under which it is organized; the address of its principal office; the address of its principal office in Ohio; its federal employer identification number; the name and address of its statutory agent in Ohio; the full name, residence address, date of birth, and social security number of each partner; and the status of each partner as a general or limited partner;
  - (e) If the applicant is a corporation, the name of the corporation, the state or other jurisdiction under which it is organized; the address of its principal office; the address of its principal office in Ohio; its federal employer identification number; the name and address of its statutory agent in Ohio; and the full name, residence address, date of birth and social security number of each shareholder holding more than ten per cent of the applicant's stock. If any shareholder is a corporation or a general or limited partnership, the same information shall be included for such shareholder as is required for an applicant that is a corporation or general or limited partnership;
  - (f) The full name, residence address, date of birth, and social security number of each person employed by the adult cabaret or whose employment is contemplated by the establishment, and the capacity in which such person is or is to be employed;
  - (g) A statement that the applicant and, to the applicant's knowledge, the persons named in the application has not been, within the past five years, convicted of or pleaded guilty to an offense under Ohio Revised Code Chapter 2907 or a substantially equivalent offense under a municipal ordinance in Ohio, or under the laws of another state or territory or of the United States, or under a municipal ordinance in any such jurisdiction; or a statement listing the offense(s) under Ohio Revised Code Chapter 2907 or substantially equivalent offense(s) under a municipal ordinance in Ohio, or under the laws of another state or territory or of the United States, or under a municipal ordinance in any such jurisdiction, of which the applicant or any person

named in the application has been convicted, including the offense, date of conviction, and the name and location of the court;

- (h) A statement by the applicant that the Ohio Liquor Control Commission has never, pursuant to Ohio Revised Code Section 4301.25, or any similar commission, pursuant to a similar statute, law or municipal code from another state, revoked a permit held by the applicant or any person or entity named in the application;
- (i) Authorization for an investigation into the background, including any criminal record, of the applicant and any person or entity named in the application, including authorization to conduct subsequent investigations to supplement or update the information;
- (j) The applicant's agreement to abide by these regulations and the laws of Ohio, and any amendments, additions, or reenactment thereof;
- (k) A plat of the property described in (a) above showing the property lines, building locations, parking areas, entry ways, and lighting systems.

**(E) Inspection and Investigation**

- (1) Upon receipt of an application for a permit or renewal permit to operate an adult cabaret, the Clerk shall notify the state or local authorities designated by the Board to conduct applicable health and safety inspections of the specified premises, and to determine compliance or noncompliance with applicable health and safety codes. Written reports of inspection shall be prepared by the inspectors and filed with the Clerk within 20 days of the application, and shall become part of the application for a permit.
- (2) Upon receipt of an application for a permit or renewal permit to operate an adult cabaret, the Clerk shall refer the applicant to the township police department to be fingerprinted, and shall notify the police chief to conduct an investigation into the background of the applicant and of other persons or entities named in the application. A written report of the results of the investigation shall be prepared by the investigating officer or agency and filed with the Clerk within 20 days of the application and shall become part of the application for a permit.

**(F) Action on Application**

- (1) The Board shall hear any application, at a public hearing, during a regular meeting or during a special hearing and shall act within thirty days after the filing of the application. The applicant shall have the opportunity to present information to the Board regarding the application.
- (2) The application will be denied if:
  - (a) The application is incomplete, contains any false information, or fails to comply with these regulations;
  - (b) The applicant is a limited partnership, corporation, or other entity that is not in good standing in the jurisdiction where organized or is not authorized to do business in Ohio;
  - (c) The operation of an adult cabaret at the specified premises would violate existing zoning restrictions;
  - (d) The report of the health and safety inspections conducted pursuant to section (E)(1) reveal any unsanitary, unsafe, or hazardous condition on the premises subject to the permit or renewal permit or any violation of applicable health or safety codes;

- (e) The applicant for a permit or renewal permit to operate an adult cabaret has failed to cooperate with any required health or safety inspection or background investigation;
  - (f) The applicant or any person named in the application for a permit or renewal permit to operate an adult cabaret is under age eighteen;
  - (g) The applicant or any person named in the application for an initial or renewal permit to operate an adult cabaret within the past five years has been convicted of or pleaded guilty to an offense under Ohio Revised Code Chapter 2907 or a substantially equivalent offense under a municipal ordinance in Ohio, or under the laws of another state or territory or of the United States, or under a municipal ordinance in any such jurisdiction;
  - (h) The applicant or any person named in the application for an initial or renewal permit to operate an adult cabaret, or any person employed at the adult cabaret has been convicted of or pleaded guilty to a violation of Ohio Revised Code Section 503.53(C);  
or
  - (i) The applicant has violated these regulations, or aided and abetted any violation of these regulations.
- (3) If the Board approves the application, the Clerk shall, within three business days, issue to the applicant a permit.
  - (4) If the application is denied, the Clerk shall promptly notify the applicant in writing of the order denying the application. Upon the denial of the permit, the Board or its designee shall cause to be filed, within ten days, a declaratory judgment action in the Butler County Court of Common Pleas that will seek a judicial determination as to the validity of the denial.
  - (5) A permit or renewal permit to operate an adult cabaret shall contain the address of the permit premises, the name and address of the permit holder, and the date of issuance and date of expiration of the permit.
  - (6) If the permit is a renewal of an existing, valid permit, and such renewal is denied, the Board or its designee shall cause to be filed, within ten days, a declaratory judgment action in the Butler County Court of Common Pleas that will seek a judicial determination as to the validity of such denial. During the pendency of judicial review, the Clerk shall issue a provisional, temporary permit that will expire upon the judicial determination as to the validity of such denial.

**(G) Expiration of Permit**

A permit to operate an adult cabaret is valid for one year, and expires on the anniversary of the date of issuance, unless sooner revoked as provided in these regulations.

**(H) Display of Permit**

The permit to operate an adult cabaret shall be prominently displayed in an area of the premises open to the public.

**(I) Revocation of Permit**

- (1) The Board of Trustees may, upon discovery of a violation of these regulations, on any of the same grounds listed in section (F)(2) for denial of the permit, including any such grounds arising or discovered after the issuance of a permit, set a public hearing to be conducted not later than 30 days after the notice of the violation to the permittee. The Clerk shall promptly notify the permittee in writing of the date and time of the public

hearing and the grounds for revocation. At the public hearing the Board may allow the permittee to present evidence regarding the alleged violation. Pursuant to the notice and after the hearing the Board may dismiss the allegations or sustain the allegations and revoke the permit.

- (2) If a permit is revoked, the Board or its designee shall cause to be filed, within ten days, a declaratory judgment action in the Butler County Court of Common Pleas that will seek a judicial determination as to the validity of such revocation. During the pendency of judicial review, the Clerk shall issue a provisional, temporary permit that will expire upon the judicial determination as to the validity of the revocation.

**(J) Transfers of Permit**

A permittee shall not transfer the permit to a location other than the premises designated in the application. A permittee shall not transfer the permit to any other person or entity.

**(K) Inspections and Investigations**

- (1) Health and safety inspections of permit premises shall be conducted at intervals of three months after issuance or renewal of the permit, to ensure continued compliance with health and safety codes. In addition, the Board of Trustees may order health and safety inspections at any time there is reasonable suspicion to believe that an unsanitary, unsafe, or hazardous condition exists on the premises. The Clerk shall notify the appropriate authorities or agencies to make such inspections at the designated times. Written reports of inspections shall be filed with the Clerk.
- (2) Township personnel or agents may at all reasonable times inspect permit premises to ensure continued compliance with the laws of Ohio and these regulations.
- (3) At any time there is reasonable suspicion to do so, the Board of Trustees may order a background investigation, including the criminal record, if any, of any permittee, person named in the application for a permit, employee of a permittee. Written reports of such investigations shall be filed with the Clerk.

**(L) Rules Governing Operation of An Adult Cabaret**

- (1) Adult cabarets shall close not later than 11:00 PM and shall not reopen earlier than 12:00 Noon.
- (2) The owner, operator, manager, or person in charge of the establishment shall allow state or local authorities, including law enforcement officers, access to any and all parts of the premises for the purpose of making any health or safety inspection pursuant to these regulations, and shall cooperate in any background investigation.
- (3) No person under age eighteen shall be permitted entry at any time, or be employed or contracted with or by the adult cabaret in any capacity, whether full-time or part-time, and with or without remuneration or compensation in any form.
- (4) No adult cabaret shall be established or operated on any parcel of real estate having its boundaries within five hundred feet of the boundaries of any parcel of real estate having situated on it a school, church, library, public or community-operated playground, or township park.
  - (a) The boundary-to-boundary measurement shall be measured, to the extent possible, in a straight, level horizontal line from the two closest boundary points. If a level horizontal line is not possible, the boundaries shall be extended vertically until a horizontal, level line can be imagined and measured.

- (5) The permittee shall file a list of employees with the Clerk, and shall file an amended list at any time there is a change. The list shall state the name, address, date of birth, and position of each employee.
- (6) The owner, operator, manager, or person in charge of the adult cabaret shall exercise adequate supervision to ensure that the employees comply at all times with these regulations and the laws of Ohio.
- (7) All off-street parking areas and premises entries of the business shall be illuminated from dusk to closing hours of operation with lighting system that provides an average maintained horizontal illumination of one (1.0) foot-candle of light on the parking surface.
- (8) The permittee shall not allow any portion of the interior premises to be visible from outside the premises.

**(M) Rules Governing Conduct of Employees**

- (1) A person under age eighteen shall not accept or continue employment by or in an adult cabaret in any capacity, whether full-time or part-time, and with or without remuneration or compensation in any form.
- (2) Any employee of an adult cabaret shall cooperate with any background investigation under these regulations.
- (3) No employee of an adult cabaret, in the performance of his or her duties, shall do any of the following:
  - (a) Place his or her hand upon, touch with any part of his or her body, fondle in any manner, or massage the genitals, pubic area, or buttocks of any other person or the breasts of any female or, if the employee is a female, of any other female;
  - (b) Perform, offer, or agree to perform any act that would require the touching of genitals, pubic area, or buttocks of any other person or the breasts of any female or, if the employee is a female, of any other female;
  - (c) Uncover the genitals, pubic area, or buttocks of any other person or the breasts of any female or, if the employee is a female, of any other female.

**(N) Records**

The Clerk shall keep a complete record of all documents and proceedings under these regulations, including, without limitation, applications, reports, copies of permits issued, notices, correspondence, permittee employee lists, Board proceedings, resolutions and orders, and petitions. All documents shall be endorsed by the Clerk with the date of filing.

**(O) Deposit and Use of Fees**

Fees collected by the township for permits under these regulations shall be deposited in the township general fund, and first applied to the cost of administering and enforcing these regulations.

Adopted the 11th day of November, 19 97

Thomas J. Hayden  
Chris Chaves  
Catherine Stoker  
 Township Trustees

Attest: Patricia Williams  
 Township Clerk