

RESOLUTION NO. 31 - 2003

RESOLUTION REGULATING ADULT CABARETS AS AUTHORIZED BY THE TOWNSHIP LIMITED HOME RULE PROVISIONS OF O.R.C. CHAPTER 504; AND REGULATING AND REQUIRING THE REGISTRATION OF ADULT CABARETS AS AUTHORIZED BY O.R.C. § 503.52 et seq.

WHEREAS, the West Chester Township Trustees, based on reports from the West Chester Township Police Department, find that Adult Cabarets in West Chester Township require special supervision from public safety and Health agencies in order to protect and preserve the Health, safety, morals, and general welfare of the patrons of such businesses as well as citizens of the Township; and,

WHEREAS, numerous cities have studied the effects of Adult Cabarets on the neighborhoods and areas in which those businesses are located; and,

WHEREAS, files available to the Township Trustees in the office of the planning & Zoning Department contain copies of the "Adult Entertainment Study" dated November 1994 conducted by the New York City Department of Planning; "Adult Entertainment Businesses in Indianapolis, An Analysis" dated February 1984, conducted by the Department of Metropolitan Development of the City of Indianapolis; and the "Report of the Attorney General's Working Group on the Regulation of Adult Cabarets" dated June 6, 1989, conducted by the Attorney General for the State of Minnesota; and,

WHEREAS, the "Adult Entertainment Study" of the City of New York contains summaries of impact studies from the cities of Islip, New York; Los Angeles, California; Indianapolis, Indiana; Whittier, California; Austin, Texas; and Phoenix, Arizona; along with Manatee County, Florida; New Hanover County, North Carolina; and the State of Minnesota; and,

WHEREAS, a copy of such summaries and reports have been made available to each member of the Board of Township Trustees for review in conjunction with consideration of this Resolution; and,

WHEREAS, these numerous studies and reports conclude, based on documented evidence, that Adult Cabarets are associated with negative secondary effects, both on the premises and in the neighborhood of the premises, such as increased crime rates, decreased property values, curtailed retail trade and deterioration of the quality of urban life; and,

WHEREAS, the Board of Township Trustees desires to minimize and control these adverse effects and thereby protect the Health, safety, morals, and general welfare of the citizenry, protect the citizens from increased crime, preserve the quality of life, preserve the property values and character of surrounding neighborhoods, and deter the spread of urban blight, as authorized by O.R.C. § 503.52 et seq. and O.R.C. Chapter 504; and,

WHEREAS, the Board of Township Trustees has determined that location criteria alone do not adequately protect the Health, safety, morals, and general welfare of the people of this Township; and,

WHEREAS, Adult Cabarets require special supervision from public safety agencies in order to protect and preserve the Health, safety, morals, and general welfare of the patrons of such businesses and the citizens of the Township; and,

WHEREAS, the Board of Township Trustees finds that Adult Cabarets frequently are used for unlawful sexual activities, including prostitution and public sex acts, and for unsanitary sexual activities and sexual activities that promote the spread of sexually transmitted diseases; and,

WHEREAS, the concern over sexually transmitted diseases is a legitimate Health concern of the Township which demands reasonable regulation of Adult Cabarets in order to protect the Health and well-being of the citizens; and,

WHEREAS, the Board of Township Trustees finds that the incidence of unlawful sexual activities in Adult Cabarets may be diminished by appropriate regulation of attire, operating conditions, hours of operation, and interior configuration; and,

WHEREAS, the Ohio Legislature has specifically authorized a Board of Township Trustees to require Adult Cabarets to undergo periodic Health and safety inspections to determine continual compliance with applicable Health and safety codes, and to be open for business only during specified hours, and to comply with any other requirement reasonably thought necessary by the Board; and,

WHEREAS, licensing is a legitimate and reasonable means of accountability to ensure that operators of Adult Cabarets comply with reasonable regulations and do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation; and,

WHEREAS, it is not the intent of this Resolution to suppress any speech activities protected by the First Amendment, but to enact a content-neutral Resolution which addresses the secondary effects of Adult Cabarets; and,

WHEREAS, it is not the intent of this Resolution or of the Board of Township Trustees to condone or legitimize the distribution or exhibition of obscene material.

NOW, THEREFORE, BE IT RESOLVED, that the West Chester Township Board of Trustees does hereby agree to the following guidelines:

SECTION 1. PURPOSE AND FINDINGS.

- (a) Purpose. That the purpose of this Resolution is to establish reasonable and uniform regulations to minimize and control the negative secondary effects of Adult Cabarets within the Township in order to promote the Health, safety, morals, and general welfare of the citizens of the Township. The provisions of this Resolution have neither the purpose nor the effect of imposing a limitation or restriction on the content of any communicative materials or communication, including sexually oriented entertainment. Similarly, it is not the purpose or effect of this Resolution to restrict or deny access by adults to sexually oriented entertainment protected by the First Amendment, or to deny access by distributors and exhibitors of sexually oriented entertainment to their intended market. Furthermore, it is not the intent or effect of this Resolution to condone or legitimize the distribution or exhibition of entertainment that is obscene.
- (b) Findings. Based on evidence concerning the adverse secondary effects of Adult Cabarets on the community presented in hearings before the Township Trustees; on findings incorporated in the cases of the *Township of Renton v. Playtime Theaters, Inc.*, 475 U.S. 41 (1986), *Young v. American Mini*

Theaters, 426 U.S. 50 (1976); and on studies in other cities including New York, New York; Islip, New York; Los Angeles, California; Indianapolis, Indiana; Whittier, California; Austin, Texas; and Phoenix, Arizona; along with Manatee County, Florida; New Hanover County, North Carolina; and the State of Minnesota; the Township Trustees find:

- (1) Adult Cabarets lend themselves to ancillary unlawful and unhealthy activities.
- (2) Unlawful sexual acts and prostitution occur at Adult Cabarets, especially those which provide private or semi-private booths or rooms for viewing films, videos, or live sexually-oriented entertainment. Such activities may result in spreading communicable diseases such as syphilis, gonorrhea, and human immunodeficiency virus (HIV).
- (3) Numerous studies and reports have determined that Adult Cabarets are associated with prostitution, disruptive conduct and other criminal activity which is currently not subject to effective regulation and which constitutes an immediate threat to the public Health, safety and morals, and general welfare.
- (4) The findings noted in paragraphs number 1 through 3 raise substantial governmental concerns.
- (5) Adult Cabarets have operational characteristics, which should be reasonably regulated in order to protect those substantial governmental concerns.
- (6) The regulation of nudity in Adult Cabarets will further the substantial governmental interests in preventing prostitution and other sex-related crimes, including illegal sex acts, and protecting the public Health, safety, morals and general welfare.
- (7) Removal of doors on viewing booths in Adult Cabarets and requiring sufficient lighting on premises with viewing booths will advance the substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in adult arcades and theaters and will facilitate enforcement of the provisions of this Resolution and other federal, state and local laws, thereby furthering the substantial governmental interest in protecting the public Health, safety, morals, and general welfare.
- (8) Requiring sufficient lighting in all Adult Cabarets will advance the substantial governmental interest in curbing illegal sexual activity on the premises of Adult Cabarets, and will facilitate enforcement of the provisions of this Resolution and other federal, state and local laws, thereby furthering the substantial governmental interest in protecting the public Health, safety, morals, and general welfare.
- (9) The disclosure of certain information by those persons ultimately responsible for the day-to-day operation and maintenance of Adult Cabarets, and by employees of such businesses, will facilitate the enforcement of the provisions of this Resolution and other federal, state and local laws, and will thereby further the substantial government interest in protecting the public Health, safety, morals, and general welfare.
- (10) A person who recently has been convicted of a sexually related crime is not an appropriate individual to operate or be employed in an Adult Cabaret.

- (11) Barring such individuals from the management of and employment in Adult Cabarets for a period of years serves as a deterrent to and prevents the commission of sexually related criminal acts, including conduct which leads to the transmission of sexually transmitted diseases.
- (12) A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and operators of Adult Cabarets. Further, such a licensing procedure will place a heretofore-nonexistent incentive on operators to see that Adult Cabarets are run in a manner consistent with the Health, safety, morals and general welfare of patrons and employees, as well as the citizens of the Township. It is appropriate to require reasonable assurances that the licensee is the actual operator of the Adult Cabaret, and fully in possession and control of the premises and activities occurring therein.

SECTION 2. DEFINITIONS

For purposes of this Resolution,

- (a) "ADULT CABARET" means a nightclub, bar, restaurant, or similar commercial establishment that regularly features:
 - (1) persons who appear in a "state of nudity" or "state of semi-nudity"; or
 - (2) live entertainment characterized by the depiction or description of specified anatomical areas or specified sexual activities; or
 - (3) live entertainment of an erotic nature including exotic dancers, strippers, male or female impersonators, or similar entertainment; or
 - (4) exhibiting films, motion pictures, video cassettes, video discs, DVDs, CDs, slides or other photographic or electronic reproductions, whether analog or digital, that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.
- (b) "COVERING" means any clothing or wearing apparel, including pasties, but does not include any substance that can be washed off the skin, such as paint or make-up, or any substance designed to simulate the appearance of the anatomical area beneath it.
- (c) "EMPLOYEE" means a person who performs any service or work on the premises of an Adult Cabaret, including but not limited to providing entertainment, performing work of a management or supervisory nature, or performing support functions, on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise and whether or not said person is paid a salary, wage or other compensation by the operator of said business. Employee does not include a person on the premises exclusively for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises
- (d) "EMPLOYEE STATION" means an area on the premises of an Adult Cabaret designated for occupancy exclusively by one or more employees whose duties include assuring compliance with the provisions of this Resolution.

- (e) "HEALTH COMMISSIONER" means the Butler County Commissioner of Health or his/her authorized representative.
- (f) "LICENSEE" means, with respect to an Adult Cabaret license issued under this Resolution, a person in whose name a license to operate an Adult Cabaret has been issued, as well as the individual(s) designated on the license application as principally responsible for the operation of the Adult Cabaret. With respect to an Adult Cabaret Employee license issued under this Resolution, licensee means a person in whose name a license has been issued authorizing employment in an Adult Cabaret.
- (g) "LIVE VIEWING BOOTH" means any private or semi-private booth, or any viewing room of less than one hundred fifty (150) square feet of floor space, to which the public may gain admittance, wherein a live performance is presented to five (5) or fewer persons at any one time.
- (h) "NUDITY" or "STATE OF NUDITY" or "NUDE" means exposing to view the genitals, pubic area, vulva, perineum, anus, anal cleft or cleavage, or pubic hair with less than a fully opaque covering; exposing to view any portion of the areola of the female breast with less than a fully opaque covering; exposing to view male genitals in a discernibly turgid state, even if entirely covered by an opaque covering; or exposing to view any device, costume, or covering that gives the appearance of or simulates any of these anatomical areas.
- (i) "OPERATE" means to control or hold primary responsibility for the operation of an Adult Cabaret, either as a business entity, as an individual, or as part of a group of individuals with shared responsibility. "Operate" or "Cause to be Operated" shall mean to cause to function or to put or keep in operation. Operator means any persons on the premises of an Adult Cabaret who is authorized to exercise overall operational control or hold primary responsibility for the operation of an Adult Cabaret or who causes to function or who puts or keeps in operation the business. A person may be found to be operating or causing to be operated an Adult Cabaret whether or not that person is an owner, part owner, or licensee of the business.
- (j) "PERSON" means an individual, proprietorship, partnership, firm, association, joint stock company, corporation or combination of individuals of whatever form or character.
- (k) "SEMI-NUDITY" or "STATE OF SEMI-NUDITY" OR "SEMI-NUDE CONDITION" or "SEMI-NUDE" means exposing to view, with less than a fully opaque covering, any portion of the female breast below the top of the areola or any portion of the buttocks. This definition shall include the entire lower portion of the female breast, but shall not include any portion of the cleavage of the female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other clothing, provided that the areola is not exposed in whole or in part.
- (l) "SPECIFIED ANATOMICAL AREAS" means:
 - (1) the human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
 - (2) less than completely and opaquely covered human genitals, pubic region, buttocks or female breast below a point immediately above the top of the areola.
- (m) "SPECIFIED CRIMINAL ACTIVITY" means any of the following offenses:

- (1) Prostitution or promoting prostitution; soliciting; loitering to engage in solicitation; sexual performance by a child; public lewdness; indecent exposure; indecency with a child; sexual assault; molestation of a child; or any similar offenses to those described above under the criminal or penal code of any local jurisdiction, state, or country;
 - (2) for which:
 - A. less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense; or
 - B. less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense.
 - (3) The fact that a conviction is being appealed shall not prevent such conviction from constituting a specified criminal activity as defined in this section.
- (n) "SPECIFIED SEXUAL ACTIVITIES" means any of the following:
- (1) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
 - (2) sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation, or sodomy; or
 - (3) excretory functions as a part of or in connection with any of the activities set forth in (1) or (2) above.
- (o) "VIDEO BOOTH" means any private or semi-private booth or any viewing room of less than one hundred fifty (150) square feet of floor space or area to which the public may gain admittance, wherein a still or motion picture machine, projector, video monitor, or similar equipment is available for the purpose of showing still or motion pictures, videos, or similar images or photographic reproductions to five (5) or fewer persons at any one time.
- (p) "VIEWING BOOTH" means live viewing booth or video booth, and "VIEWING BOOTHS" means live viewing booths, video booths, or any combination thereof.
- (q) "TRANSFER OF OWNERSHIP OR CONTROL" of an Adult Cabaret shall mean 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. ADULT CABARET LICENSE REQUIRED.

- (a) No person shall:
 - (1) Operate an Adult Cabaret without a valid Adult Cabaret license issued by the Township pursuant to this Resolution.
 - (2) In connection with operating an Adult Cabaret, retain the services of a person as an employee, as defined in this Resolution, who is not licensed as an Adult Cabaret employee by the Township pursuant to this Resolution.
- (b) Any person who violates subparagraph (a)(1) above shall be guilty of a misdemeanor of the first degree for a first offense, and a felony of the fourth degree for a second offense as provided for in O.R.C. §503.59(A).
- (c) A violation of subparagraph (a)(2) above shall be a ground for the suspension of an Adult Cabaret license as provided for in Section 12 of this Resolution.

SECTION 4. ADULT CABARET EMPLOYEE LICENSE REQUIRED.

- (a) No person shall act as an employee, as defined in this Resolution, on the premises of an Adult Cabaret without having secured an Adult Cabaret employee license pursuant to this Resolution.
- (b) A violation of this section shall be a ground for the suspension of an Adult Cabaret employee license as provided for in Section 12 of this Resolution.

SECTION 5. ADULT CABARET LICENSE APPLICATION.

- (a) An application for an Adult Cabaret license shall be submitted to the Township Planning & Zoning Director or his/her designee on a form provided by the Township Planning & Zoning Department. The application may request and the applicant shall provide such information as reasonably necessary (including fingerprints) to enable the Township to determine whether the applicant meets the qualifications established in this Resolution.
- (b) An application for an Adult Cabaret license shall identify and be signed by the following persons:
 - (1) If the business entity is owned by an individual, that individual.
 - (2) If the business entity is owned by a corporation, each Officer or Director of the corporation, any individual owning or controlling more than fifty (50) percent of the voting shares of the corporation, and any person with an ownership interest in the corporation who will be principally responsible for the operation of the proposed Adult Cabaret.

- (3) If the business entity is owned by a partnership (general or limited), a joint venture, or any other type of organization where two or more persons share in the profits and liabilities of the organization, each partner (other than limited partners); and any other person entitled to share in the profits of the organization, whether or not such person is also obligated to share in the liabilities of the organization, who will be principally responsible for the operation of the proposed Adult Cabaret.
- (c) An application for an Adult Cabaret license must designate one or more individuals who are to be principally responsible for the operation of the proposed Adult Cabaret, if a license is granted. At least one person so designated must be involved in the day-to-day operation of the proposed Adult Cabaret on a regular basis. Each person so designated, as well as the business entity itself, shall be considered a license applicant, must qualify as a licensee under this Resolution, and shall be considered a licensee if a license is granted.
- (d) An application for an Adult Cabaret license shall be completed according to the instructions of the application form, which shall require the following:
 - (1) If the applicant is:
 - (A) an individual, state the legal name and any aliases of such individual; or
 - (B) a partnership, state the complete name of the partnership and all of its partners and whether the partnership is general or limited, and provide a copy of the partnership agreement, if any; or
 - (C) a joint venture, or any other type of organization where two or more persons share in the profits and liabilities of the organization, state the complete name of the organization and provide a copy of the legal document establishing the organization, if any; or
 - (D) a corporation, state the complete name of the corporation and the date of its incorporation, provide evidence that the corporation is in good standing under the laws of its state of incorporation, and state the names and capacities of all Officers and Directors, the name of the registered corporate agent, and the address of the registered office for service of process.
 - (2) If the applicant intends to operate the Adult Cabaret under a name other than that of the applicant, state the fictitious name to be used and submit copies of documentation evidencing the registration of the business name under applicable laws.
 - (3) State whether any applicant has been convicted of a specified criminal activity as defined in this Resolution, and if so, the specified criminal activity involved and the date, place, and jurisdiction of each such conviction.
 - (4) State whether any applicant has had a previous license under this Resolution or other similar regulation of another jurisdiction denied, suspended or revoked, including the name and location of the Adult Cabaret for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation; and state whether the applicant has been a partner in a

partnership or an officer, or fifty (50) percent or greater owner of a corporation licensed under this Resolution whose license has previously been denied, suspended or revoked, including the name and location of the business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.

- (5) State whether any applicant holds any other licenses under this Resolution or other similar regulation from this or another jurisdiction and, if so, the names and locations of such other licensed businesses.
- (6) State the location of the proposed Adult Cabaret, including a legal description of the property (i.e., permanent parcel number), street address, and telephone number(s), if any.
- (7) State the mailing address and residential address of each applicant and each person signing the application.
- (8) Submit a recent photograph of each applicant who is a natural person, taken by the West Chester Township Police Department that clearly shows the applicant's face.
- (9) Submit the fingerprints of each applicant who is a natural person, recorded by the West Chester Township Police Department.
- (10) For any applicant who is a natural person, describe and identify the location of any tattoos on such person's face, arms, legs, or hands, or any other anatomical area that normally would be visible when such person is on the premises of the proposed Adult Cabaret.
- (11) State the driver's license number and Social Security number of each applicant who is a natural person and each person signing the application, or, for an applicant that is not a natural person, the applicant's federally issued tax identification number.
- (12) Submit proof that each applicant who is a natural person is at least eighteen (18) years old.
- (13) Submit a sketch or diagram showing the configuration of the premises of the Adult Cabaret, including the location of all stages and customer seating and a statement of total floor space occupied by the business. The diagram shall also designate the place at which the adult business license will be conspicuously posted, if granted. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.
- (14) If an applicant wishes to operate an Adult Cabaret which shall exhibit on the premises, in a booth, as defined in this Resolution, films, video cassettes, other video or image reproduction, or live entertainment which depict "specified sexual activities" or "specified anatomical areas," then the applicant shall comply with the additional application requirements set forth below at 16 (a)(1) of this Resolution.
- (15) The above-required disclosures facilitate the police investigation into the applicant's criminal background regarding crimes of a sexual nature so that the Township can determine whether the Resolution's civil disabilities provisions apply. Such provisions exist to combat the sex crimes connected with sexually oriented establishments by temporarily prohibiting those recently

convicted of such crimes from employment with those establishments. In addition, the required disclosures ensure continuing compliance with the Resolution's licensing and permitting requirements.

- (16) Names and residential addresses gathered pursuant to the above provisions constitute protected private information and are exempt from Ohio's Public Records Act in accordance with the decision of the Sixth Circuit Court of Appeals in *DejaVu of Cincinnati v. Union Township*, 326 F.3d 791 (6th Cir. 2003).

SECTION 6. ISSUANCE OF ADULT CABARET LICENSE.

- (a) Upon receipt of an application for an Adult Cabaret license, the Township Planning & Zoning Director or his/her designee shall promptly request that the Police Chief investigate the information provided in the application concerning the criminal background of the applicant(s) and that the Police Chief shall transmit the results of his/her investigation in writing to the Planning & Zoning Director or his/her designee within five (5) days of the completion of his/her investigation.
- (b) Within five (5) days of receipt of an application for an Adult Cabaret license, the Township Planning & Zoning Director or his/her designee shall notify the West Chester Township Fire Chief and the Health Commissioner of such application. In making such notification, the Planning & Zoning Director or his/her designee shall request that the Fire Chief and Health Commissioner promptly inspect the premises for which the Adult Cabaret license is sought to assess compliance with the regulations under their respective jurisdictions.
- (c) The Fire Chief shall provide to the Township Planning & Zoning Director or his/her designee a written certification of whether the premises are in compliance with the West Chester Township Fire Regulations within ten (10) days of receipt of notice of the application.
- (d) The Township Planning & Zoning Director or his/her designee shall commence the inspection of the premises for which an Adult Cabaret license is sought promptly upon receipt of the application, and shall complete, within ten (10) days after receipt of the application, a written certification of whether the premises are in compliance with the Township Zoning Resolution, the Township Property Maintenance Code, and the provisions of this Resolution related to physical characteristics of the premises, and whether the Township has received notice from any state or county agency of the premises being in violation of any applicable state building or property codes.
- (e) Within twenty-one (21) days after receipt of a completed Adult Cabaret license application, the Township Planning & Zoning Director or his/her designee shall approve or deny the issuance of a license. The Planning & Zoning Director or his/her designee shall approve the issuance of a license to an applicant unless he/she determines that one or more of the following findings is true:
- (1) An applicant who is a natural person is under eighteen (18) years of age.
 - (2) An applicant has failed to provide all information and documents required for issuance of the license as requested on the application form, or has provided information or documents as requested on the application that are insufficient on their face; provided, however, that no license shall be denied solely on the ground that an applicant has refused to disclose his/her social

security number in accordance with the provisions of the Privacy Act of 1974, Pub. L. No. 93-579, § 7(a)(1).

- (3) An applicant has, within the preceding twelve (12) months, been denied an adult business license by any jurisdiction or has had a license to operate an Adult Cabaret revoked by any jurisdiction.
 - (4) An applicant has been convicted of a specified criminal activity as defined in this Resolution.
 - (5) The proposed Adult Cabaret would violate or fail to be in compliance with any provisions of this Resolution, the Township Zoning Resolution, the Township Property Maintenance Code, or state statute or regulation.
 - (6) The application and investigation fee required by this Resolution has not been paid.
 - (7) An applicant is in violation of or in not in compliance with any provision of this Resolution, except as provided in Subparagraph (f)(1) of this section.
- (f) If the Township Planning & Zoning Director or his/her designee determines that one or both of the following findings is true, the license issued pursuant to Subparagraph (e) of this section shall contain a requirement that the licensee correct all deficiencies specified within 120 days of the date the license is issued:
- (1) The results of inspections of the premises by the Fire Chief or his/her designee or the Health Commissioner or his/her designee indicate that the premises are not in compliance with applicable laws and regulations under their respective jurisdictions.
 - (2) An applicant is overdue in payment to the Township of taxes, fees, fines, or penalties assessed against or imposed upon him/her in relation to any business, which are not the subject of a pending appeal or other legal challenge.
- (g) If the Township Planning & Zoning Director or his/her designee determines that no other grounds for denial of a license exist under Subparagraph (e) of this section, the Planning & Zoning Director or his/her designee shall not delay approval of the application past the end of the 21-day period provided in this section solely because the Fire Chief or the Health Commissioner has not provided the Planning & Zoning Director or his/her designee with the results of his/her inspection of the premises; the results of the Planning & Zoning Director's or his/her designee's inspection of the premises are not available; and/or the Police Chief has not completed his/her investigation of the criminal background of the applicant(s). If, after approving the issuance of a license, the Planning & Zoning Director or his/her designee receives information from his/her investigation, or the Police Chief's investigation, which he/she determines constitutes grounds for denial of a license under Subparagraph (e) of this section, then the Adult Cabaret license issued pursuant to this Subparagraph (g) shall be immediately revoked. If after approving the issuance of a license, the Planning & Zoning Director or his/her designee receives information concerning the Fire Chief's or the Health Commissioner's inspections, which the Planning & Zoning Director or his/her designee determines constitutes grounds for the issuance of a license subject to a requirement to correct deficiencies under Subparagraph (f) of this section, then a requirement shall be added to the terms of the Adult Cabaret license issued pursuant to this Subparagraph (g) to correct all deficiencies noted within 120 days of the date such requirement is added.

- (h) An Adult Cabaret license shall state on its face the name of the applicant, the expiration date, and the address of the licensed Adult Cabaret. All Adult Cabaret licenses shall be posted in a conspicuous place at or near the entrance to the business so that they may be easily read at any time.
- (i) The Township Planning & Zoning Director or his/her designee shall advise the applicant in writing within three (3) days of the reasons for any license denial. If the Township finds, subsequent to denial, that the basis for the denial of the license has been corrected or abated, the applicant may reapply.

SECTION 7. ADULT CABARET EMPLOYEE LICENSE APPLICATION.

- (a) An application for an Adult Cabaret Employee license shall be submitted to the Township Planning & Zoning Director or his/her designee on a form provided by the Township Planning & Zoning Department. The application may request and the applicant shall provide such information as reasonably necessary (including fingerprints) to enable the Township to determine whether the applicant meets the qualifications established in this Resolution.
- (b) An application for an Adult Cabaret employee license shall be completed according to the instructions of the application form, which shall require the following:
 - (1) State the applicant's name and any other names (including "stage" names) or aliases used by the applicant.
 - (2) State the applicant's date and place of birth.
 - (3) State the applicant's height, weight, and hair and eye color.
 - (4) Submit a recent photograph of the applicant, taken by the West Chester Township Police Department, which clearly shows the applicant's face.
 - (5) Submit the applicant's fingerprints, recorded by the West Chester Township Police Department.
 - (6) Describe and identify the location of any tattoos on the applicant's face, arms, legs, or hands, or any other anatomical area that normally would be visible when the applicant is on the premises of the proposed Adult Cabaret.
 - (7) State the applicant's present residence address and telephone number.
 - (8) State the applicant's present or intended business address and telephone number.
 - (9) State the applicant's driver's license number and Social Security number.
 - (10) Submit proof that the applicant is at least eighteen (18) years old.
 - (11) Provide a statement detailing the Adult Cabaret-related license history of the applicant for the five (5) years immediately preceding the date of the filing of the application, including whether such applicant previously operated or is seeking to operate an Adult Cabaret, in this or any other jurisdiction, and whether the applicant has ever had an Adult Cabaret-related license, permit, or

authorization to do business denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the name of the issuing or denying jurisdiction and describe in full the reason for the denial, revocation, or suspension. Attach a copy of any order of denial, revocation, or suspension.

- (12) State whether the applicant has been convicted of a specified criminal activity as defined in this Resolution and, if so, the specified criminal activity involved and the date, place and jurisdiction of each such conviction.
- (13) The above-required disclosures facilitate the police investigation into the applicant's criminal background regarding crimes of a sexual nature so that the Township can determine whether the Resolution's civil disabilities provisions apply. Such provisions exist to combat the sex crimes connected with sexually oriented establishments by temporarily prohibiting those recently convicted of such crimes from employment with those establishments. In addition, the required disclosures ensure continuing compliance with the Resolution's licensing and permitting requirements.
- (14) Names and residential addresses gathered pursuant to the above provisions constitute protected private information and are exempt from Ohio's Public Records Act in accordance with the decision of the Sixth Circuit Court of Appeals in *DejaVu of Cincinnati v. Union Township*, 326 F.3d 791 (6th Cir. 2003).

SECTION 8. ISSUANCE OF ADULT CABARET EMPLOYEE LICENSE.

- (a) Upon the filing of a completed application for an Adult Cabaret employee license, the Township Planning & Zoning Director or his/her designee shall issue a license to said applicant immediately.
- (b) Within five (5) days of receipt of a completed application for an Adult Cabaret employee license, the Township Planning & Zoning Director or his/her designee shall request that the Township Chief of Police initiate an investigation of the information provided in the application concerning the criminal background of the applicant. The Township Chief of Police shall document the results of his/her investigation in writing within five (5) days of the completion of his/her investigation and transmit this writing to the Planning & Zoning Director or his/her designee.
- (c) Within ten (10) days after completion of the Township Police Chief's investigation of the criminal background of the applicant, the Township Planning & Zoning Director or his/her designee shall either affirm the prior issuance of the license or revoke the license. The Planning & Zoning Director or his/her designee shall affirm the prior issuance of a license to an applicant unless he/she determines that one or more of the following findings are true:
 - (1) The applicant has failed to provide all information and documents required for issuance of the license as requested on the application form, or has provided information or documents as requested on the application that are insufficient on their face; provided, however, that no license shall be denied solely on the ground that an applicant has refused to disclose his/her social security number in accordance with the provisions of the Privacy Act of 1974, Pub. L. No. 93-579, § 7(a)(1).

- (2) The applicant is under eighteen (18) years of age.
 - (3) The applicant has been convicted of a specified criminal activity as defined in this Resolution.
 - (4) The Adult Cabaret employee license is to be used for employment in a business prohibited by local, state, or federal law, statute, rule or regulation.
 - (5) The applicant has, within the preceding twelve (12) months, been denied an Adult Cabaret employee license by any jurisdiction or has had an Adult Cabaret employee license revoked by any jurisdiction.
- (d) If the Adult Cabaret employee license is revoked, the Township Planning & Zoning Director or his/her designee shall advise the applicant in writing within three (3) days of the reason(s) for any such revocation.

SECTION 9. FEES.

- (a) Every application for a new Adult Cabaret license shall be accompanied by a \$ 210.00 non-refundable application and investigation fee.
- (b) Every application for renewal of an Adult Cabaret license shall be accompanied by a \$105.00 non-refundable application and investigation fee.
- (c) In addition to the application and investigation fee required in subparagraph (a) or (b) above, every applicant that is granted an Adult Cabaret license (new or renewal) shall pay to the Township an annual, non-refundable license fee of \$320.00 within thirty (30) days of license issuance or renewal.
- (d) Every application for a new Adult Cabaret employee license shall be accompanied by an annual, nonrefundable application, investigation, and license fee of \$65.00.
- (e) Every application for renewal of an Adult Cabaret employee license shall be accompanied by an annual, nonrefundable application, investigation, and license fee of \$35.00.

SECTION 10. INSPECTION.

- (a) The Township Planning & Zoning Director or his/her designee and/or representatives of the West Chester Township Fire Department, or other Township departments or agencies, or the Health Commissioner, shall, from time to time, but no more than four times a year in total, inspect, during a licensee's regular business hours, that portion of each Adult Cabaret licensed under the provisions of this Resolution that is open to the public in order to assess compliance with the provisions of this Resolution.
- (b) No inspections other than those described in sub-section (a) above are permitted under this Resolution unless consented to by the licensee or authorized through issuance of a search warrant.

- (c) Any refusal on the part of a licensee to permit a lawful inspection of the premises under sub-section (a) above or prohibition or interference with a lawful inspection of the premises under sub-section (a) above shall be grounds for suspension of the Adult Cabaret Business license pursuant to this Resolution and shall also subject the licensee to the penalties provided in O.R.C. §503.59(B).

SECTION 11. EXPIRATION AND RENEWAL OF LICENSE.

- (a) Each license issued pursuant to this Resolution shall expire one year from the date of issuance and may be renewed by making application as provided in this section. Application for renewal shall be made no more than ninety (90) days and no less than twenty-one (21) days before the expiration date. If application is made less than twenty-one (21) days before the expiration date, the license will not be extended pending a decision on the application, but will expire on its normal expiration date.
- (b) An application for renewal of an Adult Cabaret license shall be submitted to the Township Planning & Zoning Director or his/her designee on a form provided by the Township Planning & Zoning Department. The completed renewal application shall describe any changes or additions to, or deletions from, the information provided in the applicant's initial license application pursuant to this Resolution. Copies of any document or material submitted in connection with the initial license application shall accompany the completed renewal application that has been revised or requires revision to reflect any change in circumstances or conditions. Sketches or diagrams submitted with an initial Adult Cabaret license application may be resubmitted with subsequent renewal applications, provided that the applicant certifies in writing that the sketch or diagram still depicts the premises accurately.
- (c) The Township Planning & Zoning Director or his/her designee shall make determinations concerning the approval of license renewals based on the same criteria and time mandates used to evaluate applications for new licenses under this Resolution.
- (d) The Township Planning & Zoning Director or his/her designee shall advise the applicant in writing within three (3) days of the reason(s) for any denial of a license renewal.
- (e) An application for renewal of an Adult Cabaret employee license shall be submitted to the Township Planning & Zoning Director or his/her designee on a form provided by the Township Planning & Zoning Department. The completed renewal application shall describe any changes or additions to, or deletions from, the information provided in the applicant's initial license application pursuant to this Resolution. Copies of any document or material submitted in connection with the initial license application shall accompany the completed renewal application that has been revised or requires revision to reflect any change in circumstances or conditions.
- (f) When the Township denies an application for renewal of a license, the applicant shall not be issued another license for one year from the date of denial. If the Township finds, subsequent to denial, that the basis for the denial of the renewal license has been corrected or abated, the applicant may reapply.

SECTION 12. SUSPENSION.

- (a) The Township shall suspend an Adult Cabaret license for a period not to exceed thirty (30) days if it determines that a licensee:

- (1) has violated or is not in compliance with any section of this Resolution; or
 - (2) has knowingly allowed an employee to violate or fail to comply with any section of this Resolution.
- (b) The Township shall suspend an Adult Cabaret license for a period not to exceed thirty (30) days if it determines that a licensee or his/her employee or agent has refused to allow, has prohibited or has interfered with an inspection of the licensed Adult Cabaret Business premises as authorized by Section 10 (a) of this Resolution.
- (c) The Township shall suspend an Adult Cabaret employee license for a period not to exceed thirty (30) days if it determines that a licensee has violated or is not in compliance with any section of this Resolution.
- (d) The Township Planning & Zoning Director or his/her designee shall advise the licensee in writing within three (3) days of the reason(s) for any suspension.

SECTION 13. REVOCATION.

- (a) The Township shall revoke an Adult Cabaret license or Adult Cabaret employee license if a cause of suspension under this Resolution occurs and the license has been suspended two times within the preceding twelve (12) months.
- (b) The Township shall revoke an Adult Cabaret license if it determines that:
- (1) a licensee failed to provide all information and documents required for issuance of the license as requested on the application form, or provided information or documents as requested on the application that are false;
 - (2) the licensee(s) failed to comply with any requirement stated in the license, pursuant to this Resolution, to correct specified deficiencies within 120 days;
 - (3) a licensee has knowingly allowed possession, use, or sale of controlled substances on the premises;
 - (4) a licensee has knowingly allowed prostitution, solicitation, or the commission of a felony on the premises;
 - (5) a licensee knowingly operated the Adult Cabaret during a period of time when the licensee's license was suspended;
 - (6) a licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sex act to occur in or on the licensed premises;
 - (7) a licensee has been convicted of a specified criminal activity, as defined in this Resolution, during the term of the license; or

- (8) a licensee is delinquent in payment to the Township, County, or State for any taxes or fees that were assessed or imposed in relation to any business.
- (c) The Township shall revoke an Adult Cabaret employee license if it determines that:
 - (1) the licensee failed to provide all information and documents required for issuance of the license as requested on the application form, or provided information or documents as requested on the application that are false;
 - (2) the licensee has knowingly acted as an employee on the premises of an Adult Cabaret during a period of time when the licensee's license was suspended; or
 - (3) the licensee has been convicted of a specified criminal activity, as defined in this Resolution during the term of the license.
- (d) The Township Planning & Zoning Director or his/her designee shall advise the licensee in writing within three (3) days of the reason(s) for any revocation.
- (e) When the Township revokes a license pursuant to sub-sections (a), (b)(3) through (b)(7), (c)(2) or (c)(3) above, the licensee shall not be issued another license for one (1) year from the date the revocation became effective.
- (f) When the Township revokes a license pursuant to sub-sections (b)(1), (b)(8) or (c)(1) above, the applicant may be granted a license if the basis for the revocation has been corrected or abated and at least thirty (30) days have elapsed since the date the revocation became effective.

SECTION 14. APPEAL RIGHTS.

- (a) Any denial, suspension, or revocation of a license under this Resolution may be appealed to the West Chester Township Board of Trustees by written notice within ten (10) days of such denial, suspension, or revocation. Unless the applicant requests a longer period, the Board of Trustees must hold a hearing on the appeal within twenty-one (21) days and must issue a decision affirming or reversing the denial, suspension, or revocation within five (5) days after the hearing. During the time between the date of the denial, suspension, or revocation of a license and the date of the Board of Trustees' decision affirming or reversing the denial, suspension, or revocation, the status quo of the license holder or applicant shall be maintained.
- (b) In the event that the Board of Trustees affirms the denial, suspension, or revocation of a new or renewal license under this Resolution, the Board of Trustees must, within ten (10) days of such affirmation, seek a declaratory judgment in the Butler County Court of Common Pleas pursuant to Rule 57 of the Ohio Rules of Civil Procedure to determine whether its action was lawful and must also submit a motion to the court requesting expedited treatment for this declaratory judgment action pursuant to Rules 7 and 57 of the Ohio Rules of Civil Procedure. The Board of Trustees must also, within ten (10) days of such affirmation, transmit to the court a copy of the full administrative record for the matter, including a complete transcript of all the original papers, testimony and evidence offered, heard, and taken into consideration in issuing the final order. The Board of Trustees and all other departments or agencies of the Township shall provide any further information, assistance, or cooperation requested by the court

without delay. This provision is intended to comply, to the greatest extent possible under current state law, with the requirement for prompt judicial review stated by the Sixth Circuit Court of Appeals in *DejaVu of Cincinnati v. Union Township*, 326 F.3d 791 (6th Cir. 2003).

- (c) Any licensee lawfully operating an Adult Cabaret prior to the denial of a license renewal application, or the suspension or revocation of a license, shall retain said license and all privileges attendant thereto, subject to all other terms of this Resolution, so that the status quo of the licensee is maintained during the pendency of an appeal to the Board of Trustees of a decision rendered under this Resolution and during the entire time required for the court to rule on the declaratory judgment action instituted by the Board of Trustees pursuant to sub-section (b) above.
- (d) Any licensee lawfully acting as an employee in an Adult Cabaret prior to the denial of a license renewal application, or the suspension or revocation of a license, shall retain said license and all privileges attendant thereto, subject to all other terms of this Resolution, so that the status quo of the licensee is maintained during the pendency of an appeal to the Board of Trustees of a decision rendered under this Resolution and during the entire time required for the court to rule on the declaratory judgment action instituted by the Board of Trustees pursuant to sub-section (b) above.
- (e) Any applicant for a new Adult Cabaret license or a new Adult Cabaret employee license whose appeal from the denial of a license application has been denied by the Board of Trustees shall immediately be issued said license and shall retain said license and all privileges attendant thereto, subject to all other terms of this Resolution, during the entire time required for the court to rule on the declaratory judgment action instituted by the Board of Trustees pursuant to sub-section (b) above.
- (f) In the event that a decision of the Board of Trustees affirming the denial, suspension, or revocation of a new or renewal license under this Resolution is upheld in the declaratory judgment action instituted by the Board under sub-section (b) above, and the licensee, including any licensee whose license was issued pursuant to sub-section (e) above, seeks further judicial review of that decision, the Township will maintain the status quo by allowing the licensee to retain said license, subject to all other terms of this Resolution, until the date that an appellate judicial decision is issued upholding the declaratory judgment.
- (g) In the event that any declaratory judgment action or other judicial review, including review of a declaratory judgment, of the denial of a new or renewal license application or the revocation or suspension of a license is still pending thirty (30) days before the expiration date of any license, the licensee may file a renewal license application with the Township Planning & Zoning Director or his/her designee pursuant to this Resolution. The Planning & Zoning Director or his/her designee shall grant an application for renewal of a license under this provision unless he/she determines that additional deficiencies under Subparagraph 6(e) are now present which did not exist at the time of the original license application or the suspension or revocation of the license. In the event that an application for renewal of a license is denied and the applicant seeks judicial review of that denial, the Township has the right to consolidate such review with any pending judicial actions in regards to the previous denial, suspension or revocation of a license.
- (h) If, during the pendency of any declaratory judgment action required by paragraph (b) above, there are additional denials of a renewal license application or suspensions or revocations of that license, the Township has the right to consolidate the declaratory judgment required by paragraph (b) above for the additional denials, suspensions or revocations with any pending declaratory judgment action for that same licensee.

SECTION 15. TRANSFER OF LICENSE.

- (a) An Adult Cabaret license is not transferable from one licensee to another or from one location to another. Any purported transfer of an Adult Cabaret license shall automatically and immediately revoke that license.
- (b) An Adult Cabaret employee license is not transferable from one licensee to another, but the use of the license by the individual to whom it was issued may be transferred from one licensed Adult Cabaret to another such licensed establishment during the term of the license, provided that the licensee gives written notice of such transfer to the Township Planning & Zoning Director or his/her designee within fifteen (15) days of such transfer.

SECTION 16. REGULATIONS PERTAINING TO THE EXHIBITION OF SEXUALLY EXPLICIT FILMS, VIDEOS OR LIVE ENTERTAINMENT IN VIEWING BOOTHS.

- (a) No person may operate or cause to be operated an Adult Cabaret which exhibits on the premises in a viewing booth, as defined in this Resolution, films, video cassettes, video discs, DVDs, CDs, other video or image reproduction, or live entertainment which depict or depicts "specified sexual activities" or "specified anatomical areas," without complying with the following requirements:
 - (1) The Adult Cabaret license application required under this Resolution shall be accompanied by a diagram of the premises showing a plan thereof which specifies the location of one or more employee's stations and the location of all overhead lighting fixtures, and which designates any portion of the premises in which patrons will not be permitted. The diagram shall also designate the place at which the Adult Cabaret license 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 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 to an accuracy of plus or minus six (6) inches.
 - (2) The interior of the premises shall be configured in such a manner that there is an unobstructed view from an employee's station of every area of the premises to which any patron is permitted access for any purpose, including the interior of all viewing booths and excluding restrooms. Restrooms may not contain video reproduction equipment, and no entertainment of any kind may be offered in restrooms. If the premises has two or more employee 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 employee's stations. The view required in this subsection must be by direct line of sight from the employee's station.
 - (3) No alteration in the configuration or location of an employee's station shall be made without the prior approval of the Township Planning & Zoning Director or his/her designee.

- (4) At least one employee shall be on duty and situated in each employee's station at all times that any patron is present inside the premises.
 - (5) An employee's station shall not exceed thirty-two (32) square feet of floor area, and no single dimension of an employee's station shall exceed eight (8) feet.
 - (6) The view from the employee's station(s) shall remain unobstructed by any doors, curtains, partitions, walls, merchandise, display racks or other materials.
 - (7) No patron may at any time be permitted access to any area of the premises which has been designated in the license application filed pursuant to this Resolution as an area in which patrons will not be permitted.
 - (8) No viewing booth may be occupied by more than one person at any time.
 - (9) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access, including both the interior of viewing booths and restrooms, at an illumination level of not less than five (5.0) foot-candles as measured at floor level.
 - (10) The illumination described above shall be maintained at all times that any patron is present in the premises. In the event of a power failure, the business shall stop operating immediately and all patrons shall be cleared from the premises. The premises shall not be reopened until the minimum illumination level can be assured.
 - (11) No openings of any kind shall be permitted to exist between viewing booths or in any wall of a viewing booth.
 - (12) No person shall make or attempt to make an opening of any kind between viewing booths or in any wall of a viewing booth.
 - (13) The walls of each viewing booth shall be inspected regularly during each business day to determine if any openings or holes exist.
 - (14) All floor coverings in viewing booths shall be nonporous; easily cleanable surfaces, with no rugs or carpeting.
 - (15) All wall surfaces, ceiling surfaces and seating surfaces in viewing booths shall be constructed of, or permanently covered by, nonporous, easily cleanable material.
- (b) Violations of the above provisions shall be the basis for the Suspension or Revocation of a license in accordance with the provisions of this Resolution and shall also subject the license holder to the applicable penalties provided in O.R.C. §503.59.

SECTION 17. ADDITIONAL REGULATIONS CONCERNING THE OPERATION OF ADULT CABARETS.

(a) Nudity, Sexual Activity, Live Entertainment and Performances

- (1) No employee on the premises of an Adult Cabaret may appear in a state of "nudity," as defined in this Resolution, or engage in "specified sexual activities" in a state of "nudity," as defined in this Resolution.
- (2) Any employee appearing on the premises of an Adult Cabaret in a state of semi-nudity, as defined in this Resolution, must be on a stage that is at least 24 inches from the floor, and at a distance at least 36 inches from all parts of a clearly designated area in which patrons will be present.
- (3) All live entertainment and performances in an Adult Cabaret must take place on a stage that is at least 24 inches from the floor and a distance of at least 36 inches from all parts of a clearly designated area in which patrons will be present.
- (4) The stage shall be separated from the area in which patrons may be present.
- (5) No employee, as defined in this Resolution, appearing on the premises of an Adult Cabaret in a state of semi-nudity, may intentionally or knowingly touch a customer or a customer's clothing or knowingly permit himself or herself to be touched by a customer or a customer's clothing.
- (6) Any live entertainment that is provided on the premises of an Adult Cabaret, in a private or semi-private room, to five (5) or fewer persons at any one time, must take place in the direct, unobstructed line of sight of an employee's station at which at least one employee is on duty and stationed at all times during which such entertainment takes place, with all doors to such room completely open and ajar, if such room is not considered a "viewing booth" as defined in this Resolution and therefore is not subject to the provisions of this Resolution.

The provisions of this subparagraph (a) shall not apply to an employee's use of any restroom or any single-sex dressing room that is accessible only to entertainers.

- (b) Dressing Rooms. All Adult Cabarets that offer live entertainment must provide separate dressing room facilities for female and male entertainers that shall not be occupied or used in any way by anyone other than entertainers.
- (c) Restrooms. All restrooms in Adult Cabarets shall be equipped with standard toilets, sinks and other traditional lavatory facilities. No live performances shall be provided or allowed at any time in the restrooms of an Adult Cabaret. Separate male and female restrooms shall be provided for use by Adult Cabaret employees and patrons.
- (d) Minors Prohibited. No person under the age of 18 years shall be permitted on the premises of an Adult Cabaret.
- (e) Hours of Operation. An Adult Cabaret, regardless of whether it has a valid liquor permit issued by the State of Ohio Division of Liquor Control, may be open for business during the days and times allowed by

the State of Ohio Division of Liquor Control for Adult Cabarets or similar establishments that have a valid liquor permit.

- (f) Minimum Lighting Level.
- (1) The premises of every Adult Cabaret shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access, including restrooms, at an illumination level of not less than five (5.0) foot-candles as measured at floor level.
 - (2) The illumination described in subsection (a) above shall be maintained at all times that any patron is present in the premises. In the event of a power failure, the business shall stop operating immediately and all patrons shall be cleared from the premises. The premises shall not be reopened until the minimum illumination level can be assured.
- (g) Exterior Display. No Adult Cabaret shall be operated in any manner that permits the observation from outside the premises of any material or entertainment depicting or describing specified sexual activities or specified anatomical areas, as defined in this Resolution, or any person in a state of nudity or semi-nudity, whether by means of display, decoration, sign, animation, window or any other means.
- (h) Display of Adult Cabaret Business License. A valid and current Adult Cabaret Business License shall be displayed at all times in a portion of the premises open to the public.
- (i) Availability of Adult Cabaret Employee License. Each employee of an Adult Cabaret shall have his/her valid and current Adult Cabaret Employee License available on the premises of the Adult Cabaret at all times that he/she or she is on the premises and shall produce his/her license for inspection at the request of the Township Planning & Zoning Director or his/her designee or any law enforcement personnel.
- (j) Violations of the above provisions shall be the basis for the Suspension or Revocation of a license in accordance with the provisions of this Resolution and shall also subject the license holder to the applicable penalties provided in O.R.C. §503.59.

SECTION 18. REGULATIONS PERTAINING TO THE LOCATION OF ADULT CABARETS

- (a) An Adult Cabaret may be located only in accordance with the restrictions contained in (b) through (h) below.
- (b) An Adult Cabaret may be located only in a Sexually Oriented Business Overlay District as described in the Township Zoning Resolution.
- (c) No Adult Cabaret may be established within 500 feet of:
- (1) A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;
 - (2) A public or private educational facility including child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior

high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities. School includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;

- (3) A boundary of a residential district as shown on the Zoning Map;
- (4) A public park or recreational area which has been designated for park or recreational activities including a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within the Township which is under the control, operation, or management of either the Township or which is operated or managed by another public entity.
- (d) No Adult Cabaret may be established within 500 feet of the property line of a lot regulated as a lawful non-conforming residential use as defined in the Zoning Resolution;
- (e) No Adult Cabaret may be established, operated or enlarged within 500 feet of another Adult Cabaret or any Sexually Oriented Business as defined in the Zoning Resolution;
- (f) Not more than one Adult Cabaret shall be established or operated in the same building, structure, or portion thereof, and the floor area of any Adult Cabaret in any building, structure, or portion thereof containing another Sexually Oriented Business may not be increased.
- (g) For the purpose of subsections (c) & (d) of this Section, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the principal building or structure or tenant space if located in a multi-tenant building used as the part of the premises where an Adult Cabaret is operated, to the nearest property line of the premises of a use listed in subsection (c) & (d).
- (h) For purposes of subsection (e) of this Section, the distance between any two Adult Cabarets or an Adult Cabaret and any Sexually Oriented Business shall be measured in a straight line, without regard to the intervening structures or objects, from the closest exterior wall of the structure or tenant space if located in a multi-tenant building in which each business is located.
- (i) No Adult Cabaret that was in compliance with the above locational restrictions at the time that it received a license will be subsequently found not to be in compliance if, subsequent to the receipt of the license, a use listed in subsection (c) is newly established or expands so as to be within 500 feet of the Adult Cabaret.

SECTION 19. ADDITIONAL REGULATIONS CONCERNING LOT, YARD, HEIGHT, PARKING, BUILDING AND SITE DESIGN STANDARDS, AND SITE DEVELOPMENT PLAN REQUIREMENTS

- (a) Lot area and width, setbacks, buffering, yard area, height provisions and other site development requirements for an Adult Cabaret are those specified in the "M-1" and "B-2" districts of the Zoning Resolution.

- (b) Parking requirements for an Adult Cabaret are those specified for restaurants in § 20.061 of the Zoning Resolution.

SECTION 20. SIGN REGULATIONS

- (a) All signs shall be "building signs" as defined and regulated in §§ 23.093 and 9.91 of the Zoning Resolution, but in no event shall the maximum allowable sign area exceed 40 square feet. Any address sign area shall be included in the maximum sign area calculation.
- (b) Review and approval procedures for a sign permit for an Adult Cabaret shall be in accordance with the Zoning Resolution.
- (c) No merchandise or pictures of the products or entertainment on the premises shall be displayed in window areas or any area where they can be viewed from the sidewalk or street in front of the building.
- (d) Window areas shall not be covered or made opaque in any way. No signs shall be placed in any window. A one-square-foot sign may be placed on the door to state hours of operation and admittance to adults only.

SECTION 21. LOITERING AND EXTERIOR LIGHTING AND MONITORING REQUIREMENTS.

- (a) It shall be the duty of the operator of an Adult Cabaret to:
 - (1) initiate and enforce a no loitering policy within the external boundaries of the real property upon which the Adult Cabaret is located;
 - (2) post conspicuous signs stating that no loitering is permitted on such property;
 - (3) designate one or more employees to monitor the activities of persons on such property by visually inspecting such property at least once every thirty (30) minutes or inspecting such property by use of video cameras and monitors; and
 - (4) provide adequate lighting of the exterior premises to provide for visual inspection or video monitoring to prohibit loitering. The video cameras and monitors shall operate continuously at all times that the premises is open for business. The monitors shall be installed within an employee's station.
- (b) It shall be unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.

SECTION 22. PENALTY.

Violations of this Resolution shall be determined in accordance with the provisions of O.R.C. § 503.59 and O.R.C. Chapter 504.

SECTION 23. EFFECT OF PARTIAL INVALIDITY.

If any section, subsection or clause of this Resolution shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected.

SECTION 24. EXISTING ADULT CABARETS

Any establishment in operation on the effective date of this Resolution that is considered an Adult Cabaret under the terms of this Resolution will be subject to the terms of this Resolution as of the effective date of this Resolution. Any such establishment must submit an application for an Adult Cabaret license pursuant to this Resolution within sixty (60) days of its effective date. Any establishment for which an Adult Cabaret license application is submitted within the required sixty (60) day period will be permitted to operate pending review of the license application and any appeal of a license denial.

SECTION 25. EMPLOYEES OF EXISTING ADULT CABARETS

Any person acting, on the effective date of this Resolution, as an employee in an establishment that is considered an Adult Cabaret under the terms of this Resolution, will be subject to the terms of this Resolution as of the effective date of this Resolution. Any such person must submit an application for an Adult Cabaret employee license pursuant to this Resolution within sixty (60) days of its effective date. Any person who has submitted an application for an Adult Cabaret employee license within the required sixty (60) day period will be permitted to continue acting as an employee in an establishment that is considered an Adult Cabaret pending review of the license application and any appeal of a license denial.

SECTION 26. EFFECTIVE DATE

This Resolution will be effective thirty days after the date of adoption unless, within thirty days after the adoption of the Resolution, the Township Clerk receives a petition, signed by a number of qualified electors residing in the unincorporated area of the Township equal to not less than ten percent of the total number of votes cast in that area for all candidates for the office of governor at the most recent general election for that office, requesting the Board of Township Trustees to submit the Resolution to the electors of the area for approval or rejection at the next primary or general election occurring at least seventy-five days after the Board receives the petition, as provided for in O.R.C. §503.52(C).

SECTION 27. REPEAL

All prior Township Resolutions requiring the registration of Adult Cabarets are hereby repealed.

SECTION 28. COMPLIANCE WITH OPEN MEETINGS LAW

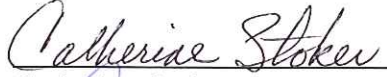
It is found and determined that all formal actions of this Board concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Board, and that all deliberations of this Board that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including §121.22 of the Ohio Revised Code.

Adopted this 26th day of August, 2003.



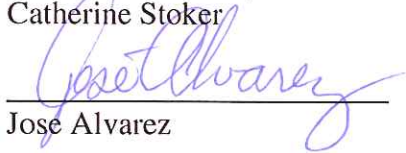
David Tacosik

yes
Yes / No



Catherine Stoker

YES
Yes / No



Jose Alvarez

yes
Yes / No

ATTEST:



Patricia Williams, Township Clerk

APPROVED AS TO FORM:



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