

MUNICIPALITY OF MONROEVILLE
ALLEGHENY COUNTY, PENNSYLVANIA

ORDINANCE NO. 2249

AN ORDINANCE OF THE COUNCIL OF THE MUNICIPALITY OF MONROEVILLE AMENDING ORDINANCE NO. 1443, THE MONROEVILLE ZONING ORDINANCE, AND REPLACING ORDINANCE NO. 1898 REGULATING THE TIME, MANNER AND PLACE OF SEXUALLY ORIENTED BUSINESS OPERATIONS.

The following are the findings of the Council of the Municipality of Monroeville:

WHEREAS, the Council finds that sexually oriented businesses are frequently used for unlawful sexual activities, including prostitution and sexual liaisons of a casual nature; and

WHEREAS, the concern over sexually transmitted diseases is a legitimate health concern of the Municipality which demands reasonable regulation of sexually oriented businesses in order to protect the health and well-being of the citizens; and

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

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

WHEREAS, it is recognized that sexually oriented businesses, due to their nature, have serious objectionable operational characteristics, particularly when they are located in close proximity to each other, thereby contributing to neighborhood blight and downgrading the quality of life in the adjacent area; and

WHEREAS, the Municipality desires to minimize and control these adverse effects and thereby protect the health, safety, and 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 neighborhood blight; and

WHEREAS, it is not the intent of this ordinance to suppress any speech activities protected by the First Amendment, but to enact a content neutral ordinance which addresses the secondary effects of sexually oriented businesses; and

WHEREAS, it is not the intent of the Council to condone or legitimize the distribution of obscene material.

Pursuant to the authority granted by the Constitution and the General Assembly of the Commonwealth of Pennsylvania, BE THEREBY ENACTED AND ORDAINED by the Council of the Municipality of Monroeville that the Zoning Ordinance of the Municipality of Monroeville (hereafter Zoning Ordinance) is amended as follows:

SECTION 1. Ordinance 1443, Article Two, Table 201, as amended, is hereby amended with the following additions:

“M-2” - Industrial
Conditional Use - Sexually Oriented Business

SECTION 2. Ordinance 1443, Article Six, Definitions, as amended, is hereby amended to add the following:

ADULT ARCADE means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of “specified sexual activities” or “specified anatomical areas.”

ADULT BOOKSTORE or ADULT VIDEO STORE means a commercial establishment, which, as one of its **principal business purposes**, offers for sale or rental for any form of consideration any one or more of the following:

1. books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, videocassettes or video reproductions, slides, or other visual representations which depict or describe “specified sexual activities” or “specified anatomical areas”; or
2. Instruments, devices, or paraphernalia, which are designed for, use in connection with “specified sexual activities.”

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing “specified sexual activities” or “specified anatomical areas” and still be categorized as ADULT BOOKSTORE or ADULT VIDEO STORE. Such other business purposes will not serve to exempt such commercial establishment from

being categorized as an ADULT BOOKSTORE or ADULT VIDEO STORE so long as one (1) of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe “specified sexual activities” or “specified anatomical areas.”

ADULT CABARET means a nightclub, bar, restaurant, or similar commercial establishment which regularly features:

1. persons who appear in the state of nudity; or
2. live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities”; or
3. Films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”.

ADULT MOTEL means a hotel, motel or similar commercial establishment which:

1. offers accommodations to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; or
2. Offers any single sleeping room for rent, four (4) or more times in one (1) calendar day during five (5) or more calendar days in any continuous thirty (30) day period.

ADULT MOTION PICTURE THEATER means commercial establishments where, for any form or consideration, films, motion pictures, videocassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas.”

ADULT THEATER means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of “specified anatomical areas” or “specified sexual activities.”

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

ESCORT AGENCY means a person or business association who furnishes, offers to furnish, or advertise to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

PERMITTEE and/or LICENSEE means a person in whose name a licensing permit to operate a sexually oriented business has been issued, as well as the individual listed on the application for a licensing permit.

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

NUDITY or a STATE OF NUDITY means the appearance of a human bare buttock, anus, male genitals, female genitals, or female breast.

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

SEMI-NUDE means a state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

SEXUAL ENCOUNTER CENTER means a business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

1. physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
2. Activities between male and female persons and/or persons of the same sex when one (1) or more of the persons is in a state of nudity or semi-nude.

SEXUALLY ORIENTED BUSINESS means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture Theater, adult theater, escort agency, nude model studio, or sexual encounter center or any combination thereof.

SPECIFIED ANATOMICAL AREAS means the male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals.

SPECIFIED SEXUAL ACTIVITIES means and includes any of the following:

1. the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;

2. sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
3. masturbation, actual or simulated; or
4. Excretory functions as part of or in connection with any of the activities set forth in 1 through 3 above.

SUBSTANTIAL ENLARGEMENT of a sexually oriented business means the increase in floor areas occupied by the business by more than twenty-five per cent (25%), as the floor areas exist on date of enactment of this ordinance.

MUNICIPALITY means Municipality of Monroeville.

TRANSFER OF OWNERSHIP OR CONTROL of a sexually oriented business means and includes any of the following:

1. the sale, lease, or sublease of the business;
2. the transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
3. The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

SECTION 3. Article Four, Section 401 of Ordinance 1443, as amended, is hereby amended to include the following:

401.52 A Sexually Oriented Business shall be located at a minimum of three thousand (3,000) feet from another sexually oriented business within the Municipality. For purposes of this section, the distance between any two (2) sexually oriented businesses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

401.53 A Sexually Oriented Business shall be located at a minimum of one thousand (1,000) feet from any of the following, including: church; public or private pre-elementary, elementary, or secondary school; a public library; a child care facility or nursery school; and a public park adjacent to any residential district within the Municipality. For the purpose of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented

business is conducted, to the nearest property line of the premises of a church, public or private pre-elementary, elementary, or secondary school, public library, child care facility, or nursery school; or to the nearest boundary of an affected public park.

401.54 A Sexually Oriented Business shall secure a permit as outlined in Section Seven, Regulating Sexually Oriented Businesses, of this Ordinance.

SECTION 4. Ordinance 1443, as amended, shall hereby be amended to add Article Seven, Regulating Sexually Oriented businesses, and includes:

701 PURPOSE AND INTENT: It is the purpose of this ordinance to regulate sexually oriented businesses to promote the health, safety, and general welfare of the citizens of the Municipality, and to establish reasonable and uniform regulations to prevent the continued deleterious location and concentration of sexually oriented businesses within the Municipality. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene material.

702 CLASSIFICATION: Sexually oriented businesses are defined in Article Six, Definitions, and are classified as follows:

- A. Adult arcades;
- B. Adult bookstores or adult video stores;
- C. Adult cabarets;
- D. Adult motels;
- E. Adult motion picture theaters; Adult Theaters;
- F. Escort agencies;
- G. Nude model studios; and
- H. Sexual encounters centers.

703 PERMIT REQUIRED:

- A. Any person who operates a sexually oriented business without a valid permit issued by the Municipality is guilty of a violation of the Zoning Ordinance.
- B. An application for a permit to operate a sexually oriented business must be made on a form provided by the Zoning Officer. The application must be accompanied by a sketch or diagram showing the floor plan and plot plan configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but 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 inches (6”).
- C. The applicant must be qualified according to the provisions of this section and the premises must be inspected and found to be in compliance with applicable laws or ordinances by the Zoning Officer, the Building Official and the Fire Official.
- D. If a person who wishes to operate a sexually oriented business is an individual, that person must sign the application for a permit as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a ten percent (10%) or greater interest in the business must sign the application for a permit as applicant. If a corporation is listed as owner of a sexually oriented business or as the entity which wishes to operate such a business, each individual having a direct or indirect interest of ten percent (10%) or greater in the corporation must sign the application for a permit as applicant.
- E. The fact a person possesses other types of Municipal permits does not exempt the person from the requirement of obtaining a sexually oriented business permit.

704 ISSUANCE OF PERMIT:

- A. The Zoning Officer shall notify the applicant within thirty (30) days after receipt of an application that the Zoning Official intends to approve or disapprove the application. The Zoning Official shall notify the applicant of an intent to disapprove the application only if one or more of the following is found to be true:
 - 1. Any individual set forth on the application that is under eighteen (18) years of age.

2. An application or an applicant's spouse is overdue in the payment to the Municipality of taxes, fees, fines, or penalties assessed against him or imposed upon him in relation to a sexually oriented business.
3. An applicant has provided false or misleading information on the application form or has failed to provide a complete application.
4. An applicant is residing with a person who has been denied a permit by the Municipality to operate a sexually oriented business within the preceding twelve (12) months, or residing with a person whose license to operate a sexually oriented business has been revoked within the preceding twelve (12) months.
5. The premises to be used for the sexually oriented business have been disapproved by the Zoning Officer, the building Official and/or the Fire Official as not being in compliance with applicable laws and ordinances.
6. The permit fee required by this ordinance has not been paid.
7. An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this ordinance.
8. An individual applicant or any individual holding a direct or indirect interest of more than ten percent (10%) of a corporate applicant, or any of the officers and directors of a corporate applicant, if the applicant is a corporation; or any of the partners, including limited partners, if the application is a partnership; or the manager or other person in charge of the operation of the applicant's business, has or have been convicted of an offense involving sexual misconduct within the Commonwealth of Pennsylvania, including, but not limited to, prostitution, obscenity and possession of child pornography, or convicted of any offense in any jurisdiction other than the Commonwealth of Pennsylvania that would have constituted an offense involving sexual misconduct if committed within the Commonwealth of Pennsylvania. In order for approval to be denied pursuant to this subsection, the person or persons' convicted or release in connection with the sexual misconduct offense must have occurred within two (2) years of the date of application in the event of a misdemeanor and within five (5) years of the date of application in the event of a felony.

B. The permit, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the

sexually oriented business. The permit shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.

- C. The Zoning Officer, the Building Official, and Fire Official shall complete their certification that the premises are in compliance or not in compliance within twenty (20) days of receipt of the application by the Zoning Officer. The certifications shall be promptly presented by the Zoning Officer. To the extent that the Zoning Officer, the Building Official, and the Fire Official fails to complete their certification for reasons other than denial of access by the applicant, the failure to complete the certification can not be used as a basis to deny a certification. Rather, the premises will be deemed to be in compliance with applicable laws and ordinances.
- D. In the event the Zoning Officer issues a notice of intent to deny the application, the notice shall state the reason or reasons giving rise to the Zoning Officer's determination of an intent to deny and shall provide the applicant with the opportunity to demand a hearing before the Zoning Hearing Board to dispute the Zoning Officers findings. The demand for hearing shall be made in writing to the Zoning Official within ten (10) days of issuance of the intent to deny. If the applicant fails to demand a hearing on the intent to deny within ten (10) days after issuance of the intent to deny by the Zoning Officer, the application shall be deemed denied. In the event the applicant timely requests a hearing before the Zoning Hearing Board, the matter shall be placed on the agenda for the next regularly scheduled Zoning Hearing Board Meeting occurring at least ten (10) days after the demand for hearing. In the event there are no regularly scheduled Zoning Hearing Board Meetings, a hearing shall be scheduled no less than thirty (30) days following issuance of the demand for hearing. At the hearing, the applicant and the Municipality shall submit whatever information or evidence either party has to substantiate their respective positions. At the conclusion of the hearing, the Zoning Hearing Board shall either approve or disapprove the application based on the information received at the hearing. The decision either approving or disapproving the application shall be rendered within ninety (90) days after the application is filed with the Zoning Officer and if disapproved shall contain a brief explanation setting forth the reasons for disapproval. If no decision is rendered on the application within ninety (90) days after receipt of the application, the application shall be deemed approved and the permit shall be deemed to have been granted immediately. The applicant may agree to extend the time frames as set forth herein by agreement to extend in writing.

705 FEES: The annual fee for a sexually oriented business permit is five hundred dollars (\$500.00).

706 INSPECTION:

- A. An applicant, or permittee, shall permit representatives of the Police Department, Building Official, Fire Official, Zoning Officer, or other Municipal departments or agencies to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time that the sexually oriented business is occupied or open for business. In the event the business has not yet opened for regular business, the applicant or permittee shall permit the said representatives access to inspect the premises at mutually convenient times during regular business hours (9:00 A.M. to 5:00 P.M.) within five (5) days of request to inspect.
- B. A person who operates or intends to operate a sexually oriented business or his agent or employee violates the Zoning Ordinance if he refuses to permit such lawful inspection of the premises at any time it is occupied or open for business or within five (5) days of request if not yet regularly open for business.

707 EXPIRATION OF PERMIT:

- A. Each permit shall expire one (1) year from the date of issuance and may be renewed only by making application as provided in Section 704. Application for renewal be made at least thirty (30) days before the expiration date and, when made fewer than thirty (30) days before the expiration date, the pendency of the application will not prevent the expiration of the permit.
- B. If the renewal of a license is denied, the applicant shall not be issued a permit for one (1) year from the date of denial, except that after ninety (90) days have elapsed since the date of denial, the applicant may be granted a permit if the Zoning Officer finds that the basis for denial of the renewal permit has been corrected or abated.

708 SUSPENSION OF PERMIT:

The Zoning Officer shall suspend a permit for a period not to exceed thirty (30) days if he determines that a permittee or an employee of a permittee has:

- A. Violated or is not in compliance with any section of this ordinance;
- B. Engaged in excessive use of alcoholic beverages while on the sexually oriented business premises or engaged in the use of illegal narcotics.
- C. Refused to allow an inspection of the sexually oriented business premises as authorized by this chapter;

- D. Knowingly permitted gambling by any person on the sexually oriented business premises;
- E. Failed to man managers' stations and/or maintain viewing rooms as set forth in Section 712.

709 REVOCATION OF PERMIT:

- A. The Zoning Officer shall revoke a permit if a cause of suspension set forth in Section 708 occurs and the permit has been suspended within the proceeding twelve (12) months.
- B. The Zoning Officer shall revoke a permit if he determines that:
 - 1. A permute, or any of the persons specified in Section 704(A)(viii), is or has been convicted of the offenses specified in Section 704 (A)(viii);
 - 2. A permute gave false or misleading information in the material submitted to the Municipality during the application process;
 - 3. A permittee or an employee of a permittee has knowingly allowed possession, use, or sale of controlled substances on the premises;
 - 4. A permittee or an employee of a permittee has knowingly allowed prostitution on the premises;
 - 5. A permittee or an employee of a permittee knowingly operated the sexually oriented business during a period of time when the permittee's permit was suspended;
 - 6. A permittee or an employee of a permittee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other explicit sexual conduct to occur in or on the permitted premises;
 - 7. A permittee is delinquent in payment to the Municipality or State of any taxes or fees relating to sexually oriented business.
- C. When the Zoning Officer revokes a permit, the revocation shall continue for one (1) year, and the permittee shall not be issued a sexually oriented business permit for one (1) year from the date revocation became effective, except that if the revocation is pursuant to Section 709(B)(I) above, the revocation shall be effective for two (2) years in the event of a misdemeanor or five (5) years in the case of a felony.

- D. After denial of an application, or denial of a renewal of an application, or suspension or revocation of a permit, the application or licensee or permittee shall have the right to appeal said action and to seek prompt judicial review of such administrative action in any court of competent jurisdiction.

710 TRANSFER OF PERMIT:

A permittee shall not transfer his permit to another person. A permittee shall not operate a sexually oriented business under the authority of a permit at any place other than the address designated in the application.

711 LOCATION OF SEXUALLY ORIENTED BUSINESSES:

- A. A person is guilty of a violation of the Zoning Ordinance if he operates or causes to be operated a sexually oriented business outside of the district in which a sexually oriented business is a conditional use. No sexually oriented businesses shall be located outside a district in which a sexually oriented business is a conditional use. Sexually oriented businesses as defined herein shall be permitted in an M-2, Industrial Zoning District, as a Conditional Use.
- B. A person is guilty of a violation of the Zoning Ordinance if he operates or causes to be operated a sexually oriented business within one thousand feet (1,000') of any of the following within the Municipality:
1. A church;
 2. A public or private pre-elementary, elementary, or secondary school;
 3. A public library.
 4. A child care facility or nursery school; and
 5. A public park adjacent to any residential district.
- C. A person is guilty of a violation of the Zoning Ordinance if he causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within three thousand feet (3,000') of another sexually oriented business.
- D. A person is guilty of a violation of the Zoning Ordinance if he causes or permits the operation, establishment, or maintenance of more than one (1) sexually oriented business in the same building, structure, or portion

thereof; or the increase of floor areas of any sexually oriented business in any building, structure or portion thereof containing another sexually oriented business.

- E. For the purpose of this ordinance, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a church, public or private pre-elementary, elementary, or secondary school, public library, child care facility, or nursery school; or to the nearest boundary of an affected public park.
- F. For purposes of Subsection C of this section, the distance between any two (2) sexually oriented businesses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.
- G. Any sexually oriented business lawfully operating on date of enactment of this Ordinance that is in violation of Subsections A through F of this section shall be deemed a nonconforming use. Such nonconforming uses shall not be increased, enlarged, extended or altered, except that the use may be changed to a conforming use. In the event that two (2) or more sexually oriented businesses are within three thousand feet (3,000') of one another and otherwise in a permissible location, the sexually oriented business which was first established and continually operating at a particular location is the conforming use and the later-established business is nonconforming.
- H. A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business permit, of a church, public or private pre-elementary, elementary, or secondary school, public library, child care facility, nursery school or public park within one thousand feet (1,000') of the sexually oriented business. This provision applies only to the renewal of a valid permit, and does not apply when an application for a permit is submitted after a permit has expired or has been revoked.

REGULATIONS PERTAINING TO EXHIBITION OF SEXUALLY EXPLICIT FILMS OR VIDEOS:

- A. A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of fewer than one hundred fifty (150) square feet of floor space, a film or videocassette, or other video or other image production or reproduction which depicts "specified sexual activities" or "specified anatomical areas", shall comply with the following requirements:

1. The application for a permit to operate a sexually oriented business shall be accompanied by a floor plan and plot plan diagram of the premises showing a plan thereof specifying the location of one (1) or more manager's stations, the location of all viewing rooms, partitions and doors and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram, in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or 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. The Zoning Officer may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.
2. The application shall be sworn to be true and correct by the applicant.
3. No alteration in the configuration or location of a manager's station may be made without the prior approval of the Zoning Officer or designee.
4. It is the duty of the owners and operators of the premises to ensure that at least one (1) employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
5. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding rest rooms. Rest rooms may not contain video reproduction or viewing equipment. If the premises has two (2) or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one (1) of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's stations.

6. It shall be the duty of the owners and operators, and it shall also be the duty of any agents and employees present on the premises to ensure that the view as specified in Subsection 5 remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to Subsection 1 of this section.
 7. No viewing room may be occupied by more than one (1) person at any time. No connections or openings to an adjoining viewing room shall be permitted.
 8. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not fewer than one (1) foot candle as measured at the floor level.
 9. It shall be the duty of the owners and operators and it shall also be the duty of any agents and employees present in the premises to ensure that the illumination described above is maintained at all times that any patron is present in the premises.
- B. A person having a duty under Subsection 1 through 9 of Subsection A is guilty of a violation of the Zoning Ordinance if he knowingly fails to fulfill that duty.

713 EXEMPTIONS:

It is a defense to prosecution under Section 704 and Section 711 that a person appearing in a state of nudity did so in a modeling class operated:

- A. By a proprietary school, licensed by the Commonwealth of Pennsylvania, or a college, junior college, or university supported entirely or partly by taxation;
- B. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
- C. In a structure
 1. Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and

2. Where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class; and
3. Where no more than one (1) nude model is on the premises at any one- (1) time.

714 INJUNCTION:

A person who operates or causes to be operated a sexually oriented business without a valid permit or in violation of this ordinance is subject to an action in equity or a suit for injunction as well as citations for violations of the Zoning Ordinance.

715 EXISTING SEXUALLY ORIENTED BUSINESSES:

Any existing business that would qualify under this ordinance shall have one (1) year from the time of enactment to come into compliance with this ordinance.

716 DECISIONS OF THE ZONING OFFICER:

With exception of the issuance of the sexually oriented business permit which appeal/hearing procedure is set forth in Section 704 of this ordinance, any decision of the Zoning Officer made under any of the provisions set forth herein shall be immediately appealable to the Zoning Hearing Board. Appeals to the Zoning Hearing Board shall be made within 10 days of the date of the decision of the Zoning Officer. The Zoning Hearing Board shall thereafter consider the appeal at its next regularly scheduled meeting occurring at least ten (10) days after the notice of appeal or in the event there are no regularly scheduled meetings there within the next thirty- (30) days of the notice of appeal. The Zoning Hearing Board shall render a decision to affirm or override the decision of the Zoning Officer within sixty (60) days after receipt of the notice of appeal. In the event no decision is rendered within sixty (60) days of receipt of the notice of appeal, the decision of the Zoning Officer shall be deemed to be overruled. The business may continue in operation pending the decision of the Zoning Hearing Board.

SECTION 5. These pages of this Ordinance shall be inserted as an addendum to the Planning and Construction Code and the amendments set forth in Sections 1 through 4 shall be inserted in Section 202 of the Planning and Construction Code as set forth in Sections 1 through 4.

SECTION 6. Any person, corporation and/or other entity who shall be convicted of a violation of any of the provisions of this Ordinance before any District Magistrate or other court of competent jurisdiction shall be

sentenced to pay a fine of not more than \$500.00 per violation, per day, and cost of prosecution and who fails to correct any violation of this Ordinance within ninety (90) days from the date of said conviction shall be subject to revocation of any and all applicable permits and approvals issued by the governing body of the Municipality of Monroeville.

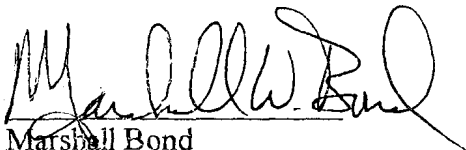
SECTION 7.

The provisions of this ordinance are severable and, if any section, sentence, clause, part or provision hereof shall be held illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect the remaining sections, sentences, clauses, parts or provisions of this ordinance. It is hereby declared to be the intent of the Council that this ordinance would have been adopted if such illegal, invalid or unconstitutional section, sentence, clause, part or provision had not been included herein.

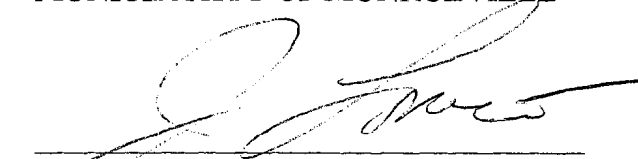
ORDAINED AND ENACTED into law this 14th day of January, 2003.

ATTEST:

MUNICIPALITY OF MONROEVILLE



Marshall Bond
Manager


James Lomeo
Mayor

ENTERED INTO LEGAL BOOK ON:

January 24, 2003