

CHAPTER 7

MANUFACTURING DISTRICTS

SECTION:

- 6-7-1: General Requirements**
- 6-7-2: Performance Standards**
- 6-7-3: Screening**
- 6-7-4: Dwelling Units**
- 6-7-5: Multiple Uses in a Single Building**

6-7-1: GENERAL REQUIREMENTS:

- A. All activities involving the manufacturing, fabricating, assembly, disassembly, repairing, storing, cleaning, servicing, and testing of materials, products, and goods shall be within completely enclosed buildings; except, that underground storage of liquids is permitted subject to conformity with applicable provisions of this Chapter.
- B. No lot, parcel, or tract of land shall be used, and no building or structure shall be erected, altered, or remodeled for any of the following uses: abattoirs; arsenals, an activity involving storage, utilization or manufacture of materials or products which are exploded by detonation except such as are specifically licensed by the Village; blast furnaces; boiler works; coke ovens, crematories; creosote treatment or manufacture; dumps and slag piles; fat rendering; drop forges and forge plants; fertilizer manufacture; fireworks or explosive manufacture or storage; dumping, reduction, or other processing of garbage, dead animals, offal or refuse, except as customarily incidental to a permitted principal use; grain storage; foundries: ore reduction; petroleum processing or refining; pyroxylin manufacture, manufacturing or processing natural or synthetic rubber; caoutchouc, or gutta-percha manufacture or treatment; packing plants; rock excavation and crushing; salt works; sauerkraut manufacture; soap manufacture; smelters; stockyard or slaughter of animals or fowl; processing of fish oil, tallow, grease; lard manufacture or treatment; tanning; curing, or storage of rawhides or skins; tar distillation, or manufacture; cement concrete or asphaltic concrete mixing plant; junk shop; junk yards or automobile wrecking yards; or for the manufacture of brick, tile, terra-cotta, bulk chemicals, gas, soap, gypsum, lime or plaster of paris.

- C. No activities involving the storage, utilization or manufacturing of materials or products which decompose by detonation shall be permitted, except such as are customarily incidental to the operation of a principal use in such quantities, and in a manner conforming with applicable performance standards set forth hereafter under Section 6-7-2. Such materials shall include, but shall not be confined to: all primary explosives such as lead azide, lead styphnate, fulminates and tetracene; all high explosives such as TNT, RDX, HMX, PETN, and picric acid; propellants and components thereof such as nitrocellulose, black powder, boron hydrides, hydrazine and its derivatives; pyrotechnics and fireworks such as magnesium powder, potassium chlorate and potassium nitrate; blasting explosives such as dynamite and nitroglycerine; unstable organic compounds such as acetylide, tetrazoles, perchloric acid, perchlorates, chlorates, hydrogen peroxide in concentrations greater than thirty five percent (35%); and nuclear fuel, fissionable materials and products and reactor elements such as Uranium 235 and Plutonium 239.

6-7-2: PERFORMANCE STANDARDS: Any use established in a manufacturing district which involves the manufacturing, fabricating, assembly, disassembly, repairing, storing, cleaning, servicing, or testing of materials, goods, or products, shall be operated in such a manner as to comply with applicable performance standards as hereinafter set forth governing noise, smoke, particle matter, toxic or noxious matter, odors, fire and explosive hazards, or vibration, or glare or heat for the district in which use shall be located; and no use, already established on the effective date of this Zoning Code shall be so altered or modified as to conflict with, or further conflict with such applicable performance standards for the district in which such use is located.

- A. Noise: Sound levels shall be measured with a sound level meter and associated octave band filter manufactured according to standards prescribed by the American Standards Association. Measurements shall be made using the flat network of the sound level meter. Impulsive type noises shall be subject to the performance standards hereinafter prescribed, provided that such noises shall be capable of being accurately measured with such equipment. Noises capable of being so measured, for the purpose of this Zoning Code, shall be those noises which cause rapid fluctuations of the needle of the sound level meter, with a variation of no more than plus or minus two (+/-2) decibels. Noises incapable of being so measured, such as those of an irregular and/or intermittent nature, shall be controlled so as not to become a nuisance to adjacent uses.

At no point on the boundary of a residence or business district shall the sound intensity level of any individual operation or plant (other than the operation of motor vehicles or other transportation facilities) exceed the decibel levels in the designated octave bands shown in the following table:

| OCTAVE BAND (Frequency, cycles per second) | MAXIMUM PERMITTED SOUND LEVEL (decibels) | |
|---|--|---|
| | Along Residence District Boundaries | Along Business District Boundaries |
| 0 to 75 | 72 | 75 |
| 75 to 150 | 67 | 70 |
| 150 to 300 | 59 | 63 |
| 300 to 600 | 52 | 57 |
| 600 to 1,200 | 46 | 52 |
| 1,200 to 2,400 | 40 | 45 |
| 2,400 to 4,800 | 34 | 40 |
| above 4,800 | 32 | 38 |

- B. Smoke and Particle Matter: The emission of smoke or particle matter in such manner or quantity as to endanger or to be detrimental to the public health, safety, comfort, or welfare, is hereby declared to be a public nuisance, and shall henceforth be unlawful.

For the purpose of grading the density of smoke, the Ringelmann Chart, published and used by the United States Bureau of Mines, shall be employed. The emission of smoke or particle matter of a density greater than No. 2 on the Ringelmann chart is prohibited at all times, except as otherwise provided hereinafter. The emission, from all sources within any lot area, of particle matter containing more than ten percent (10%) by weight of particles having a particle diameter larger than forty four (44) microns is prohibited.

Dust and other types of air pollution, borne by the wind from such sources as storage area, yards, roads, and the like, within lot boundaries, shall be kept to a minimum by appropriate landscaping, paving, oiling, fencing, or acceptable means. Emission of particle matter from such sources in excess of the weight limitation herein specified is prohibited.

The emission of more than eight (8) smoke units per hour per stack is prohibited, including smoke of a density in excess of Ringelmann No. 2. However, during one, one hour period in each twenty four (24) hour day, each stack may emit up to sixteen (16) smoke units when blowing soot or cleaning fires. Only during fire-cleaning periods, however, shall smoke of Ringelmann No. 3 be permitted, and then for not more than three (3) minutes.

- C. Toxic or Noxious Matter: No use shall, for any period of time, discharge across the boundaries of the lot wherein it is located toxic or noxious matter in such concentrations as to be detrimental to, or endanger the public health, safety, comfort, or welfare, or cause injury

or damage to property or business.

- D. Odors: The emission of odorous matter in such quantity as to be readily detectable at any point along lot lines, or as to produce a public nuisance or hazard beyond lot lines is prohibited.
- E. Fire and Explosion Hazard:
1. The storage, utilization, or manufacture of materials or products ranging from incombustible to moderate burning - as determined for liquids by a closed cup flash point of not less than one hundred eighty seven degrees Fahrenheit (187°F) is permitted subject to compliance with all other performance standards of the M1 District, and provided the following conditions are met:
that the use and storage of liquid material shall be in conformity with current standards prescribed by the National Fire Protection Association and the requirements of other codes and ordinances of the Village.
 2. The storage, utilization, or manufacture of materials or products ranging from free or active burning to intense burning - as determined for liquids by a closed cup flash point of less than one hundred eighty seven degrees Fahrenheit (187°F) but not less than one hundred five degrees Fahrenheit (105°F) - is permitted, subject to compliance with all other performance standards for the M1 District, and provided the following conditions are met:
 - a. Said materials or products shall be stored, utilized, or produced within completely enclosed buildings or structures having incombustible exterior walls.
 - b. All such buildings or structures shall be set back at least forty feet (40') from lot lines, or in lieu thereof, all such buildings or structures protected throughout by an automatic sprinkler system, approved by the fire inspection authority having jurisdiction; or if the materials, goods or products are liquid, the protection thereof shall be in conformity with the current standards of the National Fire Protection Association.
 3. The utilization in manufacturing processes of materials which produce flammable or explosive vapors or gasses - as determined for liquids by a closed cup flash point or less than one hundred five degrees Fahrenheit (105°F) - shall be permitted in this District provided:

- a. That the final manufactured product does not itself have a closed cup flash point of less than one hundred eighty seven degrees Fahrenheit (187° F).
- b. That the use and storage of such materials shall be in conformity with current standards prescribed by the National Fire Protection Association, and the requirements of other codes and ordinances of the Village.
- c. That the storage of more than fifteen thousand (15,000) gallons of materials or products having a closed cup flash point of less than one hundred five degrees Fahrenheit (105° F) (exclusive of storage of finished products in original sealed containers) is prohibited.
- d. That the storage of more than thirty thousand (30,000) gallons of materials or products having a closed cup flash point of less than one hundred eighty seven degrees Fahrenheit (187° F) (exclusive of storage of finished products in original sealed containers) is prohibited.

6-7-3: SCREENING: Wherever such district immediately adjoins a residentially zoned area, screen planting in the form of trees, shrubs, hedges, or similar planting shall be installed and maintained by the owners or occupants of the industrial property.

6-7-4: DWELLING UNITS: Dwelling units are not permitted other than one for a watchman or janitor employed on the premises. (Ord. 65-138-15)

6-7-5: MULTIPLE USES IN A SINGLE BUILDING: Multiple uses in a single building are not permitted unless such multiple uses are made by a single business entity (user).

A business entity shall be construed to include any parent company and any related companies which fall within the definition of "affiliated group" as defined in section 1504(a) Of the Internal Revenue Code of 1954, as amended, and any parent company and any related companies which fall within the definition of "affiliated service group" as defined in section 414(m) of the Internal Revenue Code of 1954 as amended. (Ord. 83-764-18)

CHAPTER 7

MANUFACTURING DISTRICTS

ARTICLE A. M1 RESTRICTED MANUFACTURING DISTRICT

SECTION:

- 6-7A-1: Statement of Purpose**
- 6-7A-2: Permitted Uses**
- 6-7A-3: Special Uses**
- 6-7A-4: Lot Area, Setback and Height Requirements**
- 6-7A-5: Yards**
- 6-7A-6: Off-Street Parking and Loading**
- 6-7A-7: Special Use Standards for Concrete Recycling, Storage and Sales Facilities (Ord. 06-2948-40, eff. 8/14/06)**

6-7A-1: STATEMENT OF PURPOSE: The M1 Restricted Manufacturing District is intended to provide sites primarily for light manufacturing and light industrial uses under controls which minimize any adverse effects on property in nearby residence, business and farming districts. Subject to the general requirements and restrictions on use set forth in this Chapter, permitted uses include those which are already established on the effective date of this Zoning Code and are deemed not to have adverse effects on property in nearby districts. Except for those uses which are specifically prohibited in subsections 6-7-1B and C, other manufacturing and industrial uses may be allowed as special uses in accordance with standards and procedures set forth in Chapter 14 of this Zoning Code. These special use procedures provide an opportunity for interested parties to have a hearing before the Zoning Board and for a review of each special use permit or use and occupancy application by the Village President and Board of Trustees in order to establish conditions designed to assure conformity to the requirements and restrictions set forth in this Chapter. New residential uses may continue as well as all other lawful uses, subject to the provisions and restrictions of all other codes and ordinances. (Ord. 65-138-15; and. Ord. 90-1138-22)

6-7A-2: PERMITTED USES: The following uses are permitted subject to all the provisions in this Chapter:

Aluminum rolling mill.
Automobile laundries.
Bakeries.
Bookbinding.
Cargo and freight terminals.
Cartage and express facilities.
Cold processing of metals.
Cold storage plants.
Contractors' or construction offices and shops, such as building, cement, electrical, heating, masonry, painting, plumbing, refrigeration, and roofing, provided that there be no outside storage of material.
Dyeing and rug-cleaning establishments.
Ice and ice cream production and distribution.
Machinery, rental, sales and service.
Machine shops.
Mail order houses.
Milk bottling and distribution.
Packaging and crating.
Printing plant and screen printing.
Research laboratories.
Shops for repair of furniture, appliances and office and office equipment.
Shops for soldering and welding.
Sign painting.
Storage and warehousing establishments.
Wholesale establishments.
Accessory uses to the above permitted uses.

The manufacturing, fabricating, assembling, disassembling, repairing, storing, cleaning, servicing, or testing of the following materials, goods or merchandise:

Air conditioners.
Apparel.
Beverages (non-alcoholic), processing and bottling.
Boxes and cabinets.
Cameras and other photographic equipment and copying machines, except film.
Ceramic products.
Clocks.

Clothing.
 Compounding and packaging of chemicals.
 Cosmetics and toiletries.
 Dairy products.
 Drugs and pharmaceutical products.
 Electrical and acoustic products and components.
 Food products (except meat and fish, sauerkraut, vinegar and yeast).
 Furniture.
 Glass products.
 Hardware.
 Jewelry.
 Leather products, but not including tanning or treatment of leather.
 Machines, business - such as typewriters, accounting machines, calculators, and
 card counting equipment.
 Medical laboratory supplies, equipment and specialties.
 Metal stamping, rolling, grinding, welding and polishing.
 Musical instruments.
 Paper products.
 Plastic products.
 Radio, phonograph, recorder, and television sets and parts.
 Scales.
 Sporting firearms.
 Textiles.
 Tools and dies.
 Toys and children's vehicles.
 Tubing.
 Well supplies.
 Wood products.
 Accessory uses to the above permitted uses.

6-7A-3: SPECIAL USES:

- A. Any other light manufacturing or light industrial fabricating, assembling, disassembling repairing, storing, cleaning, servicing or testing establishments, except those prohibited in this Chapter.
- B. Airports.
- C. Cargo and freight terminals.

- D. Frozen food lockers.
- E. Laundries.
- F. Radio and television towers.
- G. Restaurants serving only employees of an established use. (Ord. 65-138-15)
- H. A facility for the purpose of selling, leasing, repairing, maintaining, and rebuilding truck, trailer and truck-trailer parts, indoors only. (Ord. 78-533-23)
- I. Concrete recycling, storage and sales, subject to the standards described in Section 6-7A-7.
- J. Tree chipping, subject to the standards described in Section 6-7A-7.(Ord. 06-2948-40, eff. 08/14/06)

6-7A-4: LOT AREA, SETBACK AND HEIGHT REQUIREMENTS:

- A. Lot Area: Not less than twenty thousand (20,000) square feet.
- B. Frontage: Not less than one hundred feet (100').
- C. Floor Area Ratio: Not to exceed five-tenths (.5).
- D. Building Height: Not to exceed forty five feet (45').

6-7A-5: YARDS:

- A. Front Yard: Not less than fifty feet (50') in depth; all front yards must be landscaped or planted in grass.
- B. Side Yards: Not less than fifteen feet (15') in width.
- C. Rear Yard: Not less than twenty feet (20') in depth.

6-7A-6: OFF-STREET PARKING AND LOADING:

- A. Off-Street Loading: Loading berths in accordance with provisions set forth in Section 6-11-2 of this Zoning Code.

- B. Off-Street Parking: Parking spaces in accordance with provisions set forth in Section 6-11-3 of this Zoning Code. (Ord. 65-138-15)

6-7A-7. SPECIAL USE STANDARDS FOR CONCRETE RECYCLING, STORAGE AND SALES FACILITIES AND TREE CHIPPING FACILITIES.

- A. Notwithstanding the provisions of Section 6-14-14(H), a special use permit shall not be granted for either a concrete recycling, storage and sales facility or tree chipping facility unless the applicant demonstrates the ability to comply and maintain compliance with the standards set forth in this section. All other provisions of Section 6-14-14 not in conflict herewith shall apply to both a concrete recycling, storage and sales facility and tree chipping facility.
- B. In addition to the application contents described in Section 6-14-14(C), applicants seeking a special use permit for either a concrete recycling, storage and sales facility or tree chipping facility shall submit a plan of operations demonstrating traffic flow and the manner in which the relevant material shall be received and accepted, processed, stored and made ready for transport to end markets. The Village may permit a facility with a boundary less than 1,320 feet from the nearest property zoned for primarily residential use.
- C. Standards: No special use shall be recommended by the Zoning Board, unless it shall find the each and every one of the following standards are met and capable of continuing to be met:
 - 1 The relevant “source material,” either previously manufactured concrete or tree limbs, shall not be speculatively accumulated;
 - 2. The operating plan submitted by the applicant under paragraph B demonstrates how the facility will meet the following requirements:
 - a. The relevant source material shall not be stored for longer than one year after its acceptance at the facility;
 - b. Raw materials produced by the facility are returned to the economic mainstream within one year after the facility accepts the previously manufactured concrete;
 - c. Within 48 hours of receipt of the source material at the facility, it shall be sorted to separate the recyclable material from non-recyclable material to be disposed of or discarded;

- d. Transport off site for disposal all non-recyclable material in accordance with all applicable federal, state, and local requirements within 72 hours of its receipt at the facility;
- e. Limit the percentage of incoming non-recyclable material to 25% or less of the total incoming source material (for each type of material), as calculated on a daily basis;
- f. Employ tagging and record-keeping procedures to:
 - (i) demonstrate compliance with this Section, and
 - (ii) identify the source and transporter of material accepted by the facility;
- g. Control odor, noise, combustion of materials, disease vectors, dust, and litter;
- h. Control access to the facility;
- i. Identify the name and location of the disposal site to be used for the transportation and disposal of non-recyclable materials accepted at the facility;

When any of the information contained or processes described in the operating plan submitted to the Village changes, the owner and operator shall submit an updated plan within 14 days of the change.

- 3. The facility complies with Section 6-7-3, notwithstanding whether the property is adjacent to a residentially zoned area;
- 4. The establishment, maintenance, or operation of the concrete recycling, storage and sales facility will not be detrimental to, or endanger the public health, safety, morals, comfort, or general welfare;
- 5. Adequate utilities, access roads, drainage and/or necessary facilities have been or will be provided;
- 6. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets;
- 7. The facility shall, in all other respects, conform to the performance standards of the M1 Restricted Manufacturing District, except as such regulations may, in each instance, be modified pursuant to the recommendations of the Zoning Board; and

8. Adequate measures have or will be taken to offset the extraordinary impacts the facility will have on public rights-of-way, police protection, water service and other services provided by the Village.
 9. The property on which the facility shall be located must be no farther than 500 feet from any major, 4-lane arterial highway.
- D. Review and Renewal: Any special use permit granted under this Section shall be for a term not to exceed two (2) years and shall be valid only for the benefit of the applicant to whom it is issued. The applicant may petition for a new special use permit, provided that the petition is submitted no later than 90 days prior to the expiration of the current permit. The special use permit shall automatically expire in the event there is any change of more than 10% in the control or ownership (except for financing purposes) of the entity operating the facility. (Ord. 06-2948-40, eff. 8/14/06)

CHAPTER 7

MANUFACTURING DISTRICTS

ARTICLE B. SEXUALLY ORIENTED BUSINESSES

SECTION:

- 6-7B-1: Statement of Purpose**
- 6-7B-2: Findings**
- 6-7B-3: Definitions**
- 6-7B-4: Special Use**
- 6-7B-5: Setback Requirements**
- 6-7B-6: Signage**
- 6-7B-7: Bulk Regulation**
- 6-7B-8: Other Regulations**
- 6-7B-9: Amortization**

6-7B-1. PURPOSE: The purpose of this Article is to establish reasonable and uniform regulations to minimize and control the negative secondary effects of sexually oriented businesses within the municipality in order to promote the health, safety, and welfare of the citizens of the municipality. The provisions of this Article have neither the purpose nor the effect of imposing a limitation or restriction on the content any communicative materials or communication, including sexually oriented entertainment. Similarly, it is not the purpose or effect of this Article 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 Article to condone or legitimize the distribution or exhibition of entertainment that is obscene.

6-7B-2. FINDINGS: Based on evidence concerning the adverse secondary effects of sexually oriented businesses presented to the municipality from findings incorporated in the cases of *City of Erie v. Pap's A.M.*, 529 U.S. 277, 120 S.Ct. 1382 (2000); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991), *City of Renton v. Playtime Theaters, Inc.*, 475 U.S. 41 (1986) *Young v. American Mini Theaters*, 426 U.S. 50 (1976), *Berg v. Health and Hospital Corporation*, 865 F.2d

797 (7th Cir 1989); *Ellwest Stereo Theaters v. Wenner*, 681 F.2d 1243 (9th Cir. 1982); *Bamon Corp v. City of Dayton*, 730 F.Supp 80 (S.D. Ohio, 1990) and *EWAP Inc. v. City of Los Angeles*, 97 Cal. App 3d 179, 158 Cal. Rptr. (1979), and on studies in other cities including the *Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses* (Minnesota, 1989); *Memorandum re: Adult Entertainment Ordinance*, of the Assistant Chief of Police of the Tucson, Arizona (May 1, 1990); Hecht, Peter R., Ph.D., *Report to the American Center for Law and Justice on the Secondary Impacts of Sex Oriented Businesses* (March 31, 1996); *Adult Entertainment Businesses in Indianapolis, An Analysis* (1984) and McCleary, Richard, Ph.D. and Meeker, James W., Ph.D., *Final Report to the City of Garden Grove: The Relationship Between Crime and Adult Business Operations on Garden Grove Boulevard*, (Garden Grove, CA, October 23, 1991), this Legislative body finds:

- A. Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities.
- B. Sexual acts, including masturbation, oral sex and anal sex, occur at sexually oriented businesses, specially 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).
- C. Studies conducted in other cities have demonstrated a correlation between sexually oriented business and a decrease in the residential and commercial property values that surround them, especially those properties within 1,000 feet of such businesses.
- D. Studies conducted in other cities have demonstrated a correlation between sexually oriented businesses and increased crime in the neighborhood, including sex-related crimes like prostitution, obscenity, and sexual assault. This correlation is especially acute when more than one sexually oriented business is located in a neighborhood, and when a sexually oriented business is located near a public open space such as a park, cemetery or school.
- E. Studies conducted in other cities have demonstrated a correlation between sexually oriented businesses and increased harassment and propositioning of women, children and the elderly in the neighborhood.
- F. Studies conducted in other cities have demonstrated a correlation between sexually oriented businesses and offensive material such as pornographic magazines and used condoms being discarded in the surrounding neighborhood, making them available to children.
- G. Location of sexually oriented business in a neighborhood can create a "sex for sale" reputation in a neighborhood.
- H. The foregoing findings raise substantial governmental interests and concerns.

- I. The municipality cannot entirely prohibit sexually oriented businesses which are not obscene from locating within the municipality.
- J. The municipality can effect reasonable locational regulations which it believes will ameliorate these deleterious secondary effects associated with sexually oriented businesses.
- K. Locating sexually oriented businesses in the Manufacturing zone will ameliorate these deleterious secondary effects associated with sexually oriented businesses.
- L. Requiring sexually oriented businesses to be located 1,000 feet from any other sexually oriented businesses will ameliorate these deleterious secondary effects associated with sexually oriented businesses.
- M. Requiring sexually oriented businesses to be located 1,000 feet from any school, day care center, cemetery, public park including any lineal recreational area like a bike path, public housing, place of religious worship, lot zoned for residential purposes and lot used for residential purposes, complies with the requirements of state law, 65 ILCS 5/11-5-1.5, and will ameliorate these deleterious secondary effects associated with sexually oriented businesses.
- N. Aptakisic Road is one of the main thoroughfares in the municipality, and therefore reflects on the economic status of the municipality.
- O. Accordingly, a decrease in the property values and an increase in visible crime along Aptakisic Road will affect the property values of the municipality as a whole in a way that other locations would not.
- P. Preventing sexually oriented businesses from locating directly on, or within 500 feet of Aptakisic Road will help to conserve property values in the municipality as a whole, while still providing an adequate number of sites and acreage available for the location of sexually oriented businesses.
- Q. At the time this Article was approved, the regulations set forth herein permitted approximately eight (8) acres and approximately two (2) sites available for sexually oriented businesses in the municipality.

6-7B-3. DEFINITIONS: For purposes of this Article:

EMPLOYEE Shall mean a natural person who performs any service or work on the premises of a sexually oriented business,

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.

EXCRETORY FUNCTIONS

Shall mean urination, defecation, lactation, ejaculation and menstruation. It shall not mean urination and defecation performed in a public or employee-only restroom in the manner in which those facilities are intended to be used, and when not performed or presented for a commercial purpose. It shall not mean lactation as part of breast-feeding an infant, unless performed or displayed for a commercial purpose other than education and training in the art, science or technique of breast-feeding an infant.

MUNICIPALITY

Shall mean the Village of Lincolnshire, Illinois.

NUDITY or NUDE

Shall mean exposing to view specified anatomical areas or any device, costume, or covering that gives the appearance of or simulates any specified anatomical areas.

PATRON

Shall mean any natural person who is not an employee.

SEMI-NUDITY or SEMI-NUDE

Shall mean exposing to view, with less than a fully opaque covering, any portion of the female breast below the top of the areola, any portion of female or male buttocks, or the male genitals in a discernibly turgid state, even if entirely covered by an opaque covering. 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.

**SEXUALLY ORIENTED
AMUSEMENT DEVICE**

Shall mean any machine or device which is designed, intended, displayed or kept as an amusement or entertainment, and may be operated upon the insertion of a coin, slug, token, plate, disc, electronic key, credit card, debit card or any similar item, or the use of which is made available for any valuable consideration, and which displays a natural person, people, or characters as in cartoons and animation, live or by any medium, including without limitation film, motion picture machine, projector, filmstrip, videotape, digital video disc (DVD), laser disc, compact disc (CD), floppy disc, photograph, slide, television, book, magazine, and computer software, engaged in specified sexual activity or displaying specified anatomical areas.

**SEXUALLY ORIENTED
BUSINESS**

Shall mean any of the following when done in a place where the public is invited or permitted, or when done for any commercial purpose including sale and rental, regardless of who pays or receives the consideration therefor, and regardless of the form of consideration:

1. Live exhibition or display of a natural PERSON or people in the state of NUDITY or SEMI-NUDITY, or engaged in SPECIFIED SEXUAL ACTIVITIES or EXCRETORY FUNCTIONS;
2. Engaging in, promoting or permitting a natural PERSON or people to engage in SPECIFIED SEXUAL ACTIVITIES or EXCRETORY FUNCTIONS.
3. Offering of physical contact in the form of wrestling or tumbling between natural PERSONS, when one or more of the PERSONS is NUDE or SEMI-NUDE.
4. Offering of products, services or activities by or with a natural PERSON or people when one or more of the people, whether a PATRON, agent, EMPLOYEE or otherwise, is in a state of NUDITY or SEMI-NUDITY.

5. Displaying or offering to others any recorded depiction of a natural PERSON, or created image or character, as in cartoons and animation, by any medium, including without limitation film, videotape, closed-circuit television, digital video disc (DVD), laser disc, compact disc (CD), floppy disc, photograph, slide, television, book, magazine, and computer software, which is:
 - a. characterized or distinguished by an emphasis on the depiction or description of SPECIFIED SEXUAL ACTIVITIES, EXCRETORY FUNCTIONS, or SPECIFIED ANATOMICAL AREAS; or
 - b. advertised or otherwise held out to the public as being characterized or distinguished by an emphasis on the depiction or description of SPECIFIED SEXUAL ACTIVITIES, EXCRETORY FUNCTIONS, or SPECIFIED ANATOMICAL AREAS, including without limitation, the use of the term “adult” and the use of the designation of one or more “X” such as, but not limited to, “XXX”.
6. The display and offering to others of novelties, instruments, devices, or paraphernalia that are designed primarily for use in connection with SPECIFIED SEXUAL ACTIVITIES or that give the appearance of or simulate any of the SPECIFIED ANATOMICAL AREAS.
7. The term SEXUALLY ORIENTED BUSINESS shall exclude the following:
 - a. The display and offering to others of condoms, spermicide or other non-prescription contraceptives;
 - b. The display and offering to others of drugs, instruments or devices which require a

prescription, that are designed primarily for use in connection with SPECIFIED SEXUAL ACTIVITIES, and which are in fact dispensed by or under the supervision of a pharmacist licensed by the State of Illinois;

- c. The display and offering to others of instruments, devices, or paraphernalia that are designed primarily for use in connection with SPECIFIED SEXUAL ACTIVITIES if they are displayed and offered to others on the premises where a pharmacist licensed by the State of Illinois is employed to dispense prescription drugs, instruments or devices;
- d. Breast-feeding an infant, unless performed or displayed for a commercial purpose other than education and training in the art, science or technique of breast-feeding an infant;
- e. The display and offering to others of motion pictures, by any format, which have received a rating from the Motion Picture Association of America of G, PG, PG-13, R or NC-17, when offered or displayed substantially in their entirety;
- f. Libraries and museums funded in whole or in part by federal, state or local governmental funds.
- g. The display and offering to others of items described in Section 3-12-2(M)(5) of this Ordinance, if and only if the display and offering are done for a commercial purpose, and all of the following apply to the business displaying and offering such items to others:
 - (1) Less than 5% of its gross income comes from the sale, rental or exhibition of the following types of items:

- (a) items which are characterized or distinguished by an emphasis on the depiction or description of SPECIFIED SEXUAL ACTIVITIES, EXCRETORY FUNCTIONS, or SPECIFIED ANATOMICAL AREAS or any combination thereof, and
 - (b) items which are advertised or otherwise held out to the public as being characterized or distinguished by an emphasis on the depiction or description of SPECIFIED SEXUAL ACTIVITIES, EXCRETORY FUNCTIONS, or SPECIFIED ANATOMICAL AREAS or any combination thereof, including without limitation, the use of the term “adult” and the use of the designation of one or more “X” such as, but not limited to, “XXX”; and
- (2) Less than 5% of its display space is used for the sale, rental or exhibition of the items described in paragraph (1)(a) and (b) above; and
 - (3) Less than 5% of the items it offers to others are the items described in paragraph (1)(a) and (b) above; and
 - (4) The items described paragraph (1)(a) and (b) above are segregated from all other displays and retail areas of the premises by a solid partition from floor to ceiling with no openings or windows and with entrance and egress by means of a solid door posted with a sign not less than one foot by one foot with the words “UNDER 18 NOT

ADMITTED” lettered on the sign, except that magazines characterized or distinguished by an emphasis on the depiction or description of SPECIFIED SEXUAL ACTIVITIES, EXCRETORY FUNCTIONS, or SPECIFIED ANATOMICAL AREAS or any combination thereof may be displayed on racks or other display cases only if the magazine is encased or otherwise covered up and concealed from common view of anything other than the magazine title or text or other materials which would not be described as sexually oriented.

Certain uses which fall within the definition of SEXUALLY ORIENTED BUSINESS may also constitute uses which are illegal under local, state or federal law, such as obscenity or child pornography. Even if such illegal uses constitute a SEXUALLY ORIENTED BUSINESS under the definition set forth in this Ordinance, they shall not be permitted to receive a SEXUALLY ORIENTED BUSINESS license.

SPECIFIED ANATOMICAL AREAS

Shall mean the human genitals, pubic area, perineum, anus, anal cleft or cleavage, pubic hair, any portion of the areola of the female breast if less than a fully and opaquely covered; and the male genitals in a discernibly turgid state, even if entirely covered by an opaque covering. In determining whether any of the foregoing portions of the anatomy are fully and opaquely covered, coverage by make-up, paint, or similar matter applied directly to the skin, shall not be considered to be fully and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES

Shall mean any of the following, whether actual or simulated:

1. The fondling or other erotic touching of human genitals, pubic area, perineum, anus, anal cleft or cleavage, pubic hair, buttocks, or female breasts, regardless of whether the performer or recipient is clothed, in a state of nudity or in a state of semi-nudity;

2. The manipulation of the human body of another, including massage, by the use of any portion of manipulator-s body, whether covered or uncovered, or by any device, if the person performing the manipulation is in a state of nudity or semi-nudity.
3. Sex acts, normal or perverted, heterosexual, homosexual or bisexual, including without limitation intercourse, fellatio, cunnilingus, anilingus, masturbation, bestiality, sodomy, bondage and discipline, sadism and masochism, and any other act intended to cause sexual arousal;
4. Sex acts between animals when offered or displayed for the purpose or with the intent of causing the sexual arousal of a human viewer.

6-7B-4. SPECIAL USE: Any other ordinance or section of any ordinance notwithstanding, and subject to the setback requirements of Section 6-7B-5, sexually oriented businesses shall be a special use only in the M1 Restricted Manufacturing District.

6-7B-5. SETBACK REQUIREMENTS: No sexually oriented business shall be located:

- A. Within 1,000 feet of the property boundary of any other sexually oriented business, and any school, day care center, cemetery, public park including any lineal recreational area like a bike path, public housing, place of religious worship, lot zoned for residential purposes, and lot used for residential purposes; and
- B. Within 500 feet of the center line of Aptakistic Road, which 500 feet shall be measured from the nearest point of the building, or portion of the building in which the sexually oriented business is located to the nearest point of the center line of Aptakistic Road.

6-7B-6. SIGNAGE: No sexually oriented business shall advertise by way of billboard, sign boards or sign, within 1,000 feet of any school, day care center, cemetery, public park including any lineal recreational area like a bike path, public housing, place of religious worship, lot zoned for residential purposes, and lot used for residential purposes.

6-7B-7. BULK REGULATION: In addition to the limitations of Section 6-7A-4, the floor area ratio of a sexually oriented business shall not exceed 0.25.

6-7B-8. OTHER REGULATIONS: The restrictions set forth in this Article shall supersede any other restrictions found in other ordinances or other sections of any ordinance as applied to sexually oriented businesses, if the terms of the restrictions are in conflict.

6-7B-9. AMORTIZATION: If at the time this Article becomes effective, any sexually oriented business exists in a location not permitted by this Article or is otherwise not in compliance with this Article, then the sexually oriented business shall constitute a legal non-conforming use. However, notwithstanding any other ordinance or section of any ordinance to the contrary, the legal non-conforming sexually oriented business shall come into compliance with the requirements of this Article within one year of the effective date of this Article. No sexually oriented business shall constitute a legal non-conforming use after one year after the effective date of this Article.

(Amd Ord. 06-2012-03, eff. 2/13/06)