

TOWN OF DAYTON

ORDINANCE CONCERNING LOCATION AND REGULATION OF  
ADULT BUSINESSES

Sec. 1. Purpose.

The purpose of this Ordinance is to provide for the controlled location and regulation of adult businesses in order to insure that any such businesses are conducted in a way which is not detrimental to the public health, safety and general welfare.

Sec. 2. Definitions.

A. Adult business means:

- i. Any business, a substantial or significant portion of which consists of selling, renting, leasing, exhibiting, displaying or otherwise dealing in materials or devices of any kind which appeal to prurient interests and which depict or describe specified sexual activities.
- ii. Any business utilizing a "viewing booth" to display by audio or visual reproduction, projection or other means, any materials which depict or describe specified sexual activities.

C. Specified sexual activities means:

- i. Human genitals in the state of sexual stimulation or arousal;
- ii. Acts of human masturbation, sexual intercourse or sodomy;
- iii. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

Sec. 3. Operation and Location of Adult Businesses.

- A. No adult business shall be located or operated within the Town of Dayton except in the following areas as defined by the Town of Dayton Zoning Ordinance (enacted March 11, 1978):
  - i. Village Zone, on a parcel with frontage on a State-Aid highway;
  - ii. Residential Zone, on a parcel with frontage on a State-Aid highway;

- B. No adult business shall be located within one thousand (1,000) feet of any school, park, playground, church, library or public building.
- C. No adult business shall be operated as a home occupation as defined in the Town of Dayton Zoning Ordinance.

#### Sec. 4. Application and Permitting Procedures.

No adult business shall be located or commence operation within the Town of Dayton without first being approved by the Dayton Planning Board pursuant to the procedures and standards applicable to conditional uses under Article 6 of the Town of Dayton Zoning Ordinance. Planning Board review under this Ordinance shall be limited to the impacts and effects of a proposed use as determined by applying the conditional use standards. The Planning Board shall not deny approval for the proposed use on the basis of the content of the material sold, rented, exhibited or displayed, and shall not restrict or limit the content of such materials. Planning Board decisions under this Ordinance shall be appealable to the Dayton Board of Appeals pursuant to the Dayton Zoning Ordinance.

#### Sec. 5. Fee Structure.

The fees for the Planning Board review under this Ordinance shall be according to the fee structure for conditional use permits under the Town of Dayton Zoning Ordinance.

#### Sec. 6. Effective Date and Duration.

This Ordinance shall take effect as of June 12, 1993 and shall remain in effect unless amended or appealed by vote of the Town of Dayton.

#### Sec. 7. Applicability.

Notwithstanding any provision in any local ordinance to the contrary, this Ordinance applies to any application or requests to locate or operate an adult business previously submitted to the Town of Dayton. Any adult business lawfully operated on the effective date of this Ordinance is not subject to its terms. Where the provisions of this Ordinance conflict with specific provisions of any federal, state or local ordinance, the more stringent provision shall apply.

#### Sec. 8. Enforcement.

This Ordinance shall be enforced by the Code Enforcement Officer in accordance with the provisions of Section 6.5.1 of the Dayton Zoning Ordinance. When any violation of any provision of this Ordinance is found to exist, enforcement of the provisions of this Ordinance shall be according to Section 6.6 of the Dayton Zoning Ordinance.