

BAUCKHAM, SPARKS, ROLFE, LOHRSTORFER & THALL, P.C.

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OF COUNSEL

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E-mail: Lohr@bsrlt.com

November 16, 2007

Missy Ulberg
Advance/**Penasee Globe**
2141 Port Sheldon
Genison, MI 49428

Via Fax: 616-669-1162
retailsales@advancenewspapers.com

Re: Notice of Adoption for Martin Township
Ordinances 91 & 92


Dear Missy:

Please publish the enclosed Notice for Martin Township on **Monday, November 26, 2007.**

Please also forward one Affidavits of Publication to this office, and two Affidavits and your bill to Carrie Coburn, Clerk, Martin Township, 1023 Hidden Ponds Dr., Martin, MI 49070.

Yours truly,

**BAUCKHAM, SPARKS, ROLFE,
LOHRSTORFER & THALL, P.C.**



John K. Lohrstorfer

JKL:paj
Enc.

cc: Carrie Coburn, Clerk (w/enc & Ordinance)
Ron Zeinstra, Zoning Chairman (w/enc & Ordinance)
Margaret Smith (w/enc.& Ordinance)
Janis Johnson (w/enc.& Ordinance)

MARTIN TOWNSHIP
CERTIFICATE OF ADOPTION

I, CARRIE COBURN, the Township Clerk of Martin Township, Allegan County, Michigan, do hereby certify that in pursuance of law and statute provided, at a regular meeting of the Martin Township Board held on November 14, 2007, commencing at 7:30 o'clock p.m. at the Martin Township Hall, located within the Village of Martin, at which the following members were present, the Board enacted and passed Ordinance 91, to become effective on December 26, 2007, all hereinbefore recorded, and that the members of said Board present at said meeting voted on the adoption of said Ordinance, as follows:

I do further certify that a summary of the ordinance was published in the Penasee Globe, a newspaper circulated in Martin Township, on November 26, 2007; and that said Ordinance was recorded in the official Ordinance Book on the 14th day of November, 2007; and that an attested copy of said Ordinance was filed with the Allegan County Clerk on the 19th day of November, 2007.

Date: November 21, 2007

Carrie Coburn
Carrie Coburn, Clerk
Martin Township

**MARTIN TOWNSHIP
ALLEGAN COUNTY, MICHIGAN**

NOTICE OF ORDINANCE ADOPTION

To: The Residents and Property Owners of Martin Township, Allegan County, Michigan,
and Any Other Interested Persons:

PLEASE TAKE NOTICE that at a regular meeting of the Township Board held on November 14, 2007, the Board adopted Ordinance No. 91, the Inoperable and Junked Vehicles Storage and Repair Ordinance, and Ordinance No. 92, Adult Businesses and Establishments. A summary of the Ordinances appear below.

ORDINANCE NO. 91 INOPERABLE AND JUNKED VEHICLES STORAGE AND REPAIR ORDINANCE

SECTION I PURPOSE The purpose of this ordinance is to limit and restrict the outdoor storage, parking, repair or unreasonable accumulation of junked, unused, partially dismantled or inoperable vehicles upon premises within the Township.

SECTION II TITLE This Ordinance shall be known and cited as the "Township Inoperable and Junked Vehicles Storage and Repair Ordinance".

SECTION III DEFINITION This section defines terms and phrases used within the ordinance.

SECTION IV REGULATIONS No person shall store on or place on or permit to be stored or placed on or allow to remain on any property in the Township of Martin a dismantled, partially dismantled or inoperable motor vehicle unless parked or stored within an enclosed building; a special permit is first obtained for a period of not to exceed 45 days from the Supervisor but only in special hardship cases; and other regulations but does not prohibit the storage of farm machinery and vehicles used for AG purposes.

SECTION V SANCTIONS Any person who violates the provisions of the Ordinance are deemed to be responsible for a municipal civil infraction with fines that range from \$75 to \$500 and the Township also has the right to proceed to court for an injunction or any other appropriate remedy.

SECTION VI SEVERABILITY Should any section or sentence be held invalid, such section shall be deemed separate and shall not affect the validity of the remaining parts of the Ordinance.

SECTION VII REPEAL OF CONFLICTING ORDINANCES AND EFFECTIVE DATE Any and all ordinances or parts of ordinances in conflict herewith are hereby repealed. This Ordinance shall become effective thirty (30) days following publication after adoption.

ORDINANCE NO. 92 AMENDMENT TO TOWNSHIP ZONING ORDINANCE FOR ADULT BUSINESSES AND ESTABLISHMENTS

SECTION I AMENDMENT TO ARTICLE IV, GENERAL PROVISIONS This Ordinance amends Article IV, General Provisions, Section 4.32 which states that commercial and service establishments of an adult nature as listed in the ordinance are subject to a special exception use. Adult establishments cannot be located within 1000 feet of similar uses in this section of the ordinance nor with 2500 feet of any school, college, nursery school, child care facility, church and religious facility or any public park and cannot be located within 1000 feet of any residentially zoned district. Such uses include adult bookstores, adult motion picture, massage parlors, sexually orientated adult entertainment, etc.

SECTION II AMENDMENT TO ARTICLE XI, SECTION 11.3 "SPECIAL EXCEPTION USES" This section amends Article XI, Section 11.3, and includes Adult Businesses as a business which must receive a special exception use permit.

SECTION III EFFECTIVE DATE AND REPEAL OF CONFLICTING ORDINANCES This Ordinance shall take effect eight days after publication following its adoption. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

PLEASE TAKE FURTHER NOTICE that the full text of this Ordinance may be examined or obtained at the Martin Township Hall or by requesting the same from the Township Clerk, Carrie Coburn at (269) 672-7663.

MARTIN TOWNSHIP
Carrie Coburn, Clerk
P.O. Box 27
958 Lee St.
Martin, MI 49070-9797
(269) 672-7663n

**TOWNSHIP OF MARTIN
ALLEGAN COUNTY, MICHIGAN**

ORDINANCE NO. 91

**INOPERABLE AND JUNKED VEHICLES
STORAGE AND REPAIR ORDINANCE**

Adopted: November 14, 2007

Effective: December 26, 2007

An Ordinance to protect and secure the public health, safety and general welfare of persons and property through the regulation of inoperable and junked vehicles to provide penalties for the violation of the provision of this Ordinance; to repeal any ordinances or parts of ordinances in conflict herewith and to provide for an effective date of said ordinance.

**THE TOWNSHIP OF MARTIN
ALLEGAN COUNTY, MICHIGAN**

ORDAINS:

SECTION I

PURPOSE

The purpose of this ordinance is to limit and restrict the outdoor storage, parking, repair or unreasonable accumulation of junked, unused, partially dismantled or inoperable vehicles, including new or used parts thereof upon premises within the Township; to provide restrictions concerning the repairing of said vehicles; to avoid injury and hazards to children and others attracted to such vehicles; and to minimize the devaluation of property values and the psychological ill effects of the presence of the same upon adjoining residents and property owners.

SECTION II

TITLE

This Ordinance shall be known and cited as the "Township Inoperable and Junked Vehicles Storage and Repair Ordinance".

SECTION III

DEFINITION

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Inoperable vehicle or motor vehicle means any vehicle or motor vehicle which cannot be started or legally or physically operated on city streets or public highways by virtue of lacking the equipment required by the laws of the state, or which does not bear valid and current license plates.

Junked vehicles or dismantled, partially dismantled, motor vehicles means vehicles or motor vehicles which have been so damaged or dismantled as to be total losses or all parts or accessories of vehicles or motor vehicles without which such vehicles or motor vehicles cannot be operated in a safe manner on city streets or public highway

Motor vehicle means every vehicle which is self-propelled and would normally be subject to licenses as a vehicle for transport on a public highway. It does not include farm tractors, combines, or other non-licensed farm equipment.

Total loss means the cost to repair a damaged or dismantled vehicle or motor vehicle exceeds the fair market value for such vehicle. Fair market value may be determined by using any nationally recognized appraisal books or methods.

SECTION IV

REGULATIONS

- A. No person, firm or corporation shall store on or place on or permit to be stored or placed on or allow to remain on any land in the Township of Martin, Allegan County, Michigan, a dismantled, partially dismantled or inoperable motor vehicle, or parts thereof unless one or more of the following conditions exists:
1. Such parking or storage is located within an enclosed building;
 2. A special permit is first obtained for a period of not to exceed 45 days from the Supervisor of Martin Township or such other officer or official as the Township Board may designate to be granted only in special hardship cases beyond the control of the applicant, where special or peculiar circumstances exist, where no adjoining property owner is adversely affected thereby and where the spirit and purpose of these regulations are still observed;
 3. Such vehicle or conveyance is licensed or registered by the State of Michigan, is an operable vehicle, has all of its main component parts attached, as hereinafter defined, and is, in fact, regularly operated for its designed purpose:
 4. Such vehicles are located in a duly licensed and properly zoned junkyard, salvage yard, new or used car dealer's lot or storage yard where such uses or operations are legally authorized under the Township Zoning Ordinance.
 5. Such vehicle or vehicles are awaiting repairs or delivery to owners at an authorized service station, garage, paint shop, or body shop registered with the State of Michigan pursuant to 1974 PA 300, as amended, and provided

such vehicle or vehicles are locked, licensed by the State of Michigan, and are not a public nuisance.

6. Such vehicle, although temporarily inoperable because of minor mechanical failure, has substantially all of its main component parts attached as hereinafter defined; is, where subject to a license or registration, licensed or registered by the State of Michigan; is not in any manner a dismantled vehicle; and the premises do not contain any such vehicle for longer than 14 days in any one year. "Main component parts" shall, for the purpose of this Ordinance, mean those parts required by State law or by necessity for its operation upon a public highway.

- B No repairing, redesigning, modifying or dismantling work or operations shall be allowed upon any vehicle or parts thereof upon any public right-of-way or public property (except for emergency minor repairs not exceeding one hour in duration) or upon any property not zoned for such purpose except such occasional minor work by the owner thereof as may infrequently be required to maintain the same in normal operating condition and as shall be accomplished within an enclosed building or structure; will not constitute a nuisance or annoyance to adjoining property owners or occupants; and does not violate any provisions of the Martin Township Zoning Ordinance.
- C. The ownership, occupation or use of land by any person upon which an inoperable or junked vehicle or motor vehicle are accumulated, stored or placed shall be prima facie evidence that such person accumulated, stored or placed such inoperable vehicle or motor vehicle upon such land, or permitted such inoperable vehicle or motor vehicle to be accumulated, stored or placed upon such land.
- D. Any parking, storage, placement or operations in violation of the provisions of this Ordinance are hereby declared to be a public nuisance which may be enjoined or which may subject the violator to the fines and penalties herein provided for.
- E. Any owner, co-owner, tenant or co-tenant who shall have the right to possession of any premises on which any such dismantled, partially dismantled or inoperable motor vehicle, or parts of a motor vehicle, shall be allowed to remain in excess of 14 days shall be deemed guilty of a violation of this Ordinance.
- F The foregoing should not be construed to prohibit the storage of farm machinery, vehicles, equipment and materials used for agricultural purposes upon an operating farm. Farm equipment not in use but stored for parts shall be stored in an area screened or obscured from adjacent premises and roads by natural land contours, evergreen screening or fencing.

SECTION V

SANCTIONS

Any person, firm, association, partnership, corporation or governmental entity who violates any of the provisions of this Ordinance shall be deemed to be responsible for a municipal civil infraction as defined by Michigan Statute which shall be punishable by a civil fine determined in accordance with the following schedule:

	<u>Minimum Fine</u>	<u>Maximum Fine</u>
- 1st Offense within 3-year period*	\$ 75.00	\$500.00
- 2nd Offense within 3-year period*	150.00	500.00
- 3rd Offense within 3-year period*	325.00	500.00
- 4th or More Offense within 3-year period*	500.00	500.00

* Determined on the basis of the date of commission of the offense(s).

Additionally, the violator shall pay costs which may include all expenses, direct and indirect, to which Martin Township has been put in connection with the municipal civil infraction. In no case, however, shall costs of less than \$9 nor more than \$500 be ordered. In addition, the Township shall have the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, or other appropriate remedy to compel compliance with this Ordinance. Each day that a violation exists shall constitute a separate offense.

SECTION VI

SEVERABILITY

Should any section, subsection, sentence, clause, phrase, or portion of this Ordinance be held invalid or unconstitutional by any court or competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such determination shall not affect the validity of the remaining portions of this Ordinance.

SECTION VII

REPEAL OF CONFLICTING ORDINANCES AND EFFECTIVE DATE

Any and all ordinances or parts of ordinances in conflict herewith are hereby repealed. This Ordinance shall become effective thirty (30) days following publication after adoption.

MARTIN TOWNSHIP

Carrie Coburn, Clerk
Martin Township
958 Lee St.
Martin, Michigan 49070-9797
269-672-7663

CERTIFICATE OF ADOPTION

The within Ordinance was adopted by the Martin Township Board on the 14th day of November, 2007.

Carrie Coburn
Carrie Coburn, Clerk

Attested:

Terry Sturgis
Terry Sturgis, Supervisor

**TOWNSHIP OF MARTIN
ALLEGAN COUNTY, MICHIGAN**

ORDINANCE NO. 91

**INOPERABLE AND JUNKED VEHICLES
STORAGE AND REPAIR ORDINANCE**

Adopted: November 14, 2007

Effective: December 26, 2007

An Ordinance to protect and secure the public health, safety and general welfare of persons and property through the regulation of inoperable and junked vehicles to provide penalties for the violation of the provision of this Ordinance; to repeal any ordinances or parts of ordinances in conflict herewith and to provide for an effective date of said ordinance.

**THE TOWNSHIP OF MARTIN
ALLEGAN COUNTY, MICHIGAN**

ORDAINS:

SECTION I

PURPOSE

The purpose of this ordinance is to limit and restrict the outdoor storage, parking, repair or unreasonable accumulation of junked, unused, partially dismantled or inoperable vehicles, including new or used parts thereof upon premises within the Township; to provide restrictions concerning the repairing of said vehicles; to avoid injury and hazards to children and others attracted to such vehicles; and to minimize the devaluation of property values and the psychological ill effects of the presence of the same upon adjoining residents and property owners.

SECTION II

TITLE

This Ordinance shall be known and cited as the "Township Inoperable and Junked Vehicles Storage and Repair Ordinance".

SECTION III

DEFINITION

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Inoperable vehicle or motor vehicle means any vehicle or motor vehicle which cannot be started or legally or physically operated on city streets or public highways by virtue of lacking the equipment required by the laws of the state, or which does not bear valid and current license plates.

Junked vehicles or dismantled, partially dismantled, motor vehicles means vehicles or motor vehicles which have been so damaged or dismantled as to be total losses or all parts or accessories of vehicles or motor vehicles without which such vehicles or motor vehicles cannot be operated in a safe manner on city streets or public highway

Motor vehicle means every vehicle which is self-propelled and would normally be subject to licenses as a vehicle for transport on a public highway. It does not include farm tractors, combines, or other non-licensed farm equipment.

Total loss means the cost to repair a damaged or dismantled vehicle or motor vehicle exceeds the fair market value for such vehicle. Fair market value may be determined by using any nationally recognized appraisal books or methods.

SECTION IV

REGULATIONS

- A. No person, firm or corporation shall store on or place on or permit to be stored or placed on or allow to remain on any land in the Township of Martin, Allegan County, Michigan, a dismantled, partially dismantled or inoperable motor vehicle, or parts thereof unless one or more of the following conditions exists:
1. Such parking or storage is located within an enclosed building;
 2. A special permit is first obtained for a period of not to exceed 45 days from the Supervisor of Martin Township or such other officer or official as the Township Board may designate to be granted only in special hardship cases beyond the control of the applicant, where special or peculiar circumstances exist, where no adjoining property owner is adversely affected thereby and where the spirit and purpose of these regulations are still observed;
 3. Such vehicle or conveyance is licensed or registered by the State of Michigan, is an operable vehicle, has all of its main component parts attached, as hereinafter defined, and is, in fact, regularly operated for its designed purpose:
 4. Such vehicles are located in a duly licensed and properly zoned junkyard, salvage yard, new or used car dealer's lot or storage yard where such uses or operations are legally authorized under the Township Zoning Ordinance.
 5. Such vehicle or vehicles are awaiting repairs or delivery to owners at an authorized service station, garage, paint shop, or body shop registered with the State of Michigan pursuant to 1974 PA 300, as amended, and provided

such vehicle or vehicles are locked, licensed by the State of Michigan, and are not a public nuisance.

6. Such vehicle, although temporarily inoperable because of minor mechanical failure, has substantially all of its main component parts attached as hereinafter defined; is, where subject to a license or registration, licensed or registered by the State of Michigan; is not in any manner a dismantled vehicle; and the premises do not contain any such vehicle for longer than 14 days in any one year. "Main component parts" shall, for the purpose of this Ordinance, mean those parts required by State law or by necessity for its operation upon a public highway.

- B No repairing, redesigning, modifying or dismantling work or operations shall be allowed upon any vehicle or parts thereof upon any public right-of-way or public property (except for emergency minor repairs not exceeding one hour in duration) or upon any property not zoned for such purpose except such occasional minor work by the owner thereof as may infrequently be required to maintain the same in normal operating condition and as shall be accomplished within an enclosed building or structure; will not constitute a nuisance or annoyance to adjoining property owners or occupants; and does not violate any provisions of the Martin Township Zoning Ordinance.
- C. The ownership, occupation or use of land by any person upon which an inoperable or junked vehicle or motor vehicle are accumulated, stored or placed shall be prima facie evidence that such person accumulated, stored or placed such inoperable vehicle or motor vehicle upon such land, or permitted such inoperable vehicle or motor vehicle to be accumulated, stored or placed upon such land.
- D. Any parking, storage, placement or operations in violation of the provisions of this Ordinance are hereby declared to be a public nuisance which may be enjoined or which may subject the violator to the fines and penalties herein provided for.
- E. Any owner, co-owner, tenant or co-tenant who shall have the right to possession of any premises that allows any such dismantled, partially dismantled or inoperable motor vehicle, or parts of a motor vehicle to remain in excess of 14 days shall be deemed guilty of a violation of this Ordinance.
- F The foregoing should not be construed to prohibit the storage of farm machinery, vehicles, equipment and materials used for agricultural purposes upon an operating farm. Farm equipment not in use but stored for parts shall be stored in an area screened or obscured from adjacent premises and roads by natural land contours, evergreen screening or fencing.

SECTION V

SANCTIONS

Any person, firm, association, partnership, corporation or governmental entity who violates any of the provisions of this Ordinance shall be deemed to be responsible for a municipal civil infraction as defined by Michigan Statute which shall be punishable by a civil fine determined in accordance with the following schedule:

	<u>Minimum Fine</u>	<u>Maximum Fine</u>
- 1st Offense within 3-year period*	\$ 75.00	\$500.00
- 2nd Offense within 3-year period*	150.00	500.00
- 3rd Offense within 3-year period*	325.00	500.00
- 4th or More Offense within 3-year period*	500.00	500.00

* Determined on the basis of the date of commission of the offense(s).

Additionally, the violator shall pay costs which may include all expenses, direct and indirect, to which Martin Township has been put in connection with the municipal civil infraction. In no case, however, shall costs of less than \$9 nor more than \$500 be ordered. In addition, the Township shall have the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, or other appropriate remedy to compel compliance with this Ordinance. Each day that a violation exists shall constitute a separate offense.

SECTION VI

SEVERABILITY

Should any section, subsection, sentence, clause, phrase, or portion of this Ordinance be held invalid or unconstitutional by any court or competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such determination shall not affect the validity of the remaining portions of this Ordinance.

SECTION VII

REPEAL OF CONFLICTING ORDINANCES AND EFFECTIVE DATE

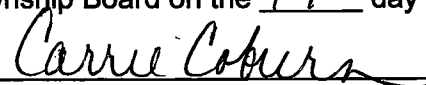
Any and all ordinances or parts of ordinances in conflict herewith are hereby repealed. This Ordinance shall become effective thirty (30) days following publication after adoption.

MARTIN TOWNSHIP

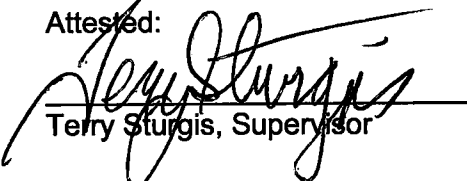
Carrie Coburn, Clerk
Martin Township
958 Lee St.
Martin, Michigan 49070-9797
269-672-7663

CERTIFICATE OF ADOPTION

The within Ordinance was adopted by the Martin Township Board on the 14th day of November, 2007.


Carrie Coburn, Clerk

Attested:


Terry Sturgis, Supervisor

**MARTIN TOWNSHIP
ALLEGAN COUNTY, MICHIGAN**

AMENDMENT TO TOWNSHIP ZONING ORDINANCE

Adopted: November 14, 2007

Effective: December 4, 2007

An ordinance to amend Section ____ of the Township Zoning Ordinance to regulate the location of adult business establishments, to repeal all conflicting ordinances, and to provide for an effective date of the same.

**TOWNSHIP OF MARTIN
ALLEGAN COUNTY, MICHIGAN,**

ORDAINS:

SECTION I

Section ____ of the Township's Zoning Ordinance is amended to add the following language:

Commercial and service establishments of an adult nature as listed and defined below are subject to special use regulations and other conditions:

- A. In order to prevent concentration of such uses, the following uses and activities shall not be located within one thousand (1,000) feet of two other such uses nor within (2,500) feet of school/church and (1,000) feet of any residentially zoned district as measured along a line forming the shortest distance between any portion of the respective properties of the existing and proposed following specified uses and activities and between such uses and the adjoining residentially zoned district:
- (1) Adult bookstore.
 - (2) Adult motion picture theater.
 - (3) Adult mini motion picture theater.
 - (4) Adult smoking or sexual paraphernalia store.
 - (5) Massage parlor.
 - (6) Host or hostess establishments offering socialization with a host or hostess for consideration.
 - (7) Open dance hall.

- (8) Tavern or cabaret providing live or projected entertainment where alcoholic liquors may or may not be sold for consumption on the premises. Projected entertainment shall not include standard television reception.
 - (9) Any combination of the foregoing.
- B. For the purpose of interpreting the application of the foregoing limitations on certain business locations, the following terms or designation shall have the following meanings:
- (1) **Adult bookstore** means an establishment having, as a substantial or significant portion of its stock in trade, books, magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as hereinafter defined, or an establishment with a segment or section devoted to the sale or display of such material.
 - (2) **Adult mini motion picture theater** means an enclosure with a capacity for less than fifty persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as hereinafter defined for observation by patrons therein.
 - (3) **Adult motion picture theater** means an enclosure with a capacity of fifty or more persons used for presenting material distinguished or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas as hereinafter defined for observation by patrons therein.
 - (4) **Adult smoking or sexual paraphernalia store** means an establishment having, as a substantial or significant portion of its stock in trade, paraphernalia designed or usable for sexual stimulation or arousal or for smoking, ingesting or inhaling marijuana, controlled substances or other stimulating or hallucinogenic drug-related substances.
 - (5) **Massage parlor** means an establishment where persons conduct or permit to be conducted or engaged in massages of the human body or parts thereof by means of pressure, imposed friction, stroking, kneading, rubbing, tapping, pounding, vibrating or otherwise stimulating the same with hands, other parts of the human body, mechanical devices, creams, ointments, oils, alcohol or any other means or preparations to provide relaxation or enjoyment to the recipient.
 - (6) **Open dance hall** means an establishment where open public dancing by patrons is available during at least four days per week or without partners furnished by the establishment.

- (7) ***Host or hostess establishment*** means establishments or clubs offering socialization with a host or hostess for a consideration to the host or hostess or for an admission or membership fee.
- (8) ***Sauna, hot tub or other similar health or body improvements enterprises*** means an establishment where saunas, hot tubs, whirlpools, sun lamps and similar body relaxing, soothing or improving facilities are available for male and female customers with or without supervision or participation by employees or independent contractors of the business.
- (9) ***Specified sexual activities:***
- i. Acts of human masturbation, sexual intercourse or sodomy.
 - ii. Fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts.
 - iii. Human genitals in a state of sexual stimulation or arousal.
- (10) ***Specified anatomical areas:***
- i. Less than completely and opaquely covered human genitals, pubic regions, buttocks and female breasts below a point immediately above the top of the areola.
 - ii. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SECTION II

EFFECTIVE DATE AND REPEAL OF CONFLICTING ORDINANCES

This Ordinance shall take effect eight days after publication following its adoption. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

MARTIN TOWNSHIP
Carrie Coburn, Clerk
Martin Township
958 Lee St.
Martin, Michigan 49070-9797
269-672-7663

PRINT OR TYPE

DATE: Sept 24, 2007

PART I (To be completed by Township Planning Commission & forwarded to
Allegan County Planning Commission)

TOWNSHIP: MARTIN

FOR REZONING REQUESTS:

Current Zoning _____ Requested Zoning _____

Property Description / Parcel Number(s) _____
(attach additional page(s) or map(s) as necessary)

FOR ZONING ORDINANCE AMENDMENT(S): Attach copy of proposed Ordinance Text changes

Approved Denied by Township Planning Commission on SEPT 18, 2007
(date)

Vote Tally: Ayes: 7 Nays: 0 Absent: 0 Abstaining: 0

This Zoning Change does comply / does not comply with the Township Master Plan.
(Circle one)

List reasons for Action taken:

1. MARTIN TOWNSHIP BOARD REQUESTED ZONING COMMISSION ADDRESS THE ISSUE OF ADULT-ORIENTED BUSINESSES.
2. ADOPTION OF THIS ORDINANCE BY ZONING COMMISSION CORRECTS THE ERRORS MADE IN THE PROCESS OF ADOPTION BY TOWNSHIP BD IN 1999
3. THIS ORDINANCE COMPLIES WITH THE MASTER PLAN

Contact person: MARGARET A. SMITH Title: ZONING COMMISSION SECRETARY
Phone: Daytime 269-672-5377 Evening 269-672-5377

PART II (To be completed by County Planning Commission & returned to Township Board)

The Allegan County Planning Commission, having considered all information as presented, makes the following recommendation:

☒ Approval of the action of the Township Planning Commission

☐ Disapproval of the action of the Township Planning Commission

☐ Reconsideration by the Township Planning Commission of their action for the following reasons: _____

Vote Tally: Ayes: 7 Nays: 0 Absent: 4 Abstaining: 0 See comments on back

Dated: 11-5-07 Signed: Sandra Haugh
(on behalf of Rich Haugh)

PART III - Final Action (To be completed by Township Board and returned to Allegan County Planning Commission c/o Rec. Secy.)

Final Action taken by Township Board on November 14, 2007
(date)

Adopted/Enacted

(Circle One)

Denied

Vote Tally: Ayes: 5 Nays: _____ Absent: _____ Abstaining: _____

Signed: Carrie Cohen Title: Martin Township Clerk

MARTIN TOWNSHIP
CERTIFICATE OF ADOPTION

I, CARRIE COBURN, the Township Clerk of Martin Township, Allegan County, Michigan, do hereby certify that in pursuance of law and statute provided, at a regular meeting of the Martin Township Board held on November 14, 2007, commencing at 7:30 o'clock p.m. at the Martin Township Hall, located within the Village of Martin, at which the following members were present, the Board enacted and passed Ordinance 92, to become effective on December 4, 2007, all hereinbefore recorded, and that the members of said Board present at said meeting voted on the adoption of said Ordinance, as follows:

I do further certify that a summary of the ordinance was published in the Penasee Globe, a newspaper circulated in Martin Township, on November 26, 2007; and that said Ordinance was recorded in the official Ordinance Book on the 14th day of November, 2007.

Date: November 21, 2007



Carrie Coburn, Clerk
Martin Township

**MARTIN TOWNSHIP
ALLEGAN COUNTY, MICHIGAN**

ORDINANCE NO. 92

**AMENDMENT TO TOWNSHIP ZONING ORDINANCE
ADULT BUSINESSES AND ESTABLISHMENTS**

Adopted: November 14, 2007

Effective: December 4, 2007

An ordinance to amend Article IV, "General Provisions", Section 4.32 of the Township Zoning Ordinance to regulate the location of adult business establishments; to amend Article XI, Section 11.3 to include adult businesses and establishments, to repeal all conflicting ordinances, and to provide for an effective date of the same.

**TOWNSHIP OF MARTIN
ALLEGAN COUNTY, MICHIGAN,**

ORDAINS:

SECTION I

AMENDMENT TO ARTICLE IV, GENERAL PROVISIONS

Article IV, Section 4.32 of the Township's Zoning Ordinance is amended to add the following language:

4.32 Commercial and service establishments of an adult nature as listed and defined below are subject to special exception use regulations found in Article XIII and other conditions as follows:

A. In order to prevent concentration of such uses, the following uses and activities shall not be located within one thousand (1,000) feet of any other uses in this section, nor within (2,500) feet of any schools, colleges, or universities; nursery schools; child care facilities; churches or any religious facility or institution; or any public park and (1,000) feet of any residentially zoned district as measured along a line forming the shortest distance between any portion of the respective properties of the existing and proposed following specified uses and activities and between such uses and the adjoining residentially zoned district:

- (1) Adult bookstore.
- (2) Adult motion picture theater.
- (3) Adult mini motion picture theater.
- (4) Adult smoking or sexual paraphernalia store.

- (5) Massage parlor.
- (6) Host or hostess establishments offering socialization with a host or hostess for consideration.
- (7) Open dance hall.
- (8) Tavern or cabaret offering sexually oriented adult entertainment which provides live or projected entertainment where alcoholic liquors may or may not be sold for consumption on the premises. Projected entertainment shall not include standard television reception.
- (9) Premises involving sexually orientated adult entertainment.
- (10) Any combination of the foregoing.

B. For the purpose of interpreting the application of the foregoing limitations on certain business locations, the following terms or designation shall have the following meanings:

- (1) **Adult bookstore** means an establishment having, as a substantial or significant portion of its stock in trade, books, magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities, specified anatomical areas, or state of nudity, as hereinafter defined, or an establishment with a segment or section devoted to the sale or display of such material.
- (2) **Adult mini motion picture theater** means an enclosure with a capacity for less than fifty persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities, specified anatomical areas, or state of nudity, as hereinafter defined for observation by patrons therein.
- (3) **Adult motion picture theater** means an enclosure with a capacity of fifty or more persons used for presenting material distinguished or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities, specified anatomical areas, or state of nudity, as hereinafter defined for observation by patrons therein.
- (4) **Adult smoking or sexual paraphernalia store** means an establishment having, as a substantial or significant portion of its stock in trade, paraphernalia designed or usable for sexual stimulation or arousal or for smoking, ingesting or inhaling marijuana, controlled substances or other stimulating or hallucinogenic drug-related substances.
- (5) **Massage parlor** means an establishment where persons conduct or permit to be conducted or engaged in massages of the human body or parts thereof by means of pressure, imposed friction, stroking, kneading, rubbing, tapping, pounding, vibrating or otherwise stimulating the same with hands, other parts of the human body, mechanical devices, creams,

ointments, oils, alcohol or any other means or preparations to provide relaxation or enjoyment to the recipient.

Massage parlor does not apply to a professional massage therapy enterprise where the therapist has proof of graduation from a school of massage licensed by the State of Michigan or another state with equivalent standards or proof of completion of a comprehensive course of study and massage training at an American community college or university and proof of current professional membership in a massage therapy association including liability insurance and testing.

- (6) ***Open dance hall*** means an establishment where open public dancing by patrons is available during at least four days per week with partners furnished by the establishment.
- (7) ***Host or hostess establishment*** means establishments or clubs offering socialization with a host or hostess for a consideration to the host or hostess or for an admission or membership fee.
- (8) ***Sexually oriented adult entertainment*** means any entertainment conducted in a public place of amusement where such entertainment involves a person appearing or performing in a state of nudity, as defined herein.
- (9) ***Sexually oriented adult entertainment premises*** means any premises to which the public, patrons or members are invited or admitted and wherein an entertainer provides sexually oriented adult entertainment on a regular basis and as a substantial part of the business operation.
- (10) ***Specified sexual activities:***
 - i. Acts of human masturbation, sexual intercourse or sodomy.
 - ii. Fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts.
 - iii. Human genitals in a state of sexual stimulation or arousal.
- (11) ***Specified anatomical areas:***
 - i. Less than completely and opaquely covered human genitals, pubic regions, buttocks and female breasts below a point immediately above the top of the areola.
 - ii. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- (12) ***State of nudity*** means a person who appears in a "state of nudity" when such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals.

SECTION II

AMENDMENT TO ARTICLE XI, SECTION 11.3 "SPECIAL EXCEPTION USES"

- 11.3 (1) Adult Businesses and establishments as set forth in Section 4.32 of the Ordinance. (Nos. 1 through 6 shall be renumbered accordingly.)

SECTION III

EFFECTIVE DATE AND REPEAL OF CONFLICTING ORDINANCES

This Ordinance shall take effect eight days after publication following its adoption. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

MARTIN TOWNSHIP
Carrie Coburn, Clerk
Martin Township
958 Lee St.
Martin, Michigan 49070-9797
269-672-7663

BAUCKHAM, SPARKS, ROLFE, LOHRSTORFER & THALL, P.C.

ATTORNEYS AT LAW

458 WEST SOUTH STREET
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HARRY F. SMITH
1906-1972

JAMES W. PORTER
OF COUNSEL

John K. Lohrstorfer
E-mail: Lohr@bsrft.com

December 14, 2007

Missy Ulberg
Advance/**Penasee Globe**
2141 Port Sheldon
Genison, MI 49428

Via Fax: 616-669-1162
retailsales@advancenewspapers.com

Re: Notice of Adoption for Martin Township
Ordinances 93

Dear Missy:

Please publish the enclosed Notice for Martin Township on **Monday, December 24, 2007**.

Please also forward one Affidavits of Publication to this office, and two Affidavits and your bill to Carrie Coburn, Clerk, Martin Township, 1023 Hidden Ponds Dr., Martin, MI 49070.

Yours truly,

**BAUCKHAM, SPARKS, ROLFE,
LOHRSTORFER & THALL, P.C.**



John K. Lohrstorfer

JKL:paj
Enc.

cc: Carrie Coburn, Clerk (w/enc & Ordinance)
Ron Zeinstra, Zoning Chairman (w/enc & Ordinance)
Margaret Smith (w/enc.& Ordinance)
Janis Johnson (w/enc.& Ordinance)

**MARTIN TOWNSHIP
ALLEGAN COUNTY, MICHIGAN**

NOTICE OF ORDINANCE ADOPTION

To: The Residents and Property Owners of Martin Township, Allegan County, Michigan,
and Any Other Interested Persons:

PLEASE TAKE NOTICE that at a regular meeting of the Township Board held on December 12, 2007, the Board adopted Ordinance No. 93, which amends the Zoning Ordinance. A summary of the Ordinances appear below.

SECTION I AMENDMENT TO ARTICLE XVII, ZONING BOARD Article XVII, "Zoning Board", of the Martin Township Zoning Ordinance, is hereby amended to change the phrase "Zoning Board" to "Zoning Commission". Section 17.1, "Creation", is hereby amended to read as follows: There is hereby created under Public Act 110 of 2006, as amended, a Township Zoning Commission consisting of not less than five nor more than eleven members, constituted and appointed as provided by said Act.

SECTION II AMENDMENT TO ARTICLE XVIII Article XVIII, "Zoning Board of Appeals", Section 18.2, "Jurisdiction and Powers", of the Martin Township Zoning Ordinance, is hereby amended by the addition of subsection 4. The new subsection shall read as follows: "The Zoning Board of Appeals shall have no jurisdiction or authority over or with regard to any aspect of a determination or decision made with regard to a special land use or planned unit development."

SECTION III EFFECTIVE DATE AND REPEAL OF CONFLICTING ORDINANCES This ordinance shall take effect eight days following proper publication of notice of its adoption in accordance with and subject to Michigan Public Act 110 of 2006. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

PLEASE TAKE FURTHER NOTICE that the full text of this Ordinance may be examined or obtained at the Martin Township Hall or by requesting the same from the Township Clerk, Carrie Coburn at (269) 672-7663.

MARTIN TOWNSHIP
Carrie Coburn, Clerk
P.O. Box 27
958 Lee St.
Martin, MI 49070-9797
(269) 672-7663

12-13-07
12:00 p.m.
called order

**TOWNSHIP OF MARTIN
ALLEGAN COUNTY, MICHIGAN**

ORDINANCE NO. 93

AMENDMENT TO TOWNSHIP ZONING ORDINANCE

Adopted: 12-12-07

Effective: 1-1-08

An ordinance amending Articles XVII and XVIII of the Martin Township Zoning Ordinance, and to repeal all ordinances or parts of ordinances in conflict herewith.

**THE TOWNSHIP OF MARTIN
ALLEGAN COUNTY, MICHIGAN**

ORDAINS:

SECTION I

AMENDMENT TO ARTICLE XVII, ZONING BOARD

Article XVII, "Zoning Board", of the Martin Township Zoning Ordinance, is hereby amended to change the phrase "Zoning Board" to "Zoning Commission". Section 17.1, "Creation", is hereby amended to read as follows:

There is hereby created under Public Act 110 of 2006, as amended, a Township Zoning Commission consisting of not less than five nor more than eleven members, constituted and appointed as provided by said Act.

SECTION II

AMENDMENT TO ARTICLE XVIII

Article XVIII, "Zoning Board of Appeals", Section 18.2, "Jurisdiction and Powers", of the Martin Township Zoning Ordinance, is hereby amended by the addition of subsection 4. The new subsection shall read as follows:

"The Zoning Board of Appeals shall have no jurisdiction or authority over or with regard to any aspect of a determination or decision made with regard to a special land use or planned unit development."

SECTION III

EFFECTIVE DATE AND REPEAL OF CONFLICTING ORDINANCES

This ordinance shall take effect eight days following proper publication of notice of its adoption in accordance with and subject to Michigan Public Act 110 of 2006. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

MARTIN TOWNSHIP

Carrie Coburn, Clerk

Martin Township

958 Lee St.

Martin, Michigan 49070-9797

269-672-7663

**TOWNSHIP OF MARTIN
ALLEGAN COUNTY, MICHIGAN**

ORDINANCE NO. 93

AMENDMENT TO TOWNSHIP ZONING ORDINANCE

Adopted: December 3, 2007

Effective: January 1, 2008

An ordinance amending Articles XVII and XVIII of the Martin Township Zoning Ordinance, and to repeal all ordinances or parts of ordinances in conflict herewith.

**THE TOWNSHIP OF MARTIN
ALLEGAN COUNTY, MICHIGAN**

ORDAINS:

SECTION I

AMENDMENT TO ARTICLE XVII, ZONING BOARD

Article XVII, "Zoning Board", of the Martin Township Zoning Ordinance, is hereby amended to change the phrase "Zoning Board" to "Zoning Commission". Section 17.1, "Creation", is hereby amended to read as follows:

There is hereby created under Public Act 110 of 2006, as amended, a Township Zoning Commission consisting of not less than five nor more than eleven members, constituted and appointed as provided by said Act.

SECTION II

AMENDMENT TO ARTICLE XVIII

Article XVIII, "Zoning Board of Appeals", Section 18.2, "Jurisdiction and Powers", of the Martin Township Zoning Ordinance, is hereby amended by the addition of subsection 4. The new subsection shall read as follows:

"The Zoning Board of Appeals shall have no jurisdiction or authority over or with regard to any aspect of a determination or decision made with regard to a special land use or planned unit development."

SECTION III

EFFECTIVE DATE AND REPEAL OF CONFLICTING ORDINANCES

This ordinance shall take effect eight days following proper publication of notice of its adoption in accordance with and subject to Michigan Public Act 110 of 2006. All ordinances or parts of ordinances in conflict herewith are hereby repealed.


MARTIN TOWNSHIP
Carrie Coburn, Clerk
Martin Township
958 Lee St.
Martin, Michigan 49070-9797
269-672-7663

MARTIN TOWNSHIP
CERTIFICATE OF ADOPTION

I, CARRIE COBURN, the Township Clerk of Martin Township, Allegan County, Michigan, do hereby certify that in pursuance of law and statute provided, at a regular meeting of the Martin Township Board held on December 12, 2007, commencing at 7:30 o'clock p.m. at the Martin Township Hall, located within the Village of Martin, at which the following members were present, the Board enacted and passed Ordinances 93, to become effective on January 1, 2007, hereinbefore recorded, and that the members of said Board present at said meeting voted on the adoption of said Ordinance, as follows:

I do further certify that a summary of the ordinances were published in the Penasee Globe, a newspaper circulated in Martin Township, on December 24, 2007; that said Ordinance 93 was recorded in the official Ordinance Book on the 12th day of December, 2008; and that an attested copy of said Ordinance was filed with the Allegan County Clerk on the 7th day of January, 2008.

Date: 1-7, 2008


Carrie Coburn, Clerk
Martin Township