

**Tabled at the 5-14-13 meeting
 Pulled from the table and
 amended on 5-28-13 and will
 be reconsidered for second reading,
 public hearing and final adoption
 on June 11, 2013**

**THE TOWNSHIP OF EWING
 COUNTY OF MERCER, NEW JERSEY**

ORDINANCE NO. 13-18

1st Reading 4-23-13

Date to Mayor 6-12-13

2nd Reading &
 Public Hearing 5-14-13

Date Returned 6-12-13

Date Adopted:
6-11-13

Date Resubmitted to Council _____

Approved as to Form of Legality

Effective Date:
7-1-13

 Township Attorney

**AN ORDINANCE OF THE TOWNSHIP OF EWING, IN THE COUNTY OF MERCER,
 AMENDING THE LAND DEVELOPMENT ORDINANCE OF THE TOWNSHIP OF EWING
 PERTAINING TO BAIL BOND AGENTS, SECOND HAND SHOPS, CHECK CASHING, AND
 PAWN BROKERS, BODY ART, AND ADULT ESTABLISHMENTS**

First Reading

| MEMBER | AYE | NAY | ABS | NV | RES | SEC |
|---------------|-----|-----|-----|----|-----|-----|
| Baxter | X | | | | X | |
| Keyes-Maloney | X | | | | | |
| Scroth | X | | | | | |
| Wollert | | | | X | | |
| Hyser | X | | | | | X |

Second Reading

| MEMBER | AYE | NAY | ABS | NV | RES | SEC |
|---------------|-----|-----|-----|----|-----|-----|
| Baxter | | X | | | | |
| Keyes-Maloney | X | | | | | |
| Schroth | X | | | | | X |
| Wollert | X | | | | X | |
| Hyser | X | | | | | |

By _____ Date _____ Accepted _____ Rejected _____
 Mayor

Reconsidered
 By Council _____ Override Vote YEA _____ NAY _____

 President of the Council

 Municipal Clerk

**TOWNSHIP OF EWING
ORDINANCE NO. 13-18**

AN ORDINANCE OF THE TOWNSHIP OF EWING, IN THE COUNTY OF MERCER, AMENDING THE LAND DEVELOPMENT ORDINANCE OF THE TOWNSHIP OF EWING PERTAINING TO BAIL BOND AGENTS, SECOND HAND SHOPS, CHECK CASHING, AND PAWN BROKERS, BODY ART, AND ADULT ESTABLISHMENTS

“Interpretive Statement”

This ordinance will amend Chapter 215, Article II, Section 215-8 of the Township Code, entitled “Definitions”, and to amend Chapter 215, Article II, Section 215-35 entitled “Conditional Use Requirements.”

WHEREAS, the Mayor and Council of the Township of Ewing wish to adopt the new definitions for Bail Bond Agents, Second Hand Shops, Adult Oriented Businesses Body Art, Check Cashing, Massage Parlors and Pawn Brokers; and

WHEREAS, the Mayor and Council of the Township of Ewing wish to protect the established character of Ewing Township.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Township of Ewing, County of Mercer, State of New Jersey, that the following ordinances shall be amended as follows:

215-8 Definitions

ADULT BOOKSTORE

Means a bookstore having as a substantial or significant portion of its stock-in-trade publication 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 defined in this section.

ADULT ESTABLISHMENT

Means an adult bookstore, adult motion-picture theater, adult mini-motion-picture theater, adult video store or a sexually oriented business, as defined in this section.

ADULT MINI-MOTION-PICTURE THEATER

Means an enclosed building with a capacity for fewer than 50 persons, used for presenting motion pictures, a substantial or significant portion of which are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in this section, for observing by patrons therein.

ADULT MOTION-PICTURE THEATER

Means an enclosed building with a capacity of 50 or more persons used for presenting motion pictures, a substantial or significant portion of which are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in this section, for observation by patrons therein.

ADULT VIDEO STORE

Means an establishment or business having as a substantial or significant portion of its stock-in-trade films, slides or movies consisting of material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined herein.

ANTIQUA DEALERS

Means establishments specializing in works of art, collections in illustration of the progress of the arts, works in bronze, wood, marble, terra cotta, parian, pottery or porcelain, artistic antiquities and objects of ornamental character or educational value

ART STUDIO/ATELIER

Means a space devoted to the production of art and the training of artists to develop skills related to design, ranging from architecture to product design and art.

BAIL BOND AGENT/BAIL BONDSMAN

Means any person or corporation that will act as a surety and pledge money or property as bail for the appearance of persons accused in court. Although banks, insurance companies and other similar institutions are usually the sureties on other types of contracts (for example, to bond a contractor who is under a contractual obligation to pay for the completion of a construction project) such entities are reluctant to put their depositors' or policyholders' funds at the kind of risk involved in posting a bail bond.

BODY ART

Means the practice of physical body adornment by permitted establishments and operators utilizing, but not limited to, the following techniques: body piercing, tattooing, cosmetic tattooing, branding and scarification, and the placement of pigments, trimming, or filing of the nails.

BODY PIERCING ESTABLISHMENT

Means any room or space where body piercing is practiced or where the business of body piercing is conducted or any part thereof. The process of penetrating the skin or mucous membrane for the purpose of insertion of any object, including but not limited to jewelry for cosmetic purposes. The term also includes the intentional production of scars upon the body.

CONSIGNMENT SHOP

Means the placing any material in the hand of another, but retaining ownership until the goods are sold or person is transferred. This may be done for shipping, transfer of goods to auction, or for sale in a store. To consign means to send and therefore consignment means sending goods to another person. In case of consignment goods are sent to the agent for the purpose of sale. The ownership of these goods remains with the sender. The agent sells the goods on behalf of the sender, according to his instructions. The sender of goods is known as consignor and the agent is known as the consignee.

CHECK CASHING

Means an establishment or person who, for compensation, provides currency in exchange for payment instrument received;

GENTLEMAN CLUB

Means a members-only private club of a type and does not feature activities typically found in an ADULT ESTABLISHMENT or SEXUALLY ORIENTED BUSINESS.

HEAD SHOP

Means the retail sales [paraphernalia](#) used for consumption of tobacco, cannabis, recreational drugs, legal highs, legal party powders and New Age herbs, as well as counterculture art, magazines, music, clothing, and home décor.

PAWN SHOP / PAWN BROKER

Means a person who loans money on deposit or pledge of personal property, or other valuable thing on the condition of selling the item back again at a stipulated price, or who loans money secured by chattel mortgage on personal property, taking possession of the property or any part thereof so mortgaged, or any person who displays at that person's place of business the sign of three (3) gilt or yellow balls, generally used by pawnbrokers to denote their business, or anyone holding themselves out to be a pawnbroker is declared to be a pawnbroker within the meaning of this division.

PUBLIC/PRIVATE SCHOOLS

"School" means any public, private or parochial school, which provides elementary or secondary education or any branch thereof, such as opportunity school, charter, regional occupational center, evening high school, or technical school as defined under State law.

SECOND HAND GOODS DEALER

Means any person, partnership, firm or corporation whose business includes selling, buying or receiving any tangible personal property, previously owned, used, rented or leased as the term has been defined in the Code of the Township of Ewing at §211-1 regarding the licensure of Secondhand Dealers. However, for purposes of this definition the term secondhand dealer shall also include pawnbrokers, but shall not include consignment shops or antique dealers.

SEXUALLY ORIENTED BUSINESS

Means a commercial establishment which as one of its principal businesses' purposes offers for sale, rental or display any of the following: books, magazines, periodicals or other printed material or photographs, films, motion pictures, video cassettes, slides or other visual representation which depict or describe a specified sexual activity or specified anatomical area; or still or motion-picture machines, projectors or other image-producing devices which show images to one person per machine at any one time, and where the images so displayed are characterized by the depiction of a specified sexual activity or specified anatomical area; or instruments, devices or paraphernalia which are designed for use in connection with a specified sexual activity. A commercial establishment which regularly features live performances characterized by the exposure of a specified anatomical area or by a specified sexual activity or which regularly shows films, motion pictures, video cassettes, slides or other photographic representations which depict or describe a specified sexual activity or specified anatomical area.

SEXUALLY ORIENTED DEVICES

Means without limitation, any artificial or simulated specified anatomical area or other device or paraphernalia that is designed in whole or part for specified sexual activities.

SPECIFIED ANATOMICAL AREAS

- (1) Less than completely and opaquely covered human genitals, pubic region, buttock or female breast below a point immediately above the top of the areola; or
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES

- (1) Human genitals in a state of sexual stimulation or arousal;
- (2) Acts of human masturbation, sexual intercourse or sodomy; or
- (3) Fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts.

TATTOOING BUSINESSES

Means any studio, parlor, shop or space where tattooing is practiced or where the business of tattooing is conducted or any part thereof. The process by which the skin is marked or colored by insertion of nontoxic dyes or pigments into or under the subcutaneous portion of the skin so as to form indelible marks for cosmetic, medical or figurative purposes.

Add 215-35 Conditional Use Requirements

- (10) Adult establishments, sexually-oriented businesses.
 - (a) Is located in the OARP SA-3 Zone and only upon receipt of a conditional use permit and provided that the following standards are met together with any other applicable requirements of this chapter.
 - (b) Establishment shall meet all the bulk requirements of said zone.
 - (c) Establishment shall be owned and operated by a licensed, registered operator and/or business where applicable by the appropriate authority.
 - (d) No two of the uses identified in 10, 11 and 12 of this section shall be located within the same structure.
 - (e) No establishment of business with a use encompassing those encaptioned above shall be located closer than 1,500 feet to any PUBLIC/PRIVATE SCHOOL or Established Day Care Center connected by physical road and/or pedestrian pathway measured property line to property line.
 - (f) No establishment or business with a use encompassing those encaptioned above shall be located closer than 500 feet to one another measured property line to property line.
 - (g) No establishment or business with a use encompassing those encaptioned above shall be located closer than 1,000 feet measured property line to property line to an area zoned for residential use if physical road and/or pedestrian pathway exists or 500 feet if no connection exists or is proposed.

- (h) When any existing building is converted from any use to one of those listed above under those encaptioned above, then, in that event, a full and complete site plan shall be submitted and reviewed in accordance with the provisions of this chapter. Included in said submission shall include;
 - [1] Details of the business. Included on the site plan submission. Renderings and/or photoSims as to the appearance must also be submitted to the Board for review.;
 - i. Hours of operation. To be open no later than 10:00 p.m.
 - ii. Meets all Township noise requirements.
 - iii. Propose window treatments to impede the view of the interior of the premises in which the business is located.
 - iv. Provide internal décor, layout, and display/merchandising areas.
 - v. Testimony on the practice of operation
 - vi. Private rooms not permitted.
 - [2] Meets all Parking and circulation requirements of the zone and that particular use
 - [3] Meets all landscaping requirements of the zone and that particular use. Every sexually oriented business shall be surrounded by a perimeter buffer sufficient in width with plantings, fence, or other physical divider along the outside of the perimeter sufficient to impede the view of the interior of the premises in which the business is located.
 - [4] Meet all signage requirements. No offsite signage permitted.
- (i) This subsection shall not apply to a sexually oriented business already lawfully operating on the effective date of this ordinance where another sexually oriented business, an elementary or secondary school or school bus stop or any municipal or county playground or place of public resort and recreation or any hospital or any child care center, is subsequently established within 1,500 feet or a residential district or residential lot is subsequently established within 1,000 feet.

(11) Body painting studios, body piercing, head shop, and tattoo businesses.

- (a) Is located in the BH, OARP SA-1, OARP SA-2, and OARP SA-4 Zones and only upon receipt of a conditional use permit and provided that the following standards are met together with any other applicable requirements of this chapter.
- (b) Establishment shall meet all the bulk requirements of said zone.
- (c) Establishment shall be owned and operated by a licensed, registered operator and/or business where applicable by the authority.
- (d) No two of the uses identified in 10, 11, and 12 of this section shall be located within the same structure
- (e) No establishment or business with a use encompassing those encaptioned above shall be located closer than 1,500 feet to any PUBLIC/PRIVATE SCHOOL measured property line to property line.
- (f) No establishment or business with a use encompassing those encaptioned above shall be located closer than 500 feet to one another and no closer than 1500 feet from the same use measured property line to property line.
- (g) When any existing building is converted from any use to one of those listed above under those encaptioned above, then, in that event, a full and complete site plan shall be submitted and reviewed in accordance with the provisions of this chapter. Included in said submission shall include;
 - [1] Details of the business. Included on the site plan submission. Renderings and/or photoSims as to the appearance must also be submitted to the Board for review.;Window treatments and all proposed signage
 - i. Lobby entry and receptionist area
 - ii. Internal décor, layout and display/merchandising areas
 - iii. Business practice
 - 1. Policies must include;
 - a. Health and safety provisions
 - b. Coordination with the police department on Gang related activities
 - c. Policies relating to minor must include proof of parent and physical presence upon appointment.
 - d. Policy on initial consultation and provisions to allow “cooling off” period.
 - e. For those businesses devoted to art, the space shall be configured work as an artist studio.
 - [2] Meets all Parking and circulation requirements of the zone and that particular use
 - [3] Meets all landscaping requirements of the zone and that particular use

(12) Pawn Shops, check cashing, second hand goods dealers, and bail bonds.

- (a) Is located in the BH, OARP SA-1, OARP SA-2, or OARP SA-4 Zones and only upon receipt of a conditional use permit and provided that the following standards are met together with any other applicable requirements of this chapter.
- (b) Establishment shall meet all the bulk requirements of said zone.
- (c) Establishment shall be owned and operated by a licensed, registered operator and/or business where applicable by the appropriate authority.
- (d) No two of the uses identified in 10, 11, and 12 of this section shall be located within the same structure.
- (e) Pawn Shops and Bail Bonds shall not be located closer than 1,500 feet to any PUBLIC/PRIVATE SCHOOL measured property line to property line.
- (f) No establishment or business with a use encompassing those encaptioned above shall be located closer than 500 feet to one another and no closer than 1500 feet from the same use measured property line to property line.
- (g) When any existing building is converted from any use to one of those listed above under those encaptioned above, then, in that event, a full and complete site plan shall be submitted and reviewed in accordance with the provisions of this chapter. Included in said submission shall include;
 - [1] Details of the business. Included on the site plan submission. Renderings and/or photoSims as to the appearance must also be submitted to the Board for review.;
 - i. Window treatments and all proposed signage
 - ii. Lobby entry and receptionist area
 - iii. Internal décor and display areas
 - iv. Business practice
 - 1. Policies must include;
 - a. Coordination with the police department.
 - b. Policies relating to minors and must include proof of parent and physical presence of same upon dealing.
 - [2] Meets all Parking and circulation requirements of the zone and that particular use
 - [3] Meets all landscaping requirements of the zone and that particular use.

- 1. The aforementioned recitals are incorporated herein as though fully set forth at length herein.
- 2. If any part of this Ordinance shall be deemed invalid, such part shall be severed and the invalidity thereby shall not affect the remaining parts of this Ordinance.
- 3. This ordinance shall take effect as provided by law.
- 4. This Ordinance shall become effective after final adoption as prescribed by law.
- 5. All ordinances or sections thereof in conflict with this ordinance are hereby repealed.

Kim J. Macellaro
Township Clerk

Bert Steinmann
Mayor