

CHAPTER 6

ADULT USE LAW

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SECTION 1. TITLE

The Village Board, pursuant to the authority granted it under Article 4 of the Village Law and Section 10 Of the Municipal Home Rule Law of the State of New York hereby enacts an Adult Use Law as follows:

SECTION 2. STATEMENT OF PURPOSE AND FINDING

- A. The Village Board of the Village of Arcade, having investigated and reviewed the impact of adult uses on communities, makes the following findings:
 - 1. Adult uses, as defined in this law, while not per se unlawful, have an adverse secondary effect on surrounding neighborhoods in that they expose minors to harmful materials and influences, tend to attract excessive numbers of transients and promote an increase in immoral, unhealthy and often illegal activities.
 - 2. A special regulation of adult uses is necessary to ensure that the foregoing secondary effects will not contribute to the downgrading of residential and business neighborhoods in the Village of Arcade by:
 - a. Preserving the character and quality of life in village residential neighborhoods and business areas.
 - b. Controlling such harmful and adverse secondary effects of adult uses on the surrounding areas as attraction of transients, parking and traffic problems, increased crime (including prostitution, rape and assaults in the vicinity of such use), loss

of business for surrounding non-adult businesses, decreased property values and deterioration of neighborhood quality.

- c. Maintaining property values.
- d. Restricting minors' access to adult uses.

B. The adoption of this local law is necessary and proper to preserve, protect and provide for the general health, safety, welfare and order of the residents of the Village of Arcade.

SECTION 3. DEFINITIONS

As used in this local law, the following definitions shall apply:

ADULT – Any person eighteen (18) years of age or older.

ADULT BOOKSTORE – An establishment having as a substantial or significant portion of its stock-in-trade books, magazines, videos, computer software, other periodicals or films for viewing on the premises by use of motion picture devices or any other coin-operated means, which are distinguished or characterized by their emphasis or matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in this law, or an establishment with a segment or section devoted to the sale or display of such material.

ADULT ENTERTAINMENT CABARET – An establishment, or any part thereof, which presents any of the following entertainments or services for observation by patrons therein and which is operated for profit: topless female dancers, strippers, male or female impersonators; exotic dancers, topless waitressing, busing or service; or service or entertainment where the servers or entertainers wear pasties or G-strings or both.

ADULT HOTEL/MOTEL – A hotel or motel which makes available to its patrons in their rooms films, slide shows or videotapes distinguished or characterized by an emphasis on material depicting, describing or relating to specified sexual acts or specified anatomical areas, as defined in this law, which, if presented in a public movie theater, would exclude any minor by reason of age.

ADULT THEATER – A theater that customarily presents motion pictures, films, videotapes or slide shows distinguished or characterized by an emphasis on material depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in this law, which, if presented in a public movie theater, would exclude any minor by reason of age.

ADULT USES – Includes all of the uses defined in this section.

MASSAGE ESTABLISHMENT – Any establishment where massages are administered for pay, including but not limited to massage parlors, sauna baths and steam baths. This definition shall not be construed to include a hospital, nursing home, medical clinic or the office of a physician, surgeon, chiropractor, osteopath or duly licenses physical therapist or barbershops or beauty salons in which massages are administered only to the scalp, face, neck or shoulders. This definition shall also exclude health clubs which have facilities for physical exercise, such as tennis courts, racquetball courts or exercise rooms and which do not receive their primary source of revenue through the administration of massages.

PEEP SHOWS – An establishment which presents material in the form of live shows, films or videotapes viewed from an individual enclosure, for which a fee is charged, and which is not open to the public generally, but excluded any minor by reason of age.

PERSON – Any person, firm, partnership, corporation, association or legal representative acting individually or in concert with another.

SPECIFIED ANATOMICAL AREAS

- A. Less than the completely and opaquely covered human genitals, pubic region or female breast below a point immediately above the top of the areola.
- B. Human male genitals in a discernibly aroused state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES

- A. Human genitals in a state of sexual stimulation or arousal.
- B. Acts of human masturbation, sexual intercourse or sodomy.
- C. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

SECTION 4. LOCATION RESTRICTIONS

Adult uses, as defined in Section 3 of this law, shall be permitted, subject to the following limitations:

- A. Adult uses may be located only in a Highway Commercial/Light Industrial District (HC/LI).

- B. No adult use shall be located within the following distances measured from the nearest property boundary line of the adult use lot to the nearest property boundary line of the non-adult- use lot:
1. Five hundred (500) feet from the center line of Main Street.
 2. Five hundred (500) feet from any zoning district which is zoned for any residential use, whether within the Village of Arcade or any other adjacent municipality.
 3. Five hundred (500) feet from a municipal (local, state, federal) or government building.
 4. One thousand (1,000) feet from a preexisting church, synagogue or temple used for worship, recreational facility, park, playground, school or other area where children under eighteen (18) years of age congregate.
 5. Five hundred (500) feet from the Village of Arcade Municipal Boundary.

SECTION 5. OBSERVATION FROM OUTSIDE THE ESTABLISHMENT PROHIBITED

No adult use shall be conducted in such a manner that permits the observation or hearing of any material depicting, describing or relating to specified sexual activities or specified anatomical areas which can be discerned from any public way or from property not registered as an adult use. This provision shall apply but is not limited to any display, decoration, sign, show window, screen, door or other building opening, loudspeakers or sound equipment.

SECTION 6. REGISTRATION AND LICENSING: FEES

- A. No person shall own, lease, maintain, operate, use or permit to be used any property which contains an adult use without first registering said adult use with, and having a permit issued by the Village Clerk in the manner set forth in this section.
- B. No adult use shall be allowed to operate until a certificate of registration is filed with the Village Clerk and a permit based thereon shall have been issued by the Village Clerk. The certificate of registration shall be in writing, signed by the registrant, and shall contain the following information:
1. The address of the premises.

2. The name and address of the owner of the premises.
 3. The name and address of the person or persons operating the adult use and, if a partnership or corporation, the names and addresses of the major shareholders of the corporation or all of the partners of the partnership.
 4. The date of the commencement of the adult use.
 5. The nature of the adult use.
 6. If the premises is leased, a copy of said lease.
- C. Upon filing a completed certificate of registration with the Village Clerk and payment of registration fee, the Village Clerk shall issue an Adult Use Permit to the registrant, which shall be valid for a period of one (1) year from the date of issuance. A registration fee in the amount of one thousand dollars (\$1,000) shall be paid prior to the issuance of an Adult Use Permit. An Adult Use Permit shall be renewed for subsequent additional terms, each of one (1) year, upon application therefor to the Village Clerk containing a certification by the registrant setting forth any changes in the information contained in the original Certificate of Registration filed with the Village Clerk and the payment to the Village Clerk of a registration renewal fee in the amount of five hundred dollars (\$500).
- D. If there occurs any change in the information contained on the certificate of registration filed with the Village Clerk, the Village Clerk shall be notified of such change and a new or amended registration certificate filed within thirty (30) days of such change.
- E. No permit issued under the provisions of this section shall be transferable to any person, nor shall a certificate of registration be transferable for use at any premises other than that stated in the Certificate of Registration.
- F. The operator of any adult use shall cause a copy of the permit issued under the provisions of this section to be prominently displayed on the premises for which it is issued.
- G. If the holder of an adult use permit shall violate any provision of this law, make any statement which he or she knows to be false or reasonably should have known to be false on the Certificate of Registration or fails to comply with any other law pertaining to the use of the premises for which the adult use permit has been issued, the

adult use permit may not be issued or, if issued, may be suspended or revoked.

SECTION 7. PENALTIES FOR OFFENSES

Any person violating any provision of this law shall, upon conviction thereof, be guilty of a violation under the Penal Law of the State of New York and shall be punishable by a fine not exceeding two hundred fifty dollars (\$250) or by imprisonment for a term not exceeding fifteen (15) days, or by both such fine and imprisonment. Each day that a violation continues shall constitute a separate and distinct violation for each day and is punishable as such.

SECTION 8. SEVERABILITY

If any provision of this local law or the application thereof to any person or circumstance shall be judged by any court of competent jurisdiction to be invalid or unenforceable, such judgment shall not effect, impair or invalidate the remainder of this local law, which shall be confined in its operation to the provision, person, or circumstances directly involved in the controversy to which such judgment shall have been rendered.

SECTION 9. EFFECTIVE DATE

This local law shall be effective within thirty (30) days from its adoption and upon completion of filing with the Secretary of State pursuant to Municipal Home Rule Law Section 27. upon filing with the Secretary of State.

Local Law No. 3-1997
Adopted: October 7, 1997
Filed: October 10, 1997

VILLAGE OF ARCADE
17 CHURCH STREET
PO Box 188
ARCADE, NEW YORK 14009

ADULT USE CERTIFICATE OF REGISTRATION

Address of the premises: _____

Name and address of the owner of the premises:

Name and address of the person or persons operating the adult use:

If a partnership, names and addresses of all partners:

If a corporation, names and addresses of the major shareholders:

Date of commencement of adult use:

If premises is leased, is copy of lease attached:

Signature of Applicant: _____

Registration fee \$1,000

Date Paid: _____

Village Clerk-Treasurer