CHAPTER 15: ADULT USE ESTABLISHMENTS

§ 15.1 Intent

The purpose of this chapter is to insure the preservation of the character and quality of life in Town neighborhoods and business areas by regulating Adult Use Establishments in such a manner as to prevent the documented harmful and adverse secondary effects of a concentration or proliferation of adult uses upon surrounding areas such as decreased property values, attraction of transients, increased crimes of prostitution, rape, and assaults in the vicinity of such uses, and the loss of business for surrounding non-adult use businesses.

§ 15.2 Definitions

As used in this chapter, the following terms shall have the meanings indicated.

ADULT USE ESTABLISHMENT -- A public or private establishment, or any part thereof, which offers any of the hereinafter defined services or products.

ADULT ARCADE -- Any place wherein image-producing devices are maintained to show images which are characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

ADULT BOOKSTORES or ADULT VIDEO STORE -- A business establishment which has 40% or more of its stock in trade, books, magazines or periodicals or other printed materials or photographs, films, motion pictures, video cassettes or video reproductions, slides or other visual representations which depict or describe specified sexual activities or specify anatomical areas or instruments, devices or paraphernalia which are designed for use in connection with any specified sexual activities.

ADULT CABARET -- A nightclub, bar, restaurant or similar commercial establishment in which persons appear in a state of nudity, or which offers live performances which are characterized by the exposure of any specified anatomical area or by the performance or depicting of any specified sexual activity, or films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of any specified sexual activity or any specified anatomical area.

ADULT MOTEL -- A hotel, motel or similar commercial establishment which offers accommodations to the public and which provides patrons with closed-circuit television transmission, films, motion pictures, video cassettes, slides or other photographic or visual reproductions which are characterized by the depiction or description of any specified sexual activity or specified anatomical area.

ADULT MOTION-PICTURE THEATER -- A theater where films, motion pictures, video cassettes, slides or similar photographic or visual reproductions are shown and which are characterized by the depiction or description of any specified sexual activity or any specified anatomical area.

ADULT THEATER -- A theater, concert hall, auditorium or similar commercial establishment which provides acts, shows or entertainment by persons who appear in a state of nudity, or who display or exhibit any specified anatomical area, except an establishment which is primarily devoted to theatrical performances.

SEXUAL ENCOUNTER CENTER -- A business that offers physical contact in the form of wrestling or tumbling between persons of the opposite sex or activities between male and female persons and/or persons of the same sex when one (1) or more of the persons is displaying any specified anatomical area.

NUDITY -- A state where a person is bare, naked or unclothed, or displays or exhibits a less than completely and opaquely covered specified anatomical area.

SPECIFIED ANATOMICAL AREAS

a) Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breast below a point immediately above the top of the areolae; or

b) Human male genitals in a state of sexual stimulation or arousal, or in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITY -- Any of the following:

a) Masturbation, sexual intercourse, oral copulation or sodomy.

b) Fondling or other erotic touching of human genitals, pubic regions, buttocks, anus or female breasts.

c) Masochism, erotic or sexually oriented torture, flagellation, beating, or the infliction of pain.

d) Erotic touching, fondling or other such contact between an animal and a human being.

§ 15.3 Regulations

Adult use establishments shall only be permitted in a C-2 Commercial District or in an Industrial A District, and are subject to all other district regulations as well as the following special regulations.

A. No person under the age of 18 years of age shall be admitted to an adult use establishment or that portion of any such establishment where the adult use occurs or adult materials are stored or displayed.

B. May not be located within one thousand (1000) feet of:

1. a church, synagogue or regular place of worship;

2. a public or private elementary or secondary school, licensed child day care center, or public library;

3. a boundary of any residential zoning district; or

4. a public park.

C. May not be located within one thousand (1000) feet of another adult use establishment or upon the same lot or parcel of land with another adult use establishment.

D. For the purposes of this Section, measurements shall be made in a straight line, without regard to intervening structures or objects from the nearest exterior wall of the building or structure in which an adult use is located, to:

1. the nearest property line of the lot or parcel of land upon which a church, synagogue or regular place of worship, or public or private elementary or secondary school, or licensed child day care center of public library is located;

2. the nearest boundary of a public park or a residential zoning district;

3. to the nearest exterior wall of the structures in which another adult use is located.

E. No enclosed viewing areas may be provided.

F. All adult uses shall be conducted in an enclosed building. Regardless of location or distance, adult uses shall be arranged and conducted so that no visual observation can be made from the exterior of the building containing an adult use establishment therein, of any specified anatomical area or any specified sexual activity by virtue of any display in or on the building which depicts, exhibits or shows said area or activity. This prohibition shall apply to any display, decoration, sign, or window or other opening, or any other means or method of visual portrayal of information or advertisement.

§ 15.4 Existing Adult Uses

Any adult use establishment lawfully operating on the effective date of this law which is in violation of any of the provisions of this Chapter is exempt from those provisions of this law which are then in violation. However, such establishments may not be expanded such that the magnitude of the violation is increased beyond that which then exists. The exemption provided for herein does not pertain to the land, however, it does inure to the benefit of the business entity, its successors and assigns. The exemption is limited to the existing business solely at the location at which it is conducted on the date of adoption of this law and may not be transferred to another location which location would be in violation of the

provisions of this Chapter. The exemption provided for herein shall expire in the event that the said business is not operated for more than thirty (30) days.

§ 15.5 Penalty

A violation of any provision of this Chapter shall be a Class A Misdemeanor, punishable as provided for in the Penal Law.

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