

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET, ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~COUNTY~~

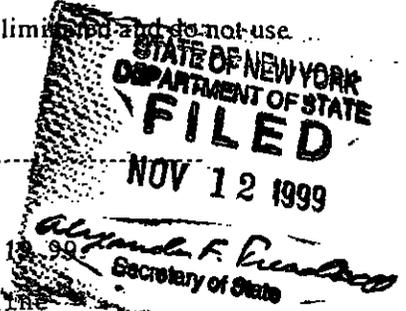
~~CITY~~ of Caroline

Town

~~VILLAGE~~

Local Law No. 2 of the year 1999

A local law regulating Adult Uses in the Town of Caroline
(Insert Title)



Be it enacted by the Town Board of the
(Name of Legislative Body)

~~COUNTY~~

~~CITY~~ of Caroline

Town

~~VILLAGE~~

as follows:

(If additional space is needed, attach pages the same size as this sheet, and number each.)

Section I - Short Title:

This local law No. 2 of 1999 (a local law regulating Adult Uses in the Town of Caroline) may be cited as the "Adult Use Law".

Section II - Background:

By Resolution No. 28 (1999) the Town Board of the Town of Caroline appointed an Adult Entertainment Regulation Advisory Committee. A study was undertaken by the Committee to: (1) determine what negative secondary effects, if any, adult entertainment establishments might have on the community and (2) to make recommendations to the Town Board on eliminating or mitigating such effects.

The Committee produced a report entitled "Adult Use Study Recommendations", July, 1999. A copy of the report has been filed with the Town Clerk. Upon completion of a thorough review of other studies of the secondary effects of adult entertainment establishments and after conducting a townwide survey and community forums on the issue the report recommended the enactment of local legislation to mitigate the potential negative secondary effects of adult entertainment establishments by requiring their separation from identified sensitive areas. The Town Board hereby accepts the report and its conclusions and recommendations.

Section III - Authority; Legislative Intent:

1. This local law is adopted pursuant to the provisions of Municipal Home Rule Law §10[1][ii][d][3].

2. It is the intent of this local law to regulate the establishment, creation, opening, commencement and operation of Adult Uses, as herein defined, in order to achieve the following primary purposes:

(a) To preserve the character and quality of life in Town of Caroline neighborhoods.

(b) To control such documented harmful and adverse secondary effects resulting from Adult Uses on the surrounding community such as:

1. Increased crime and/or criminal activity in the immediate area of Adult Uses, particularly sex crimes and crimes against women and children.
2. The reduction in the value of both residential and commercial real estate resulting from being located in close proximity to Adult Uses.

3. A decline in the appearance and general quality of life of neighborhoods in close proximity to Adult Uses.

(c) To maintain the health, safety and general welfare of the citizens of the Town of Caroline.

Section IV - Definitions:

(A) Adult use. (1) An Adult Use is the use of land, structures or location for an "adult entertainment business" or an "adult physical contact establishment" as herein defined; and

(2) An Adult Use is also any use of land, structures or location which by the provisions of the Penal Law is required to restrict access thereto to minors.

(B) Adult entertainment business. Adult entertainment businesses include:

(1) A public establishment, location, building or structure which features topless dancers, nude dancers or strippers, male or female.

(2) A location, building or structure used for presenting, lending or selling motion picture films, video cassettes, cable television, or any other such visual media, or used for presenting, lending, or selling books, magazines, publications, photographs, or any other written materials distinguished or characterized by an emphasis on matter depicting, describing or relating to "specific sexual activities" or "specific anatomical areas" as defined herein.

(3) Adult Bookstore. 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 defined herein, or an establishment with a segment or section devoted to the sale or display of such material.

(4) Adult Motion Picture Theater. An enclosed building with a capacity of 50 or more 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 defined herein for observation by patrons therein.

(5) Adult Mini-Motion Picture Theater. An enclosed building with a capacity for less than 50 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 defined herein for observation by patrons therein.

(6) Adult Cabaret. A cabaret which features go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers. (Note: this is an exception to the "specified sexual activities/specified anatomical areas" definition.)

(7) Adult Drive-In Theater. A drive-in theater for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined herein for observation by patrons.

(C) Adult physical contact establishment. Any establishment which offers or purports to offer massage or other physical contact by members of the opposite sex. Medical offices, offices of a person licensed or authorized under the Education Law to practice massage therapy, offices of a person licensed or otherwise authorized under the Education Law as a physical therapist or physical therapist assistant and electrolysis, karate, judo and dance studios are not "adult physical contact establishments".

(D) Specified sexual activities:

(1) Human genitals in a state of sexual stimulation or arousal; or

(2) Acts of human masturbation, sexual intercourse or sodomy; or

(3) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

(E) Specified anatomical areas:

(1) Less than completely and opaquely covered human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; or

(2) Human male genitals in a discernible turgid state, even if completely and opaquely covered.

Section V - Where Adult Uses Allowed:

1. Adult Uses are allowed only in compliance with the provisions of this local law. No Adult Use may be established within:

- (a) One thousand (1,000) feet of any single-family, two family or multiple-family dwelling, including structures devoted to both residential and commercial or business purposes.
- (b) One thousand (1,000) feet of any public or private school.
- (c) One thousand (1,000) feet of any church or other religious facility or institution.
- (d) One thousand (1,000) feet of any public park.
- (e) Two thousand five hundred (2,500) feet of any premises licensed by the State Liquor Authority under the provisions of the Alcohol Beverage Control Law.
- (f) Five hundred (500) feet from any boundary of the Town of Caroline.

2. Measurement of Distance. The distance provided in this local law shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the property parcel upon which the adult use is to be located to the nearest point of the parcel of property from which the adult use is to be separated.

3. Additional requirements. The interior of every Adult Use building, structure or location:

- (a) shall be well lighted at all times and be physically arranged in such a manner that the entire interior portion of the booths, cubicles, rooms or stalls, wherein adult entertainment is provided, shall be clearly visible from the common areas of the premises. Visibility into such booths, cubicles, rooms or stalls shall not be blocked or obscured by doors, curtains, partitions, drapes, or any other obstruction whatsoever. It shall be unlawful to install enclosed booths, cubicles, rooms or stalls within

adult entertainment business establishments for whatever purpose, but especially for the purpose of providing for the secluded viewing of motion pictures or videotapes depicting specified sexual activities or specified anatomical areas, or other types of adult entertainment businesses; and

(b) the operator of each adult entertainment business shall be responsible for and shall provide that any room or other area used for the purpose of viewing adult-oriented motion pictures or other types of live adult entertainment shall be well lighted and readily accessible at all times and shall be continuously open to view in its entirety. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one foot candle as measured at the floor level. It shall be the duty of the operator and its agents to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

4. Additional screening. The Town Board may require that an adult entertainment business cover or screen the entrances, doorways and windows to prevent viewing activities inside the building or structure from the outside.

Section VI - Severability:

It is hereby declared to be the intent of the Caroline Town Board in enacting this local law that:

(a) If a court of competent jurisdiction finds any provisions of this law invalid, in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid, and all other provisions of the law shall continue to be separately and fully effective.

(b) If a court of competent jurisdiction finds the application of any provision of this law to any building, other structure or tract of land to be invalid, in whole or in part, the effect of such decisions shall be limited to the person, property or situation involved in the controversy, and the application of any such provision to any other person, property or situation shall not be affected.

Section VII - Unconstitutionality:

If any clause, sentence, paragraph, word, section or part of this Local Law shall be adjudged by any court of competent jurisdiction to be unconstitutional, illegal or invalid, such judgment shall effect, impair or invalidate only the paragraph, word, section or part thereof, directly involved in the controversy in which such judgment shall have been rendered.

Section VIII - Penalties for Offenses; Remedies:

1. Any person, firm, corporation or other entity who shall violate any portion of this Local Law shall be guilty of a violation and, upon conviction thereof, shall be fined an amount not to exceed five hundred dollars (\$500) for each violation. The continuation of a violation of the provisions of this law shall constitute, for each day the violation is continued, a separate and distinct offense hereunder.

2. In addition to any other remedies provided by law, the Town may maintain an action or proceeding in a court of competent jurisdiction to enjoin any violation of this Local Law.

3. The penalties and remedies set forth herein are in addition to all other penalties and remedies provided for by law.

Section IX - Effective Date:

This law shall become effective immediately upon filing by the Secretary of State in accordance with the provisions of Section 27 of the Municipal Home Rule Law.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 2 of 1999 of the ~~(County)~~(~~City~~)(Town)(~~Village~~) of Caroline was duly passed by the Town Board on October 7, 1999, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not approved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 19____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 19____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____, above.

Kim Martin Case

Clerk of the County legislative body, City, Town or Village Clerk or officer designated by local legislative body

(Seal)

Date: 10/15/1999

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF TOMPKINS

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Wendy Fisher

Signature

Town Attorney

Title

~~CORPORATION~~

~~COUNSEL~~

Town

~~MUNICIPALITY~~

of Caroline

Date: 10-14-99