

## CHAPTER 20

### RESTRICTIONS ON THE LOCATION OF ADULT ESTABLISHMENTS

#### 20.01 PURPOSE

In the development and execution of this Ordinance, it is recognized that there are some uses of property which, because of their very nature, are recognized as having serious objectionable operational characteristics thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. These special regulations are set forth in this Ordinance. The primary control or regulation is for the purpose of preventing the location of these uses in close proximity to churches, schools and residential areas.

The Village Board does recognize that the United States Supreme Court has held that nude dancing is expressive conduct within the outer perimeters of the First Amendment to the United States Constitution and therefore entitled to some limited protection under the First Amendment. The governing body further recognizes that freedom of speech is among our most precious and highly protected rights and wishes to act consistently with full protection of those rights; however, the governing body is aware, based on the experiences of other communities, that public premises in which live, nude dancing occurs, may and do generate secondary effects which the governing body believes are detrimental to the public health, safety and welfare of the citizens of the Village of Stockbridge.

#### 20.02 DEFINITIONS

1. There are three types of adult establishments--bookstores, motion picture theaters, and mini motion picture theaters--defined respectively as follows:
  - a. "Adult book store" 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 defined below), or an establishment with a segment or section devoted to the sale or display of such material.
  - b. "Adult motion picture theater" means an enclosed building with a capacity of 50 persons or more 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 below) for observation by patrons therein.

- c. “Adult mini motion picture theater” means 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 below) for observation by patrons therein.
2. “Specified Sexual Activities” are defined as:
    - 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.
  3. “Specified Anatomical Areas” are defined as:
    - a. Less than completely and opaquely covered:
      - i. human genitals pubic region
      - ii. buttock
      - iii. female breast below a point immediately above the top of the areola
    - b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

### **20.03 RESTRICTIONS APPLICABLE TO THE OPERATION OF ADULT ESTABLISHMENTS**

No adult establishments, as defined in Section 20.02, may be operated within 1,000 feet of any church or other place of worship or within 1,000 feet of any school (either licensed child care facility, grade school or high school), and no adult establishment may be operated within 1,000 feet of any area zoned for residential use or any existing residence.

### **20.04 WAIVER OF RESTRICTIONS**

The Plan Commission, upon public hearing, may recommend and the Village Board may then waive the 1,000 feet restrictions if it finds:

1. That the proposed use will not be contrary to the public interest or injurious to nearby properties, and that the spirit and intent of this Ordinance is observed.
2. That the proposed use will not enlarge or encourage the development of a “skid row” area.

3. That the establishment of a regulated use in the area will not be contrary to any program of neighborhood conservation nor will it interfere with any program of urban renewal.
4. That all applicable regulations of this Ordinance will be observed.

#### **20.05 RESTRICTIONS ON LIVE, NUDE DANCING AND SEMI-NUDE DANCING**

It is unlawful for any person to be engaged in live, nude dancing or to allow any person to be engaged in live, nude dancing in any premises open to the public.

It shall be unlawful for any person engaged in live, semi-nude dancing to have any physical contact with any other person, employee, or patron at a premises open to the public. Live, semi-nude dancing shall only occur on a stage or a table that is elevated at least 18" above the immediate floor level. To prevent actual physical contact between a person engaged in live, semi-nude dancing and another person, employee or patron, all such semi-nude dancing shall be at a distance not less than 5' from an area occupied by any patron. However, the prohibition contained within this section and the restrictions described herein shall not apply where the nudity is part of a live dance, ballet, musical or dramatic performance of serious artistic merit and in which the predominant attraction is not to provide sexual or erotic stimulation or gratification to the customers.