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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 WELLSVILLE
~~Town~~
~~Village~~

Local Law No. 5 of the year 19 91

A local law REGULATING ADULT VIDEO STORES IN THE VILLAGE OF WELLSVILLE
(Insert title)

Be it enacted by the BOARD OF TRUSTEES of the
(Name of Legislative Body)

~~County~~
~~City~~ of WELLSVILLE as follows:
~~Town~~
~~Village~~

Location Regulation of Adult Video Stores

1. Purpose.
2. Definitions.
3. Restrictions.
4. Observation from public way prohibited.
5. Registration.
6. Special use permit.
7. Penalty.
8. Effective Date

ARTICLE I

PURPOSE

This Local Law is acted pursuant to the authority of the New York Constitution, the Municipal Home Rule Law and the Village law of the State of New York. This Local Law encompasses powers of the Board of Trustees to legislate for the health, safety, and general welfare of the residents of the Village in addition to the general police powers possessed by the Village. It is the finding of the Village Board

(If additional space is needed, please attach sheets of the same size as this and number each)

that special regulation of adult video stores is necessary to insure that their presence will not adversely affect or downgrade surrounding neighborhoods. It is the further purpose to isolate the location of these stores from areas where minors may regularly assemble. Nothing herein is intended to either duplicate, contradict or otherwise effect Article 235 of the New York State Penal Law

ARTICLE 2

DEFINITIONS

A. GENERAL--Unless specifically defined below, words or phrases used in this Local Law shall be interpreted so as to give them the meaning they have in common usage and to give this Local Law its most reasonable application.

B. ADULT VIDEO STORE--Any store, building, establishment, business or premises where the dissemination of prerecorded video tape occurs, when such tape is characterized by a substantial emphasis on scenes depicting, describing, or related to specified sexual activities or the specified human anatomical area as such are defined herein. The foregoing definition shall also include dissemination or possession with intent to disseminate.

C. ADULT USE--The dissemination, including possession with intent to disseminate to person seventeen 17 years or older, prerecorded video tapes or other material distinguished by or characterized by a substantial emphasis on matter or acts depicting, describing or related to specified sexual activities or a specified anatomical area such as defined herein.

D. BUSINESS--Any commercial enterprise, association or arrangement that charges a fee, either rental fee or sale price or otherwise requires a consideration for its products, whether or not actually charged.

E. DISSEMINATION--The transfer of possession, custody, control or ownership of or the exhibition or presentation by a business of any performance in material or video tape to a customer, member of the

public or business invitee when such video or material is for adult use distinguished by or characterized by a substantial emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical area as defined herein; also the possession of such material with intent to disseminate.

F. PERSON--any person, firm, partnership, corporation, association, or legal representative, acting individually or jointly.

G. SPECIFIED ANATOMICAL AREA--Erect human male penis

H. SPECIFIED SEXUAL ACTIVITIES--Acts of human masturbation, sexual intercourse or sodomy

I. SUBSTANTIAL BUSINESS CONNECTION

1. In a sole proprietorship, an individual who owns, operates, controls or conducts, directly or indirectly, any premises, building or location upon which any adult use takes place.

2. In a partnership, limited or general, an individual who shares in any potential profits or losses of the business or who shares in the ownership of any of the assets of the partnership business, or who owns the premises or structure where any adult use takes place.

3. In a corporation, an individual who is an officer, director or a holder, either directly, indirectly or beneficially, of more than twenty percent (20%) of any class of stock.

4. Any person who furnishes more than twenty percent (20%) of the capital financing or assets of such business, whether in cash, goods or services.

5. The owner of any structure or premises upon or in which an adult video store is located or operated.

ARTICLE 3

RESTRICTIONS

In addition to the requirements of the Zoning Local Law of the Village of Wellsville, an adult use shall be permitted subject to the following restrictions:

A. No adult video store shall be located within (220) yards of another existing adult video store.

B. No adult video store shall be located within two hundred twenty (220) yards of the boundaries of any zoning district which is zoned for residential use.

C. No adult video store shall be located within four hundred forty (440) yards of a preexisting school, park, playground, library or a church used for worship.

D. No adult video store shall be located in any zoning district, except those districts zoned for non-residential purposes.

E. This Local Law shall not apply to any establishments existing on the effective date of said Local Law except as provided herein in Article 4.

ARTICLE 4

OBSERVATION FROM PUBLIC WAY PROHIBITED

A. No video store shall be operated in a manner that permits the observation of any advertising material depicting, describing or relating to sexual activities or nude anatomical areas to be viewed from any public way. This provision shall apply to any display, decoration, sign, show window, screen or other opening. This section shall be effective as to preexisting stores after this Local Law has been in effect for six (6) weeks. All signs must also comply with the Zoning Law or other applicable laws or statutes regarding signs.

ARTICLE 5

REGISTRATION

A. No person, firm, corporation or other entity shall lease or rent as landlord or tenant, or maintain, operate, use or allow to be operated or used any business or establishment, any part thereof which contains an adult use or adult video store, without first complying with the provisions of this section as set forth below.

B. In addition to any and all other necessary licenses and permits, no form of adult video store shall be allowed to operate nor allowed to continue to operate, until a certificate of registration is filed with the

Village Clerk by certified mail containing:

- 1) The address of the premises.
- 2) The name and address of the owner(s) of the premises and the name and address of the beneficial owner(s) if the property is in a land trust.
- 3) The name of the business or the establishment subject to the provisions of this Local Law.
- 4) The names, business and home addresses, and business and home phone numbers of all those persons having a substantial business connection with the adult video store subject to the provisions of this Local Law.
- 6) The date of the initiation of the adult video store.
- 7) The exact nature of the adult video store.
- 8) If the premises or the building in which the business containing the adult use is located is leased, a copy of the lease.

C. If there occurs any change in the information required for the certificate of registration, the Village Clerk shall be notified by certified mail of such change, and a new or amended certificate filed within thirty (30) days of such change.

D. The processing fee for each certificate of registration or amendment thereto shall be one hundred dollars (\$100.). Such certificate of registration shall be effective concurrently with the special use permit issued annually. The fee provided in this section shall be an annual charge.

E. No certificate of registration 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, building or location other than that stated in the certificate of registration.

F. The owner, or manager or agent or anyone with a substantial business connection of any adult video use shall each be responsible, jointly and severally for obtaining the certificate of registration and causing a copy of the certificate or registration issued under the provisions of this section to be prominently displayed on the premises, building or location for which it is issued.

G. Any knowingly false statement, or any statement

which the registrant or applicant should reasonably have known to be false, which is provided in the certificate of registration or any document or information supplied therewith shall be grounds for rejection, suspension or revocation of the certificate of registration in addition to the penalties contained herein.

H. It is a violation of this Local Law for the owner or person in control of any property to establish or operate thereon or to permit any person to establish or operate an adult video use without having in force a certificate of registration complying with.

ARTICLE 6

SPECIAL USE PERMIT

A. No adult use as described in this Local Law shall be established until the issuance of an annual special use permit by the Village Clerk. Application for such a special use permit shall be in conformity with this Local Law and as provided for herein. The application shall be, in writing, by certified mail, to the Village Clerk and shall consist of a description of the premises for which the permit is sought, a plain and concise statement of the use which is proposed and such additional information as shall be required by the Village Clerk.

ARTICLE 7

PENALTIES FOR OFFENSES

A. Any person, firm, association, partnership, or corporation found guilty of violating any of the provisions of this chapter shall be guilty of an offense and shall be subject to a fine not to exceed two hundred fifty dollars (\$250) or to imprisonment not to exceed fifteen (15) days, or to both such fine and imprisonment.

B. The continuation of an offense under this chapter, after notice of such, shall constitute, for each day the offense continues, a separate and distinct violation hereof.

C. These penalties shall be in addition to any proceedings in equity or law brought to enforce this Local Law.

ARTICLE 8

This Local Law shall be effective October 11, 1991.