

Town of Southeast, Putnam County, NY

Local Law No. ____ of 2005

A LOCAL LAW entitled: “A Local Law to Amend Chapter 138 of the Town Code, ‘Zoning’.”

Be it enacted by the Town Board of the Town of Southeast, Putnam County, New York, as follows:

Section 1. Amendments to Article I, “General Provisions; Definitions”

Section 138-4, “Definitions.” is amended, in part, to add:

All definitions found in § 138-25. “Definitions” shall be relocated to § 138-4 with the additions and modifications indicated below.

Add: “Adult Cabaret — A building or portion of a building regularly featuring dancing or other live entertainment if the dancing or entertainment that constitutes the primary live entertainment is distinguished or characterized by an emphasis on the exhibiting of specific sexual activities or specified anatomical areas for observation by patrons therein.”

Add: “Adult Retail Shop — An establishment having as a substantial or significant portion of its stock-in-trade videotapes, digital video disks, compact disks, other electronic formats, films, slides, books, magazines or adult accessories, whether for sale or rent.”

Add: “Adult Use — Any activity covered by the definitions of adult bookstore, adult cabaret, adult motel, adult motion-picture theater, adult retail shop, massage parlor, model studio, or sexual encounter center or any other activity that appeals to the prurient interest of the general public.”

Combine and Revise the definitions of “Adult Mini-Motion-Picture Theater” and “Adult Motion-Picture Theater” to read: “An enclosed or unenclosed building, structure or portion thereof used for presenting materials distinguished or characterized by primary emphasis on matter depicting, describing or relating to sexual activities or sexual anatomical areas for observation by patrons.”

Section 2. Amendments to Article V, “Nonresidential Districts”

Section 138-24, “General” the Commercial Zoning Schedule is amended, in part, by amending the column labeled “Permitted Principal Uses (see Notes G and N)” as follows:

HC-1	Permitted Principal Uses Retail Use Office Personal Services Professional Services Restaurant
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	Recreation Special Permit Uses* Car wash Public Utilities <u>Adult uses, nightclubs, pawnshops, pool or billiard halls, and tattoo parlors</u>
HC-2	Permitted Principal Uses Retail Use Office Personal Services Professional Services Restaurant Recreation Special Permit Uses* Car wash Fast food Public Utilities <u>Adult uses, nightclubs, pawnshops, pool or billiard halls, and tattoo parlors</u>

Section 3. Amendments to Article VII, “Restricted Uses”

Section 138-34, 138-35, and 138-36 are renumbered to 138-63.3 and is renamed to “Adult Uses, Nightclubs, Pawnshops, Pool or Billiard Hall and Tattoo Parlors. Article VII would be replaced with “Reserved.”

Section 138-63.3 is modified to read:

~~Restricted Uses, as defined in § 138-35, are subject to the following criteria:~~

- ~~A. Such uses shall not be located closer than five hundred (500) feet from any residential district boundary line, school, or house of worship.~~
- ~~B. Such uses shall not be located closer than one thousand (1,000) feet from any other restricted use, as defined by § 138-55.~~

~~“Prohibited acts”~~

~~No persons shall cause or permit the use, occupancy or establishment of any land, building or structure as or for an adult use, nightclub, pawnshop, pool or billiard hall or tattoo parlor a restricted unless a special permit, in accordance with Article X of this chapter is received from the Town Board, subject to any the special standards identified below as may hereinafter be required.~~

A. Purpose.

The Town Board finds that certain business activities, by their nature, have serious objectionable operation characteristics which can lead to a significant impact on the surrounding community. The Town Board further finds that the unrestrained proliferation of such business is inconsistent

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with existing development and future plans for the Town of Southeast in that they often result in influences on the community which increase the crime rate and undermine the economy, moral and social character of the community. To preserve the integrity and character of residential neighborhoods and important natural and human resources of the town, the Town intends to restrict the proximity of adult use establishments to churches, schools, nursery schools, day-care centers, educational institutions, parks, historic and scenic resources, civic and cultural facilities and residential areas. It is found by the Town Board of the Town of Southeast that a concentration of certain restricted uses in areas of the community tends to result in the blighting and deterioration of said areas of concentration.

B "Standards"

Adult uses, nightclubs, pawnshops, pool or billiard halls, and tattoo parlors may be permitted by the Town Board in the HC-1 and HC-2 Districts subject to the following requirements:

- (1) No more than one activity constituting an adult use shall be permitted on any lot.
- (2) No adult use shall be permitted in any building otherwise used in whole or part for residential purposes.
- (3) No adult use shall be permitted on any lot which is located within 1,000 feet of any other lot on which is located an adult use or nightclub, pawnshop, pool or billiard hall, and tattoo parlor. This distance shall be measured from the nearest property line of such use to the nearest property line of the proposed adult use.
- (4) No adult use shall be permitted on any lot which is located within 1,000 feet of any lot in any residential district. This distance shall be measured from the nearest property line of any residential district to the nearest public entrance door of the adult use premises.
- (5) No adult use shall be permitted on any lot which is located within 1,000 feet of any lot on which is located near a church, community center, funeral home, school, day-care center, hospital, alcoholism center or drug treatment center, counseling or psychiatric treatment facility or public park. This distance shall be measured from the nearest property line of such above use to the nearest public entrance door of the adult use premises.
- (6) No adult use shall be permitted on any lot which is located within 1,000 feet of any school bus stop. This distance shall be measured from the nearest school bus stop to the nearest public entrance door of the adult use premises.
- (7) No adult use shall be permitted on any lot which is located within 1,000 feet of any commercial enterprise that customarily employs minors.
- (8) No adult use shall be permitted on any lot which is located within 1,000 feet of any establishment that sells or serves alcoholic beverages.
- (9) The proposed use shall meet all other requirements of the law of the Town of Southeast, including but not limited to district lot and bulk regulations, parking regulations and signage requirements.
- (10) It shall be a condition of any special permit issued for an adult use that no person under the age of 18 years shall be permitted into the premises.
- (11) Explicit messages or drawings on signs and/or the public display of explicit sexual material associated with any adult entertainment use is prohibited.
- (12) The Town Board may impose such terms and conditions upon the issuance of the special permit required hereunder as it deems appropriate to further the aims of this

subsections, including but not limited to restrictions on advertising, outdoor displays and the location of merchandise.

D “Effect on existing uses”

- (1) Any adult use lawfully in existence on the date on which the provision of this subsection become effective shall be permitted to continue, provided that such use is registered with the Building Inspector within 30 days of the effective date of this subsection and it is established to the satisfaction of the Building Inspector that such use complies with all the requirements set forth herein.
- (2) Any adult use in existence on the date on which the provisions of this subsection become effective which fails to conform to the regulations herein shall be discontinued in accordance with the following amortization schedule:

Amount of Capital Investment

(as of effective date of Article) Date Before Which Use Shall Terminate

\$0 to \$25,000	September 1, 2006
\$25,001 to \$50,000	September 1, 2007
\$50,001 to \$75,000	September 1, 2008
\$75,001 to \$100,000	September 1, 2009
\$100,001 or more	September 1, 2010

Section 4. Validity

The invalidity of any word, section, clause, paragraph, sentence, part, provision of this Local Law shall not affect the validity of any other part of this Local Law that shall be given effect without such invalid part or parts.

Section 5. Effective Date

This Local Law shall take effect immediately upon filing with the Secretary of State.