

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)

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED
NOV 09 2005

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 **PRATTSVILLE** MISCELLANEOUS
City of _____ & STATE RECORDS
Town
Village

Local Law No. 2 of the year 2005

A local law _____
(insert title)
**IMPOSING A TEMPORARY SIX MONTH MORATORIUM ON
ADULT ENTERTAINMENT BUSINESSES**

TOWN BOARD
Be It enacted by the _____ of the
(Name of Legislative Body)

County **PRATTSVILLE**
City of _____ as follows:
Town
Village

Be it enacted by the Town Board of the Town of Prattsville as follows:

Section 1. Title.

This Local Law shall be referred to as the "Local Law Imposing a Temporary Six Month Moratorium on Adult Entertainment Businesses."

Section 2. Definitions

ADULT USES – Whenever used in this local law, the words "adult use" or "adult uses" apply to the following types of establishments:

- a) Adult bookstore. An establishment which has as a substantial or significant portion of its stock in trade, books, pamphlets, magazines or other periodicals, sculptures, photographs, pictures, slides, videotapes, films, or sound recordings and which establishment excludes any minor by reason of age.

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

- b) Adult entertainment cabaret. A public or private nightclub, bar, restaurant or similar establishment which presents topless or bottomless dancers, go-go dancers, strippers, male or female impersonators, exotic dancers, or other similar entertainment, and which establishment excludes any minor by reason of age.
- c) Adult video store. An establishment having as a substantial or significant portion of its stock in trade, videotapes or films for sale or viewing on premises by use of motion picture devices, video equipment or other coin operated means, and which establishment excludes any minor by reason of age.
- d) Peep show. A theater which presents material in the form of live shows, films, or videotapes viewed from an enclosure for which a fee is charged and which excludes any minor by reason of age.
- e) Massage establishment. Any establishment having a fixed place of business where massages are administered for pay, including but not limited to massage parlors, sauna baths and steam baths. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or duly licensed physical therapist or duly licensed massage therapist, or barber shops or beauty salons in which massages are administered only to the scalp, face, neck or shoulders. This definition shall also exclude health clubs, which have facilities for physical exercise such as tennis courts, racquet ball courts or exercise rooms, and which do not receive their primary source of revenue through the administration of massages.
- f) Adult motel. A motel which excludes minors by reason of age, or which makes available to its patrons in their rooms films, slide shows, or videotapes, which if presented in a public movie theater would exclude any minor by reason of age.
- g) Adult theater. A theater that customarily presents motion pictures, films, videotapes, or slide shows and that excludes any minor by reason of age.
- h) Body painting studio. An establishment or business which provides the service of applying paint or other substance whether transparent or non-transparent to or on the human body and which excludes any minor by reason of age.
- i) Adult model studio. Any establishment where, for any form of consideration or gratuity, figure models are provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons other than the proprietor, paying such consideration or gratuity and which excludes any minor by reason of age. This provision shall not apply to any school of art which is operated by an individual, firm, association, partnership, corporation or institution, which meets the requirements established in the New York State Education Law for the issuance of conferring of, and is in fact authorized to issue and confer a diploma.

Section 3. Purpose and Intent.

Pursuant to the statutory powers vested in the Town of Prattsville to regulate and control land use, and to protect the health, safety and welfare of its residents, the Town Board hereby declares a temporary six month moratorium on the establishment or development of adult entertainment business activity in the Town, or the issuance of any approvals or building permits therefore.

The Town Board is now in the process of considering various options relating to this issue. The Town Board finds and determines that it needs the period of time covered by the moratorium imposed herein in order to carefully study the issue, draft a proposed new Local Law, schedule and hold the required public hearing on the Local Law, comply with applicable provisions of law, adopt the Local Law, and file a copy of the Local Law (as adopted) with the Secretary of State of the State of New York.

Section 4. Scope of Controls.

A. During the effective period of this Local Law:

1. The Town Board shall not grant any approvals which would have as the result the establishment or development of any new adult entertainment business activity within the Town.
2. The Town Planning Board shall not approve any site plan, approve any special use permit or other permit which would have as a result the establishment or development of any new adult entertainment business activity within the Town.
3. The Code Enforcement Officer/Building Inspector of the Town shall not issue any building permit or other permit which would result in the establishment or development of any adult entertainment business activity within the Town.

B. The Town Board reserves the right to direct the Town Building and Code Inspector to revoke or rescind any Building Permits or Certificates of Occupancy issued in violation of this Local Law.

Section 5. No Consideration of New Applications.

No applications for any adult entertainment business activity affected by this Local Law or for approval for a site plan, a variance, a special use permit or other permits relating to adult business entertainment shall be considered by any board, officer or agency of the Town while the moratorium imposed by this Local Law is in effect.

Section 6. Term.

The moratorium imposed by this Local Law shall be in effect for a period of six (6) months from the effective date of this Local Law. In the event that a local law relating to mining is adopted prior to the date that the moratorium imposed by this Local Law expires, then in that event the moratorium imposed by this Local Law shall expire immediately on the date that the Local Law relating to mining takes effect in accordance with section 27 of the Municipal Home Rule Law.

Section 7. Penalties.

Any person, firm or corporation that shall establish or develop any new adult entertainment business activity in violation of the provisions of this Local Law shall be subject to:

- A. Such penalties as may otherwise be provided by applicable local laws, ordinances, rules, regulations of the Town violations; and

B. Injunctive relief in favor of the Town to cease any and all such actions which conflict with this Local Law and, if necessary, to restore any adult entertainment business which may have taken place in violation of this Local Law.

Section 8. Validity.

The invalidity of any provision of this Local Law shall not affect the validity of any other provision of this Local Law which can be given effect without such invalid provision.

Section 9. Effective Date.

This Local Law shall take effect immediately when it is filed in the Office of the Secretary of State in accordance with 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 2005 of the (County)(City)(Town)(Village) of PRATTSVILLE was duly passed by the TOWN BOARD on SEPT. 28 2005, 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 20_____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20____, 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 20_____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 20____. 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 _____ 20____, 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 20_____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, 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 20____ 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 _____ 20____, 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 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, 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.

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

Date: 9/28/05

(Seal)

(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 GREENE

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.

Calvin Rappaport
Signature
ATTORNEY FOR THE TOWN
Title

County
City of PRATTSVILLE
Town
Village

Date: 9/28/05