

PART II

GENERAL LEGISLATION

Chapter 47

ADULT ENTERTAINMENT

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[HISTORY: Adopted by the Board of Trustees of the Village of Camden 4-21-1998 by L.L. No. 2-1998. Amendments noted where applicable.]

GENERAL REFERENCES

Zoning — See Ch. 150.

§ 47-1. Purpose.

It is recognized that adult entertainment enterprises are the subject of some controversy and the location of enterprises operated within a community are often considered by the residents thereof to be detrimental to the character of the neighborhood and to the perception of the area by others and is liable to exert a negative influence on the development of the surrounding area. Therefore, in order to promote the health, safety and general welfare of the residents of the Village of Camden and to project the image of the village, this chapter is intended to regulate the location and manner of adult entertainment enterprises within the Village of Camden.

§ 47-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ADULT ENTERTAINMENT ENTERPRISE:

- A. ADULT ARCADES — Establishments where, for any form of consideration, one or more motion-picture projectors, slide projectors or similar machines, for viewing by five or fewer persons, are used to show films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.
- B. ADULT BOOKSTORES — Establishments which have a significant portion of its stock in trade and offers for sale, for any consideration, any one or more of the following:
 - (1) Books, magazines, periodicals or other printed matter or photographs, films, motion pictures, video cassettes, slides or other visual representations which are

characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or

- (2) Instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities.
- C. **ADULT CABARETS** — Establishments, including any nightclub, bar, restaurant or similar establishment, which regularly feature live performances characterized by exposure of specified anatomical areas or by specified sexual activities or films, motion pictures, video cassettes, slides or other photographic reproductions characterized by an emphasis upon the description of specified activities or specified anatomical areas.
- D. **ADULT MOTION-PICTURE THEATERS** — Establishments where, for any form of consideration, films, motion pictures, video cassettes, slides or other photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.
- E. **ADULT THEATERS** — Establishments, including a theater, concert hall, auditorium or similar establishment, which, for any form of consideration, regularly feature live performances characterized by the exposure of specified sexual activities or specified anatomical areas.
- F. **MASSAGE PARLORS** — Establishments where, for any form of consideration, massage, alcohol rub fomentation, electric or magnetic treatment or manipulation of the human body is administered, unless by a medical practitioner, chiropractor, acupuncturist, physical therapist or similar professional person licensed by the state. This definition shall not be deemed to include an athletic club, health club, school, gymnasium, reducing salon, spa or similar establishment where massage or similar manipulation of the human body is offered as an incidental accessory service.

SPECIFIED ANATOMICAL AREAS:

- A. Less than completely and opaquely covered human genitalia, pubic region, buttocks and female breast below a point immediately above the top of the areola.
- B. Human male genitals in discernible turgid state even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES:

- A. Human genitalia in a state of sexual stimulation or arousal;
- B. Acts of human masturbation, sexual intercourse or sodomy; or
- C. Fondling or erotic touching of human genitalia, pubic region, buttocks or female breast.

§ 47-3. License required.

No person shall engage in an adult entertainment enterprise unless he or she shall first have obtained a license to do so from the Board of Trustees no later than two business days before the first day of business. The fee for an adult entertainment license shall be as set from time to time by resolution of the Board of Trustees. Every licensee must carry the license with him or her when conducting his or her adult entertainment enterprise business.

§ 47-4. Application for license.

An application for a license shall be accompanied by a nonrefundable fee as shall be set from time to time by resolution of the Board of Trustees and shall provide the following information:

- A. The name and age of the applicant and address of the applicant's place of residence.
- B. The firm or firms he or she represents, together with copies of documents establishing the firm's residence and address, form of organization, ownership and qualifications to do business in the State of New York. If a corporation, the names and addresses of all officers and directors shall be provided.
- C. A brief description of the nature of the business and type of entertainment to be provided.
- D. The place where the applicant proposes to provide such entertainment and the time during which such entertainment is to be conducted.
- E. Prior criminal convictions of the applicant, managerial personnel and entertainers, other than minor traffic violations.
- F. Whether or not an adult entertainment enterprise license issued to the applicant under this chapter has ever been revoked.
- G. Such other information as may be required by the Board of Trustees to promote the purposes of this chapter.

§ 47-5. Regulation and restriction of adult entertainment enterprises.

- A. All uses defined as adult entertainment enterprises shall exclude patrons under the age of 18 years.
- B. The uses defined in § 47-2 are to be restricted as to location in the following manner:
 - (1) Any of the above uses shall not be located within 500 feet of any area zoned for residential use or any single-family, two-family or multiple-family dwelling, including structures devoted to both residential and commercial or business purposes.
 - (2) Any of the above uses shall not be located within 500 feet of another said use.
 - (3) Any of the above uses shall not be located within 500 feet of any school, church or other place of religious worship, park, playground, playing field, community center, funeral home, day-care center, hospital, alcoholism center or drug treatment center or counseling or psychiatric treatment facility.

- (4) All of the above uses shall be located in an M-1 or M-2 Zoning District.
- (5) Any enterprise defined as an adult theater or adult cabaret shall provide a stage for the performance of such entertainment which shall be used by all the performers at all times during such performance. Said stage shall be at a height of three feet off the floor and no member of the audience shall be allowed to be within 10 feet of the stage.
- (6) Any enterprise defined as an adult theater or adult cabaret shall provide lighting of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five footcandles as measured at the floor level.
- (7) There shall be no specified sexual activities engaged in by any member of the audience at any time during the performance at an adult theater or adult cabaret.
- (8) It shall be unlawful for anyone at an adult theater or adult cabaret to appear before or come in contact with patrons while exposing specified anatomical areas or engaging in specified sexual activities.
- (9) It shall be unlawful for any person conducting, maintaining or operating an adult cabaret, bar and/or lounge, dance hall or discotheque enterprise or any other place of public assembly within the Village of Camden to knowingly suffer or permit any waitress, barmaid, entertainer or other person who comes in contact with or appears before or is likely to come in contact with or appear before patrons while exposing specified anatomical areas.

§ 47-6. Compliance with zoning regulations required.

Chapter 150, Zoning, of the Code of the Village of Camden shall apply to all activities for which licenses are sought or granted under this chapter. The village shall revoke any license which violates said Chapter 150, Zoning.

§ 47-7. Procedure for review of application.

- A. The Board of Trustees, upon receipt of a license application, may either approve the application and issue a license or reject the application. All applications received by the Board of Trustees shall be reviewed by the Board of Trustees within 62 days of receipt at either a regular meeting or at a special meeting thereof.
- B. The Board of Trustees, at the time of its review of the application, shall schedule a public hearing to be held upon it. In this event, the Board of Trustees shall have an additional 62 days within which to hold the public hearing to either approve the application and issue a license or reject the application. Notice of the public hearing shall be published at least once, not less than five days before the date of the hearing, in a newspaper of general circulation within the Village of Camden. The notice shall state the name of the applicant, the name of the proposed business, the location where the proposed business is to be conducted and the date, time and place of the hearing.
- C. In approving or rejecting an application, the Board of Trustees shall consider the following criteria but in no way shall be limited thereby:

- (1) The character of the neighborhood in which the applicant proposes to carry on the adult entertainment enterprise.
 - (2) The changes that the business would bring to the neighborhood and whether these changes would be to the benefit or detriment of the public good, welfare, health, safety or morals.
 - (3) The nuisance, refuse, litter, noise and adverse health conditions that the business might or will create.
 - (4) The requirements of police protection and traffic control.
 - (5) The criminal record of the person(s) applying for the license.
 - (6) The recommendation of the Village Planning Board.
- D. A license issued pursuant to this chapter shall expire one year from the date of issuance and any request for renewal shall be accompanied by a fee as shall be set from time to time by resolution of the Board of Trustees.
- (1) A request for renewal must be made at least 30 days prior to the expiration of said license. A timely request for renewal, not acted upon by the Board by the time the license expires, shall allow the applicant to continue the adult entertainment enterprise as if the license were not expired.
 - (2) In the event that an existing license shall be denied, the applicant may continue to operate for a period of 14 calendar days in order to initiate appropriate judicial review in a court of competent jurisdiction. In the event that the village is not required by said court to continue the status quo, within said 14 days, the business shall cease operations.

§ 47-8. Revocation of license.

The Board of Trustees, upon complaint of violation of this chapter or other ordinance or any law by licensee and a hearing upon five days' prior notice to the licensee, may revoke any license for good cause, including, without limitation:

- A. Fraud, misrepresentation or false statement contained in the application for the license, any application for renewal thereof or any other required disclosure by an applicant, managerial staff or entertainers.
- B. Fraud, misrepresentation or false statement made in the course of carrying on the adult entertainment enterprise by the applicant, managerial staff or entertainers.
- C. Conviction of any crime, misdemeanor or violation of any local law or ordinance by the applicant, managerial staff or entertainers.
- D. Conducting the adult entertainment enterprise in an unlawful manner or in such a manner as to constitute a breach of peace or as to constitute a menace to the health, safety or general welfare of the public.

§ 47-9. Penalties for offenses.¹

Any person violating the provisions of this chapter shall be guilty of a violation, and upon conviction thereof shall be subject to a penalty as provided in Chapter 1, General Provisions, Article II, General Penalty. Every day or part of a day that a violation of this chapter shall continue shall constitute a separate and distinct offense. Notwithstanding any other provision of this chapter, the license shall be automatically revoked upon conviction of a violation of any provision of this chapter. The village shall, in addition to the foregoing, also be entitled to seek injunctive relief.

¹ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).