

# 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.)

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.

STATE OF NEW YORK  
DEPARTMENT OF STATE  
**FILED**  
MAR 20 2003

MISCELLANEOUS  
& STATE RECORDS

~~County~~  
~~City~~ of RUSSIA  
~~Town~~  
~~Village~~

Local Law No. ONE of the year 19 2003

A local law titled "ADULT USE AND ENTERTAINMENT ESTABLISHMENT"  
(Insert Title)  
which is an amendment and an addition to Local Law # 2 of 1982  
titled "LAND USE REGULATIONS ORDINANCE"

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

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

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

(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. ONE of 2003 of ~~19~~ of the ~~(County)(City)(Town)(Village)~~ of RUSSIA was duly passed by the Town Board on March 10, 2003 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 19\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 19\_\_\_\_, and was (approved)(not approved)(repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_ 19\_\_\_\_, 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 19\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 19\_\_\_\_, and was (approved)(not approved)(repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 19\_\_\_\_. 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 \_\_\_\_\_ 19\_\_\_\_, 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 19\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 19\_\_\_\_, and was (approved)(not approved)(repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 19\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 19\_\_\_\_, 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 19\_\_\_\_ 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 \_\_\_\_\_ 19\_\_\_\_, 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 19\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 19\_\_\_\_, 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 one, above.

James M. Bailey  
Clerk of the County legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: 3-11-2003

(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 ONEIDA

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.

[Signature]  
Signature

TOWN ATTORNEY  
Title

County  
City of RUSSIA  
Town  
Village

Date: March 14, 2003

Be it enacted by the Town Board of the Town of Russia, as follows:

**LOCAL LAW NO. 1 OF 2003  
ADULT USE AND ENTERTAINMENT ESTABLISHMENT**

**ARTICLE I            SHORT TITLE: “Adult Use and Entertainment Establishment”,  
Local Law Number 1 of 2003**

**ARTICLE II            PURPOSE AND EFFECTIVE DATE**

1. It is the purpose of this local law to regulate the creation, opening, commencement or operation of adult use and entertainments, as herein defined, in order to achieve the following primary purposes.
  - A. To preserve the character and quality of life in the Town of Russia neighborhoods and business areas.
  - B. To maintain property values.
  - C. To prevent crime.
  - D. To protect retail trade.
  - E. To restrict minors access to Adult Uses.
  - F. To maintain the general welfare, safety and morals for the Town of Russia residents.
2. **This law shall become effective immediately upon filing by the Secretary of State.**

**ARTICLE III            ADULT USE PERMITTED**

1. Adult use and Entertainment Establishments, as herein defined, shall only be permitted in the Commercial District for Adult Uses upon issuance of a special use permit as specifically set forth in this Local Law and only to the extent that it is consistent with Local Law and the New York State Penal Law relating to exposure, obscenity or lewdness.

## ARTICLE IV

**Local Law No. 2 of 1982 entitled "Town of Russia Land Use Ordinance"** is hereby amended as follows:

The Town Land Use District Map of the Town of Russia is modified to create a Commercial District for Adult Uses consisting of an area described as follows: Beginning at a point in the centerline of Hughes (AKA Schoolhouse) Road, said point being 1000 feet southwest of the intersection of Hughes (Schoolhouse) Road and Wheelertown Road; thence northwesterly a distance of 500 feet along a line perpendicular to said centerline to a point; thence southwesterly a distance of 1000 feet along a line parallel to said centerline to a point, thence southeasterly a distance of 500 feet along a line perpendicular to said centerline to a point; thence northeasterly a distance of 1000 feet along said centerline to the point of beginning.

## ARTICLE V

Local Law No. 2 of 1982 is further amended as follows:

1. Add the following to Section 2.12, entitled "Definitions".

### **ADULT USE AND ENTERTAINMENT ESTABLISHMENT**

A public or private establishment, or any part thereof, which presents any of the following entertainment, exhibitions or services topless and/or bottomless dancers; strippers; topless waitressing, busing or service; topless hair care or massages, service or entertainment where the servers or entertainer wear pasties or G-strings or both; adult arcade; adult bookstore or adult video stores; adult cabarets; adult motion picture theaters; adult theaters; escort agencies; nude model studios and sexual encounter centers. Adult use and Entertainment Establishments customarily exclude minors by reason of age.

### **ADULT ARCADE**

Any place to which the public is permitted or invited wherein coin-operated or slug operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing specified sexual activities or specified anatomical areas.

### **ADULT BOOKSTORE OR ADULT VIDEO STORE**

A commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

- A. Books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides or other visual representations which depict or describe specified sexual activities or specified anatomical areas; or
- B. Instruments, devices, or paraphernalia, which are designed for use in connection with specific sexual activities. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specific sexual activities or specified anatomical areas and still be categorized as **ADULT BOOKSTORE** or **ADULT VIDEO STORE**. So long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe specified sexual activities or specified anatomical areas. For purposes of this definition principal business purpose shall mean twenty-percent or more of any to the following:
  - 1. The number of different titles or kinds of such merchandise;
  - 2. The number of copies or pieces of such merchandise;
  - 3. The amount of floor space devoted to the sale and/or display of such merchandise; or
  - 4. The amount of advertising which is devoted to such merchandise, either in print or broadcast media.

### **ADULT CABARET**

A nightclub, bar, restaurant, or similar commercial establishment which regularly features:

- a) Persons who appear in a state of nudity; or
- b) Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or
- c) Films, motion pictures, videocassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

### **ADULT MOTION PICTURE THEATER**

A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

**ADULT THEATER**

Means a theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or live performance which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

**ESCORT**

A person who for consideration, agrees or offers to act as a companion, guide or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

**NUDITY OR STATE OF NUDITY**

Means the appearance of “specified anatomical areas.”

**SEMI-NUDE**

Means a state of dress in which clothing covers no more than the specified anatomical areas, as well as portions of the body covered by supporting straps or devices.

**SEXUAL ENCOUNTER CENTER**

Means a business or commercial enterprise that, as one of its primary business purposes, offers, for any form of consideration, activities between male and female persons and /or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

**SEXUALLY ORIENTED BUSINESS**

An adult arcade, adult bookstore or adult video store, adult cabaret, adult motion picture theater, escort agency, nude model studio or sexual encounter center.

**SPECIFIED ANATONICAL AREAS**

Means unless completely and opaquely covered, human genitals, pubic region, buttocks, or breasts below a point immediately above the top of the areola; and even if completely and opaquely covered, male genitals in a discernibly turgid state.

**SPECIFIED SEXUAL ACTIVITES----** Any of the following

- a) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or breasts;
  - b) Sex acts, normal or perverted, actual or simulate, including intercourse, oral copulation, or sodomy;
  - c) Masturbation, actual or simulated; or
  - d) Excretory functions.
2. Section 4.1 is amended to add “Commercial District for Adult Uses” to list of districts.
3. Add Section 4.9 as follows:
- Section 4.9 **“Commercial District for Adult Uses”**.

4.9.1 Purpose: To maintain property values, prevent crime, protect retail trade, to restrict minors access to adult uses, to maintain the general welfare, safety and morals for Town residents, to preserve the character and safety of life in the Town.

4.9.2 Permitted uses: No building or premises may be used, constructed or developed in whole or in part for any purpose except by Special Permit.

4.9.3 Uses subject to the issuance of a Special Permit in accordance with Article IX of this Ordinance:  
Adult Use and Entertainment Establishment.

4. Add new Section 9.1.8 as follows:

9.1.8 Adult Use and Entertainment Establishments.

In addition to the general requirements for special use permits, Adult Use and Entertainment Establishments shall also meet the following conditions:

- a) No signage shall be permitted outside the Commercial District.
- b) There shall be a minimum side setback of two hundred (200) feet from an Adult use and Entertainment Establishment structure to the property line of an adjoining property, and a minimum two hundred (200) foot set-back from the front and rear property lines.
- c) An Adult Use and Entertainment Establishment structure is not allowed within one thousand (1,000) feet of a property line of a parcel containing a church, synagogue, other place of worship, library, school, daycare facility, park or playground, within the town;
- d) Not more than one Adult Use and Entertainment Establishment may be located on one parcel;
- e) All building openings, including but not limited to doorways and windows, shall be located, covered or screened in such a manner as to prevent a view into the Adult Use and Entertainment Establishment from any public street, sidewalk, or parking area;
- f) There shall be no outdoor display or advertising of any kind, other than one business identification sign complying with the signage requirement set forth in the Town of Russia Land Use Regulation Law. Additionally the building shall not be painted in a fashion as would effectuate the same purpose as a sign;
- g) No dwelling unit shall be allowed on a parcel containing an Adult Use Entertainment Establishment;

- h) No loud speakers or sound equipment that can be discerned by public from a public and/or semipublic area shall be used as a part of the Adult Use and Entertainment Establishment;
- i) A public hearing shall be conducted prior to the approval of any Special Use Permit under this section;
- j) No special Use Permit granted pursuant to this section is transferable upon the sale, assignment, lease or otherwise of the property.