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County  
City of UNION VALE  
Town  
Village

Local Law No. 2 of the year 2000

A local law Establishing Chapter 26

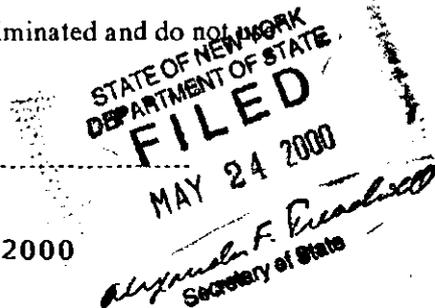
*(Insert Title)*

"COMPERHENSIVE ADULT USE REGULATION"

Be it enacted by the TOWN BOARD of the

*(Name of Legislative Body)*

County  
City of UNION VALE as follows:  
Town  
Village



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

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## **Chapter 26, ADULT USE (Comprehensive Adult Use Regulation)**

### **ARTICLE I, General Provisions**

#### **§ 26-1. Title.**

This chapter shall be known and may be cited as the "Comprehensive Adult Use Regulation Chapter."

#### **§ 26-2. Authority.**

The Comprehensive Adult Use Regulation Chapter is enacted pursuant to the home rule power of the town in the interest of the health, peace, safety and general welfare of the people of the town.

#### **§ 26-3. Territory embraced.**

All territory within the legal boundaries of the Town of Union Vale, State of New York, shall be embraced by the provisions of this chapter.

#### **§ 26-4. Construal of provisions; word usage.**

The Comprehensive Adult Use Regulation Chapter shall be liberally construed to accomplish its purpose of licensing and regulating adult uses and related activities. Unless otherwise indicated, all provisions of this chapter shall apply equally to all persons, regardless of sex. Masculine pronouns, such as "he," "his" and "him," as employed in this chapter, shall also be construed to apply to feminine pronouns and neutral pronouns, unless the context suggests otherwise. Words used in the singular number shall include the plural number, unless the context suggests otherwise.

#### **§ 26-5. Purpose.**

The intent of Town Board in adopting the Comprehensive Adult Use Regulation Chapter is to establish reasonable and uniform regulations that will protect the health, safety and general welfare of the people of Union Vale, New York. The provisions of this chapter, acting alone or together with other applicable chapters of the Code of the Town of Union Vale, have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including adult material. Similarly, it is not the intent nor effect of this chapter to restrict or deny access by adults to adult materials or expression protected by the First Amendment or to deny access by distributors and exhibitors of adult uses to their intended market.

### **ARTICLE II, Legislative Findings; Definitions**

## **§ 26-6. Legislative findings.**

A. In reaching the decision to adopt this chapter, the Town Board considered the city following reports, studies and judicial opinions on which to base this ordinance and considered these materials as relevant data:

- (1) *United States v. O'Brien*, 391 U.S. 367 20 L.Ed.2d 672, 88 S.Ct 1673 (1968).
- (2) *California v. LaRue*, 409 U.S. 109, 34 Led.2d 342, 93 S.Ct 390 (1972).
- (3) *Erzonoznik v. Jacksonville*, 422 U.S. 205, 45 L.Ed.2d 125, 95 S.Ct 2268 (1975).
- (4) *Young v. American Mini-Theaters, Inc.*, 427 U.S. 50, 49 L.Ed.2d 310, 96 S.Ct. 2440 (1976).
- (5) *New York State Liquor Authority v. Bellanca*, 452 U.S. 714, 69 L.Ed.2d 357, 101 S.Ct. 2599 (1981).
- (6) *Schad v. Mount Ephram*, 452 U.S. 61, 68 L.Ed.2d 671, 101 S.Ct. 2176 (1981).
- (7) *City of Renton v. Playtime Theaters, Inc.*, 475 U.S. 41, 89 L.Ed.2d 29, 106 S.Ct. 925 (1986).
- (8) *City of Newport v. Iacobucci*, 479 U.S. 92, 93 L.Ed.2d 334, 107 S.Ct. 383 (1986).
- (9) *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215, 107 L.Ed.2d 603, 110 S.Ct. 596 (1-9-90); lower court opinion at *FW/PBS, Inc. v. City of Dallas*, 837 F.2d 1298 (5th Cir. 1988).
- (10) *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560, 111 S.Ct. 2456, 115 L.Ed.2d 504 (1991).
- (11) *Griffin v. State*, 396 So.2d 152 (Fla. 1981). (F.S. § 847.014 Harmful to Minors).
- (12) *Grand Faloon, Inc. v. Wicker*, 670 F.2d 943 (11th Cir. 1982). (City of Cocoa Beach.)
- (13) *Fillingim v. Boone*, 835 F.2d 1389 (11th Cir. 1988). (Leon County.)
- (14) *T-Marc, Inc. v. Pinellas County*, 804 F.Supp. 1500 (M.D. Fla. 1992).
- (15) *Cafe 207, Inc. v. St. Johns County*, 989 F.2d 1136 (11th Cir. 1993). This decision is preliminary to a future decision that is anticipated to be significant in impact.
- (16) *Adult Entertainment Business in Oklahoma City, A Survey of Real Estate Appraisers. Report prepared by the Community Development Department of the City of Oklahoma City, Oklahoma. Dated March 3, 1986.*
- (17) *Director's Report: Proposed Land Use Code Text Amendment, Adult Cabarets. A report prepared by the Director of the Department of Construction and Land Use of the City of Seattle, Washington. Dated March 24, 1989.*

B. After considering the relevant data, consulting with the Town Assessor, the Planning Board, law enforcement officials and other interested parties, the Town Board adopts the following findings:

(1) Commercial establishments exist in close proximity to Union Vale, in nearby cities and in other counties in the Mid-Hudson area where books, magazines, periodicals or other printed material or photographs, films, motion pictures, prints, videotapes, slides or other visual representations or recordings or audio matter or instruments, novelties, devices or paraphernalia which depict, illustrate, describe or relate to specified sexual activities or specified anatomical areas are possessed, displayed, exhibited, distributed and/or sold.

(2) Commercial establishments may seek to locate within the town and already exist in nearby cities or counties in the Mid-Hudson Valley where dancers, entertainers, performers or other individuals, for commercial gain, perform or are presented while displaying or exposing specified anatomical areas or engage in straddle dancing or touching with customers.

(3) The activities described in Subsection B(1) and (2) of this §26.6 occur at establishments which operate for the purpose of making a profit and, as such, are subject to regulation by the town in the interest of the health, safety, economy, property values and general welfare of the people, businesses and industries of the town.

(4) When the activities described in Subsection B(1) and (2) are present in establishments, other activities which are illegal, unsafe or unhealthful tend to accompany them, concentrate around them and be aggravated by them. Such other activities include, but are not limited to, prostitution, pandering, solicitation for prostitution, lewd and lascivious behavior, exposing minors to harmful materials, possession, distribution and transportation of obscene materials, sale or possession of controlled substances and violent crimes against persons and property.

(5) When the activities described in Subsection B(1) and (2) are competitively exploited in establishments, they tend to attract an undesirable number of transients, blight neighborhoods, adversely affect neighboring businesses, lower real property values, promote the particular crimes described in Subsection B(4) and ultimately lead residents and businesses to move to other locations.

(6) The establishments in which the activities described in Subsection B(1) and (2) occur often are constructed, in part or in whole, of substandard materials, maintained in a manner reflecting disregard for the health and safety of the occupants and have exterior signs or appearance that lower the surrounding property values and cause the decline of the town.

(7) There is a higher incidence of certain types of unhealthy or criminal behavior among employees of establishments at which the activities described in Subsection B(1) and (2) occur.

(8) Physical contact or touching within establishments at which the activities described in Subsection B(1) and (2) occur between employees exhibiting specified anatomical areas and customers poses a threat to the health of both and promotes the spread of communicable and social diseases.

(9) In order to preserve and safeguard the health, safety and general welfare of the residents of the town, it is necessary and advisable for the town to regulate the conduct of owners, managers, operators, agents, employees, entertainers, performers and customers at

establishments where the activities described in Subsection B(1) and (2) occur.

(10) The potential dangers to the health, safety and general welfare of the people of the town posed by permitting an establishment at which the activities described in Subsection B(1) and (2) occur to operate without first meeting the requirements for obtaining a license under this code are so great as to require the licensure of such establishments prior to their being permitted to operate.

(11) Requiring operators of establishments at which the activities described in Subsection B(1) and (2) occur to keep a list of information concerning current employees and certain recent past employees will help reduce the incidence of certain types of criminal behavior by facilitating the identification of potential witnesses or suspects and by preventing minors from working in such establishments.

(12) Prohibiting establishments at which the activities described in Subsection B(1) and (2) occur from operating within set distances of educational institutions, religious institutions, residences, areas designated for residential use and parks, at which minors are customarily found, will serve to protect minors from the adverse affects of the activities that accompany such establishments.

(13) Straddle dancing, unregulated private performances and enclosed adult booths in establishments at which the activities described in Subsection B(1) and (2) occur have resulted in indiscriminate commercial sex between strangers and poses a threat to the health of the participants and promotes the spread of communicable sexually transmitted diseases. Straddle dancing is primarily conduct rather than communication or expression.

C. The Town Board has determined that at present there are no adult use establishments operating in Union Vale and therefore no amortization period for nonconforming uses is necessary.

D. The Town Board recognizes that as adult uses, as defined herein, affect surrounding sites in a deleterious manner, particularly when several adult uses are concentrated, special regulation of these uses is necessary to ensure that these effects will not contribute to the blighting or downgrading of the surrounding neighborhood.

E. The Town Board has determined that adult uses should be dispersed rather than concentrated and finds that a minimum distance of three hundred (300) feet between adult uses serves an important function in preventing the concentration of adult uses.

F. Requirements greater than three hundred (300) feet between adult and certain other land uses would not provide a sufficient area in which adult uses could be located and constitutional strictures be met. The Town Board, therefore, finds that the three-hundred-foot distance requirement is a reasonable balance between the concern for the public health, safety and welfare of the citizens and a need to provide a sufficient area for adult uses to be located.

G. The Town Board has determined that this chapter is necessary to prevent crime, protect the town's actual and prospective retail trade, maintain property values and protect and preserve the quality of neighborhoods and commercial districts and the quality of life in general.

## § 26-7. Definitions.

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

**ADULT ARCADE** -- A 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 (5) or fewer persons per machine at any one (1) time and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

### **ADULT BOOKSTORE:**

A. It is an evidentiary presumption that an establishment which advertises, sells or rents adult material or offers for sale or rent adult material is an "adult bookstore."

B. The provisions of Subsection A are not intended to apply if the presumption is rebutted by evidence that establishes that at the establishment:

(1) Admission is not restricted to adults only;

(2) All adult material is accessible only by employees;

(3) The gross income from the sale and/or rental of adult material comprises less than ten percent (10%) of the gross income from the sale and rental of the goods or services at the establishment; and

(4) The individual items of adult material offered for sale and/or rental comprise less than twenty-five percent (25%) of the total individual new items publicly displayed as stock-in-trade in any of the following categories: books, magazines, periodicals or other printed matter or photographs, films, motion pictures, videotapes (VHS format), videotapes (BETA format), slides or other visual representations or recordings or other audio matter or less than twenty-five percent (25%) of the individual used items publicly displayed at the establishment as stock-in-trade in the same categories set out above.

**ADULT BOOTH** -- A separate enclosure inside an adult use establishment, accessible to any person, regardless of whether a fee is charged for access. The term "adult booth" includes, but is not limited to, a peep show booth, adult arcade booth or other booth used to view adult material. The term "adult booth" does not include a foyer through which any person can enter or exit the establishment or a rest room.

**ADULT MATERIAL** -- Any one (1) or more of the following regardless of whether it is new or used:

A. Books, magazines, periodicals or other printed matter, paintings, drawings or other publications or graphic media or photographs, films, motion pictures, videocassettes or disks, slides or other visual representations or recordings or other audio matter which have as their primary or dominant theme matter depicting, illustrating, describing or relating to a specified sexual activities or specified anatomical areas; or

B. Instruments, novelties, devices or paraphernalia which are designed for use in

connection with specified sexual activities.

**ADULT MOTEL** -- Any motel, hotel, boardinghouse, rooming house or other place of temporary lodging which includes the word "adult" in any name it uses or otherwise advertises the presentation of films, motion pictures, videotapes, slides or other photographic reproductions which have as their primary or dominate theme matters depicting, illustrating or relating to specified sexual activities or specified anatomical areas. The term "adult motel" is included within the definition of "adult theater."

**ADULT PHOTOGRAPHIC OR MODELING STUDIO** -- Includes any business establishment which offers or advertises as its primary business stock-in-trade the use of its premises for the purpose of photographing or exhibiting specified sexual activities or specified anatomical areas or the modeling of apparel that exhibits specified anatomical areas.

**ADULT THEATER** -- An enclosed building or an enclosed space within a building or an open-air area used for presenting either filmed or live plays, dances or other performances, either by individuals or groups, distinguished or characterized by an emphasis on material depicting, describing or relating to specified sexual activities or specified anatomical areas as defined in this chapter for observation by patrons therein. An establishment which has "adult booths" or an "adult arcade" or meets the definition of an "adult motel" is considered to be an "adult theater."

**ADULT USE** -- Any business entity which knowingly, or with reason to know, permits, suffers or allows private performances as defined under this chapter. "Adult use" also shall be defined to include the terms "adult arcade," "adult bookstore," "adult booth," "adult motel," "adult theater," "special cabarets," "physical culture establishments" and "adult photographic or modeling studios," as defined in this chapter, including any business establishment whose primary business stock-in-trade is dependent upon the activities relating to specified sexual activities or specified anatomical areas, as defined in this chapter.

**APPLICANT** -- Any business entity or person that has applied for an adult use permit or license.

**BOARD** -- The Town Board of the Town of Union Vale

**BUSINESS ENTITY** -- Any and all persons, natural or artificial, including any individual, firm, corporation or association operating or proposed to operate for commercial or pecuniary gain. ("Operated for commercial or pecuniary gain" shall not depend upon actual profit or loss. Also, "operated for commercial or pecuniary gain" shall be presumed where the establishment has an occupational license.) "Business entity" includes any enterprise or venture in which a person sells, buys, exchanges, barter, deals or represents the dealing in any thing or article of value or renders services for compensation.

**CERTIFICATION OF COMPLIANCE/NONCOMPLIANCE** -- A notice issued by the Code Enforcement Officer indicating to an applicant that the location proposed for an adult use complies or does not comply with the location requirements of this chapter.

**CHILD-CARE FACILITY** -- Any children's center, day nursery, nursery school, kindergarten or family day-care home.

**CHURCH** -- A site or premises such as a church, synagogue, temple, mosque, cathedral, chapel, tabernacle or similar place which is used primarily or exclusively for religious worship and related activities.

**CONVICTION** -- A determination of guilt resulting from a plea or trial, regardless of whether adjudication was withheld or whether imposition of sentence was suspended.

**DEPARTMENT** -- The Code Enforcement Officer and the Director, employees, officers and agents thereof.

**EMPLOYEE** -- A person who works or performs or provides services in connection with an adult use establishment, irrespective of whether said person is paid a salary or wage or is an independent contractor, provided that such person has a substantial or consistent relationship with the business of or entertainment/services provided by the adult use. "Employee" includes but is not limited to performers, managers and assistant managers, stock persons, tellers and operators.

**ESTABLISHMENT** -- A site or premises or portion thereof upon which certain adult use activities or operations are conducted.

**ESTABLISHMENT OR COMMENCEMENT OF BUSINESS:**

A. Means and includes any of the following:

- (1) The opening or commencement of any adult use business as a new business.
- (2) The conversion of an existing business, whether or not an adult use business, to any adult use business.
- (3) The addition of any adult use business to any other existing adult use business.
- (4) The relocation of any adult use business.
- (5) The continuation of an existing adult use business regardless of whether it is in compliance with the requirements of this chapter.

B. For purposes of determining the date of commencement of business under this chapter, evidence in the form of certified certificates of occupancy, affidavits, valid receipts or business records may be utilized. Any decision regarding a given date of commencement may be appealed pursuant to the provisions of § 26-51 of this chapter.

**INFORMATION MATERIAL TO THE DECISION** -- Information which, if provided, would result in a denial pursuant to § 26-17C.

**LAW ENFORCEMENT OFFICER** -- Any person who is elected, appointed or employed full-time by the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic or highway laws of the state.

**LICENSEE** -- Any person whose application for an adult entertainment establishment has been granted and who owns, possesses, operates and controls the establishment.

**MATERIAL FALSE INFORMATION** -- Information provided by the applicant which, if

false, would result in denial pursuant to § 26-17C.

**MISREPRESENTATION OR MISTAKE OF FACT OR LAW RELEVANT TO THE DECISION** -- Information which, if not misrepresented or mistaken, would result in a denial pursuant to § 26-17C.

**MIXED-USE ZONING DISTRICT** -- Any parcel located within or outside of the Town of Union Vale, including the incorporated or unincorporated areas of Dutchess County, or an adjacent municipality, the land use or zoning designation of which allows residential use alone or in any combination with commercial or industrial uses.

**NATES** -- The prominence formed by the muscles running from the back of the hip to the back of the leg.

**OPERATOR** -- Any person who engages in or performs any activity which is necessary to or which facilitates the operation of any adult entertainment establishment, including but not limited to the licensee, manager, owner, doorman, bartender, disc jockey, sales clerk, ticket taker, movie projectionist, employee or supervisor. This term is not meant to include repairmen, janitorial personnel or the like who are only indirectly involved in facilitating the operation of the adult use.

**PATRON** -- Includes any natural person other than an employee, operator or licensee or governmental officer while performing duties pursuant to this chapter or other law.

**PERSON** -- Any and all persons, natural or artificial, including any individual, firm, corporation or association.

**PHYSICAL CULTURE ESTABLISHMENT** -- Any business establishment which offers or advertises massage, body rubs, body cleansing, body scrubs or physical contact with specified anatomical areas, whether or not licensed. Business establishments which routinely provide medical services by state-licensed medical practitioners, massage therapists and electrolysis treatment by licensed operators of electrolysis equipment shall be excluded from the definition of adult "physical culture establishments."

**PRIVATE PERFORMANCE** -- Engaging in specified sexual activities or the display of any specified anatomical area by an employee to a person other than another employee while the person is in an area not accessible during such display to all other persons in the establishment or while the person is in an area in which the person is totally or partially screened or partitioned during such display from the view of all persons outside the area.

**PUBLIC RECREATION AREA** -- A tract of land within a municipality or unincorporated area which is kept for ornament and/or recreation and which is maintained as public property.

**RESIDENTIAL PROPERTY** -- Any parcel located inside or outside the town where the applicable land use or zoning designation allows residential use.

**SCHOOL** -- Includes a premises or suite upon which there is a nursery school, kindergarten, elementary school, junior high school, middle school, senior high school or exceptional learning center. However, the term "school" does not include a premises or site upon

which there is an institution devoted solely to vocational or professional education or training or an institution of higher education, including, but not limited to, a community college, junior college, four-year college or university.

**SPECIAL CABARET** -- Any bar, dance hall, restaurant or other place of business which features dancers, go-go dancers, exotic dancers, strippers, male or female impersonators or similar entertainers or waiters or waitresses that engage in specified sexual activities or display specified anatomical areas or any such business establishment, the advertising for, or a sign or signs identifying which, use the words "adult," "topless," "nude," "bottomless" or other words of similar import.

**SPECIFIED ANATOMICAL AREA:**

A. Less than completely or opaquely covered:

(1) Human genitals or pubic region; or

(2) Cleavage of the nates of the human buttocks; and

(3) That portion of the human female breast directly or laterally below a point immediately above the top of the areola; this definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit or other wearing apparel, provided that the areola is not so exposed.

B. Human male genitals in a discernible turgid state, even if completely and opaquely covered.

C. Any covering, tape, pastie, latex spray or paint or other device which simulates or otherwise gives the appearance of the display or exposure of any of the specified anatomical areas listed in Subsections A and B of this definition.

**SPECIFIED CRIMINAL ACT:**

A. A violation or violations of this chapter, as amended, sufficient to warrant suspension or revocation of an adult use license under §§ 26-23 and 26-24.

B. An offense under New York Penal Law § (sexual battery);

C. An offense under New York Penal Law § (prostitution);

D. An offense under New York Penal Law § (lewdness; indecent exposure);

E. An offense under New York Penal Law § (bigamy; incest);

F. An offense under New York Penal Law § (obscene literature; profanity); or

G. An offense under a statute of a state other than New York analogous to the offenses listed in Subsections B through F of this definition or under an analogous chapter of another county or town which would be sufficient to warrant suspension or revocation of an adult use license under §§ 26-23 and 26-24.

**SPECIFIED SEXUAL ACTIVITY:**

- A. Human genitals in a state of sexual stimulation, arousal or tumescence;
- B. Acts of anilingus, bestiality, buggery, cunnilingus, coprophagy, coprophilia, fellatio, flagellation, masochism, masturbation, necrophilia, pederasty, pedophilia, sadism, sadomasochism, sapphism, sexual intercourse, sodomy, urolagnia or zooerasty;
- C. Fondling or other erotic touching of human genitals, pubic region, buttock, anus or female breast; or
- D. Excretory functions as part of or in connection with any of the activities set forth in Subsections A through C of this definition.

TOWN -- The Town of Union Vale, New York.

**§ 26-8. Regulation of obscenity subject to state law.**

It is not the intent of the Town Board to legislate with respect to matters of obscenity that is subject to state law.

**§ 26-9. Regulation of massage establishments subject to state law.**

It is not the intent of the Town Board to legislate with respect to matters of massage establishments.

**§ 26-10. Severability.**

It is declared to be the legislative intent that, if any section, subsection, sentence, clause or provision of this chapter is held invalid, the remainder of the chapter shall not be affected and shall be interpreted, if necessary, so as to give a meaning consistent with the purpose and intent of this chapter.

**ARTICLE III, Licensing Provisions**

**§ 26-11. Responsibility for implementation.**

A. The Code Enforcement Officer is responsible for granting, denying, revoking, renewing, suspending and canceling adult use licenses for proposed or existing adult use establishments and for ascertaining whether an adult use establishment is licensed or whether a licensed establishment complies with or is complying with this chapter.

B. Any law enforcement officer, the Code Enforcement officer, the Fire Chief or a Building Department employee shall, at any reasonable hour, when there is reasonable cause to believe that a violation of this chapter may exist, have access to and shall have the right to inspect the premises of all licensees under this chapter for compliance with any or all of the applicable codes, statutes, ordinances and regulations in effect in Union Vale and within the responsibilities of their respective department. Such employee shall require strict compliance with the provisions of this chapter. Violations shall be reported to the Code Enforcement Officer.

**§ 26-12. Adult use license required; classification.**

No adult use establishment shall be permitted to operate without having been first granted an adult use license by the Code Enforcement Officer. Any adult use shall be classified as an adult bookstore, adult theater, adult photographic or modeling studio, physical culture establishment or special cabaret or any combination of these uses based on the information in the application subject to subsequent inspection for verification.

**§ 26-13. Application required for adult use license; contents of application.**

A. Application Required. Any person desiring to operate an adult use establishment shall file with the Code Enforcement Officer five copies of a sworn license application containing all the information listed in § 26-13B.

B. Contents of application. The application shall contain the following:

(1) Name and address; if the applicant is:

(a) An individual, the individual shall state his legal name and any aliases and submit satisfactory proof that he is eighteen (18) years of age.

(b) A partnership, the partnership shall state its complete name and the names of all partners having either direct, managerial, supervisory or advisory responsibilities for day-to-day operations of the adult use and whether the partnership is general or limited.

(c) A corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing, the names and capacity of all officers, directors and stockholders having either direct, managerial, supervisory or advisory responsibilities for day-to-day operations of the adult use and the name of the registered corporate agent and the address of the registered office for service of process.

(2) If the applicant intends to conduct the establishment under a name other than that of the applicant, the establishment's fictitious name and a certified copy of the applicant's registration with the Dutchess County Clerk.

(3) Whether the applicant or any of the other individuals listed pursuant to § 26-13B(1) has, within the five-year period immediately preceding the date of the application, been convicted of a specified criminal act and, if so, the specified criminal act involved, the date of conviction and the place of conviction.

(4) Whether the applicant or any of the other individuals listed pursuant to § 26-13B(1) has had a previous license or permit, under this or any other ordinance regulating adult uses, suspended or revoked or has, by court order, been required to cease operation, including the name and location of the establishment for which the license was suspended or revoked, as well as the date of the suspension or revocation, and whether the applicant or any other individuals listed pursuant to § 26-13B(1) has been a partner in a partnership or an officer, director or principal stockholder of a corporation whose license under this or any other ordinance regulating adult uses has previously been suspended or revoked, including the name and location of the establishment for which the license was suspended or revoked, as well as the date of the

suspension or revocation.

(5) Whether the applicant or any other individuals listed pursuant to § 26-13B(1) is a partner in a partnership or a stockholder in a corporation which holds any other licenses under this chapter and, if so, the names and locations of such other licensed establishments.

(6) The general nature of the type of adult use for which the applicant is seeking a license, including a statement concerning the degree to which the anticipated activities at the adult use meet the definitions of the enumerated adult use classifications listed in § 26-12 of this chapter. Such a characterization shall serve as an initial basis for the permitted activities allowed under the license issued.

(7) The location of the proposed establishment, including a legal description of the property site and a legal street address.

(8) The names of the employees for the proposed establishment, if known, or, if presently unknown, a statement to that effect.

(9) The applicant's mailing address, residential address and residential telephone number (if any).

(10) A site plan of the proposed or existing establishment. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each site plan should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six (6) inches. The site plan shall include, but not be limited to, the following:

(a) All property lines, rights-of-way and the location of buildings, parking areas and spaces, curb cuts and driveways.

(b) All windows, doors, entrances and exits, fixed structural features, walls, stages, partitions, projection booths, admission booths, adult booths, concession booths, stands, food service equipment, counters and similar structures.

(c) All proposed improvements or enlargements to be made, which shall be indicated and calculated in terms of percentage of increase in floor size.

(d) A designation of any portion of the premises in which patrons will not be permitted.

(e) If a proposed establishment is constructed in a manner that varies from the site plan submitted, a supplemental site plan showing the existing facility shall be provided once the certificate of occupancy or final building permit inspection is completed.

(11) A recent photograph of the individuals listed pursuant to § 26-13B(1).

(12) Either the driver's license number or the state or federally issued identification card number of the individuals listed pursuant to § 26-13B(1).

(13) A valid adult use permit signed by the Code Enforcement Officer pursuant to

Article VI of this chapter.

- (14) A sworn statement attesting to the accuracy of the information provided in the application and to the fact that the applicant, as licensee, will own, possess, operate and exercise control over the proposed or existing adult use establishment.
- (15) The Town Attorney shall review all applications to ensure that they conform to the requirements of this Chapter 26, that the facts submitted are accurate to the extent that the circumstances of the applicant make it advisable to carry out such verification. The Town Planning Board shall perform a Site Plan review.

**§ 26-14. Application fee.**

A. Any adult use establishment shall pay to the Code Enforcement Officer and prior to application for a license fee in an amount to cover the expenses of the legal and site plan review necessary to obtain an adult use permit pursuant to this chapter. The amount of such fee shall be established by resolution of the Town Board. Such fee shall be paid only one (1) time for any proposed adult use location unless the proposal is to expand the dimensions of a permitted adult use.

B. Each application for an adult use license shall be accompanied by a nonrefundable fee in an amount required to offset the cost of processing the application as set by resolution of the Town Board. The Code Enforcement Officer review fee shall be in addition to the fees for legal and site plan review.

**§ 26-15. Incomplete application.**

A. In the event that the Code Enforcement Officer determines or learns at any time that the applicant has not properly completed the application for a proposed establishment, it shall promptly notify the applicant of such fact and shall allow the applicant thirty (30) days to properly complete the application. The time period for granting or denying a license shall be stayed during the period in which the applicant is allowed an opportunity to properly complete the application.

B. Failure to respond to a request for information necessary to complete the application within sixty (60) days shall result in a denial of the application on the basis of abandonment. This denial shall be without prejudice to the applicant's right to reapply.

**§ 26-16. Investigation of application.**

Upon receipt of an application properly filed with the Code Enforcement Officer and upon payment of the nonrefundable application fee, the Code Enforcement Officer shall immediately stamp the application as received and shall immediately thereafter send photocopies of the application to the Planning Board and the Town Attorney. The Town Attorney shall promptly arrange for an investigation of the applicant and of the individuals listed in the application by the Dutchess County Sheriff's Department to ascertain the validity of the information provided as well as other information provided in the application. At the conclusion

of this review, the Planning board and the Town Attorney shall indicate, on their respective photocopies of the application, the results of their reviews.

**§ 26-17. Grant or denial of application.**

A. Time period for granting or denying.

(1) The Code Enforcement Officer shall grant or deny an application for a new, renewal or transfer license within sixty (60) days from the date of its proper filing. Any denial shall state the reasons for the denial.

(2) Upon the expiration of the 60th day, the applicant may, at the applicant's discretion, begin operating the establishment for which a license is sought without benefit of a license unless and until the Code Enforcement Officer notifies the applicant of a denial of the application and states the reason(s) for that denial. Failure to timely grant or deny an application for a license and the provisions of this section allowing operation without benefit of a license shall not serve as a granting of the license.

(3) Failure to timely grant or deny an application for a license shall serve to ripen an appropriate action to compel a decision on the application. The town will cooperate with the applicant to assure his entitlement to prompt judicial review of the town's failure to timely grant or deny the application. All operation of the establishment, under this special provision, shall conform to the provisions of this chapter during the pendency of the application review.

B. *Granting of application for license. If there is no basis for denial, pursuant to § 26-17C, the Code Enforcement Officer shall grant the application, notify the applicant of the granting and issue the license to the applicant upon payment of the appropriate annual license fee.*

C. Denying of application for license.

(1) The Code Enforcement Officer shall deny the application for any of the following reasons:

(a) The application contains material false information or information material to the decision was omitted; failure to list an individual required to be listed pursuant to § 26-13B(1), and whose listing would result in a denial pursuant to Subsection C(1)(b) and (d) below, is presumed to be a material false information for purposes of denial of the application; the certification that the licensee owns, possesses, operates and exercises control over the proposed or existing adult use establishment is a material representation for purpose of this section.

(b) The applicant or any of the other individuals listed pursuant to § 26-13B(1) holds or has held a license under this or any other ordinance regulating adult uses which has been suspended or revoked for reasons which would be sufficient to warrant suspension or revocation under this chapter and from which less than ten (10) years has elapsed since the date of revocation or from which less than two (2) years has elapsed since the date of suspension.

(c) The granting of the application would violate a statute, chapter or an order from a court of law.

(d) An applicant or any of the other individuals listed pursuant to § 26-13B(1) has been convicted of a specified criminal act:

[1] For which:

[a] Less than two (2) years has elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;

[b] Less than five (5) years has elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a felony offense; or

[c] Less than five (5) years has elapsed since the date of the last conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the convictions are of two (2) or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty-four-month period.

[2] The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant.

[3] An applicant who has been convicted of a specified criminal act may qualify for an adult use license only when the time period required by Subsection C(1)(d)[1][a] through [c] of this section has elapsed.

(e) Abandonment of the application pursuant to § 26-17A.

(2) If the Code Enforcement Officer denies the application, the notification to the applicant shall state the reason(s) for such denial.

(3) If a person applies for a license at a particular location within a period of six (6) months from the date of denial of a previous application for a license at the location and there has not been an intervening change in the circumstances material to the decision regarding the former reason(s) for denial, the application shall not be accepted for consideration.

(4) The granting of a license does not act as a certification that the proposed adult use establishment meets all provisions of this chapter or of any health or land use regulation, code, ordinance or regulation. The existing adult use establishment and any proposed adult use establishment, once established, must meet all code provisions required of all regulated businesses.

### **§ 26-18. Contents of license; term; renewal; expiration; cancellation.**

A. Contents. An adult use license shall state on its face the name of the licensee, the name of the establishment, the street address of the establishment, the classification(s) of the license, the date of issuance and the date of expiration.

B. Term. All licenses issued under this chapter shall be annual licenses which shall commence running on October 1, on which date they shall have been paid for, and shall expire on September 30 of the following year. If a license is issued after October 1 but by March 31 of

the following year, the applicant shall pay the appropriate license fee. If a license is issued after March 31 but by October 1 of the same year, the applicant shall pay one-half (1/2) the appropriate license fee.

C. Renewals.

(1) Licenses shall be renewed annually. Subject to the requirements of this chapter, a licensee under this chapter shall be entitled to a renewal of his annual license from year to year, as a matter of course, by October 1 by presenting the license for the previous year and by paying the appropriate license fee and updating the information supplied with the latest application or certifying that the information supplied remains unchanged.

(2) An application for renewal may be denied if updated information provided in the application indicates that one (1) or more of the individuals required to be listed pursuant to § 26-13B(1) were not listed in the original application and their existence in the original application would have resulted in a denial of the application pursuant to § 26-17C. Removal of that individual(s) from the application for renewal will allow approval of the application for renewal.

(3) An application for renewal may not be denied where the individuals required to be listed pursuant to § 26-13B(1) were listed in the original application and, subsequent to issuance of the license, were convicted of an offense which would have resulted in a denial of the application pursuant to § 26-17C. Such convictions are to be accommodated through the suspension and revocation procedures of this chapter.

D. Expiration. A license that is not renewed under this chapter by October 1 of each year shall expire. An expired license may be renewed by November 30 of the same year upon presentation of an affidavit stating that no adult entertainment activity has taken place at the establishment subsequent to expiration, upon payment of the appropriate license fee and upon payment of a penalty of ten percent (10%) of the appropriate license fee for the month of October, or fraction thereof, and an additional penalty of five percent (5%) of the appropriate license fee for the month of November, or fraction thereof.

E. Cancellation. All expired licenses not renewed by November 30 shall be canceled summarily by the Code Enforcement Officer.

**§ 26-19. Annual licensing regulatory fees.**

A. Levy of license fees. In order to cover the administrative and enforcement costs associated with this chapter, there are hereby levied annual licensing regulatory fees under this chapter for an adult entertainment establishment in amounts set by resolution of the Town Board.<sup>EN</sup>

B. License fees are regulatory in nature. The annual license fees collected under this chapter are declared to be regulatory fees which are collected for the purpose of examination and inspection of adult uses under this chapter and the administration thereof. These regulatory fees are in addition to and not in lieu of the occupational license taxes, building permit fees, impact fees, food establishment fees or other fees imposed by other sections of the Town Code.

**§ 26-20. Records and reports; consent by licensee.**

A. Records and reports.

(1) Each licensee shall keep such records and make such reports as are required under this chapter.

(2) Whenever the information required by or provided under § 26-13B has changed, the licensee shall provide the changed information to the Code Enforcement Officer with within fourteen (14) days.

B. Consent. By applying for a license under this chapter, the licensee shall be deemed to have consented to the provisions of this chapter and to the exercise by the Code Enforcement Officer, the Sheriff, the Planning Board and the Town Attorney of their respective responsibilities under this chapter.

**§ 26-21. Transfer of license.**

A. Requirements for transfer. A licensee shall not transfer his license to another business entity or person and thereby surrender ownership, possession, control and operation of the licensed establishment to such other business entity or person unless and until such other business entity or person satisfies the following requirements:

(1) Such other business entity or person obtains an amendment to the license from the Code Enforcement Officer which indicates the new licensee, which amendment may be obtained only upon completion and proper filing of an application with the Code Enforcement Officer setting forth the information called for under § 26-13B, with respect to the new applicant, and that application has been granted by the Code Enforcement Officer pursuant to § 26-17B; and

(2) Such other business entity or person pays the application fee and a transfer fee of ten percent (10%) of the appropriate annual license fee.<sup>EN</sup>

B. Effect of suspension or revocation procedures. No license may be transferred pursuant to this § 26-21 when the Code Enforcement Officer has notified the licensee that suspension or revocation proceedings have been or will be brought against the licensee.

C. No transfer to different location. A licensee shall not transfer his license to another location.

D. Attempted improper transfer void; license abandoned. Any attempted transfer of a license either directly or indirectly in violation of this § 26-21 is hereby declared void, and the license shall be deemed abandoned and shall automatically terminate. The Code Enforcement Officer shall give notice of the cancellation of the license.

**§ 26-22. Changing name of establishment.**

No licensee may change the name of an adult use establishment unless and until he satisfies each of the following requirements:

A. The licensee gives the Code Enforcement Officer thirty (30) days' notice, in

writing, of the proposed name change.

B. The licensee pays the Code Enforcement Officer a change-of-name fee as set forth from time to time by resolution of the Town Board.

**§ 26-23. Suspension of license.**

A. Violation of general provisions.

(1) In the event that the Code Enforcement Officer learns or finds, upon sufficient cause, that a licensed adult use establishment is operating contrary to the respective general requirement of § 26-29E, F and G, or the applicable special requirement of § 26-30A(1)(a), (b), (c) and (d), § 26-30A(5), § 26-30B, C and D and § 26-31, he shall promptly notify the licensee of the violation and shall allow the licensee a thirty-day period in which to correct the violation. Filing of an application to the Zoning Board of Appeals for a variance from § 26-30 shall toll the running of the time period, and the Zoning Board of Appeals may, in its conditions for any variance, provide for a specified period of time for correction of the violation, consistent with the variance.

(2) If the licensee fails to so correct the violation before the expiration of the time period provided for in Subsection A(1) above, the Department shall notify the Code Enforcement Officer, which shall forthwith suspend the license and shall notify the licensee of the suspension.

(3) The suspension shall remain in effect until the Department notifies the Code Enforcement Officer in writing that the violation of the provision in question has been corrected. The Code Enforcement Officer or another department, at its request, shall respond to a request for inspection within twenty-four (24) hours of receipt of such a request and shall, within twelve (12) hours of inspection, notify the licensee that the violation has or has not been corrected.

(4) Within twenty-four (24) hours of receipt of notice that the violation(s) responsible for any suspension has (have) been corrected, the Code Enforcement Officer shall notify the licensee that the suspension is lifted.

(5) During the suspension of its license, an adult use establishment may not operate as an adult use or, pursuant to either applicable codes, chapters, statutes or court orders, where applicable, may not be open for business.

B. Illegal transfer. In the event that the Code Enforcement Officer learns or finds, upon sufficient cause, that a licensee is engaged in a license transfer contrary to § 26-21, it shall forthwith suspend the license and notify the licensee of the suspension. The suspension shall remain in effect until the Code Enforcement Officer is satisfied that the requirements of § 26-21 have been met.

C. Convictions for violations of Article VII of this chapter.

(1) In the event that three (3) or more convictions for violations of a specified criminal act or violations of Article VII of this chapter occur at an adult use establishment within a two-year period and convictions result from at least three (3) of the violations of either the licensee, the licensee's operator or employee, or of any of the other individuals listed pursuant to

§ 26-13B(1), the Code Enforcement Officer shall, upon the receipt of notice of such convictions, or when such convictions are ascertained by other means, suspend the license and notify the licensee of the suspension. The suspension shall remain in effect for a period of thirty (30) days. For purposes of this § 26-23 only, in the event that a single occurrence of enforcement results in more than one (1) conviction, the total number of convictions shall be combined into a single violation. Single occurrences of enforcement are enforcement actions occurring at the same location and less than four (4) hours apart. Enforcement actions occurring more than four (4) hours apart or at different locations resulting in convictions are separate violations for purposes of this subsection.

(2) In the event that one (1) or more violations of a specified criminal act or a violation of Article VII of this chapter occurs at the adult use establishment within a period of two (2) years and thirty (30) days from the date of the violation from which the conviction resulted for which the license was suspended for thirty (30) days under § 26-23C(1) and a conviction results from one (1) or more of the violations of either the licensee, the licensee's operator or employee, or of any of the other individuals listed pursuant to § 26-13B(1), the Code Enforcement Officer shall, upon the date of the first conviction, suspend the license again and notify the licensee of the suspension. The suspension shall remain in effect for a period of ninety (90) days.

(3) In the event that one (1) or more violations of a specified criminal act or violations of Article VII of this chapter occur within a period of two (2) years and ninety (90) days from the date of the violation from which the conviction resulted for which the license was suspended for (90) days under § 26-23C(2) and a conviction results from one (1) or more of the violations of either the licensee, the licensee's operator or employee, or of any of the other individuals listed pursuant to § 26-13B(1), the Code Enforcement Officer shall, upon the date of the first conviction, suspend the license again and notify the licensee of the suspension. The suspension shall remain in effect for a period of one hundred eighty (180) days.

(4) The transfer or renewal of a license pursuant to this chapter shall not defeat the terms of § 26-23C(1) through (3).

D. Effective date of suspension. All periods of suspension shall begin five (5) days after the date the Code Enforcement Officer mails the notice of suspension to the licensee or on the date the licensee delivers his license to the Code Enforcement Officer, whichever happens first.

#### **§ 26-24. Cancellation or revocation of license.**

A. False information. In the event that the Code Enforcement Officer learns or finds upon sufficient cause that a license was granted based upon material false information, misrepresentation of material fact or mistake of fact or law, it shall notify the licensee and shall provide no more than thirty (30) days during which the licensee may correct or explain the reason for the false information. If the licensee does not have adequate justification for the existence of false information or if the licensee cannot correct the application to conform to the requirements of this chapter, the licensee will be in violation of this chapter. A code enforcement

officer or a law enforcement officer may issue a citation for violation of this section of this chapter. The licensee will be subject to all proceedings, fines and penalties provided in this chapter. In the event that the licensee is convicted or found guilty of a violation of this provision, he shall also be subject to cancellation of the license as provided in § 26-25C and D of this chapter. Failure to list an individual required to be listed pursuant to § 26-13B(1), and whose listing would result in a denial pursuant to § 26-17C, is presumed to be a material false information for purposes of cancellation of the permit; the certification that the licensee owns, possesses, operates and exercises control over the proposed or existing adult use establishment is a material representation for purposes of this section.

### **§ 26-25. Convictions for criminal acts; hearing.**

A. If the licensee, the licensee's operator or employee, or any other individual listed pursuant to § 26-13B(1), is convicted for one (1) or more specified criminal acts or for a violation of Article VII of this chapter and the conviction(s) was (were) for activities that occurred at an adult use establishment which has had a license suspended for a period of one hundred eighty (180) days pursuant to § 26-23C(3), and the conviction(s) occurs within a period of two and one-half (2 1/2) years after the license was suspended for one hundred eighty (180) days pursuant to § 26-23C(3), the licensee will be in violation of this provision and will be subject to revocation of his/her license.

B. The time frame of two and one-half (2 1/2) years during which the licensee is subject to revocation proceedings under § 26-25A shall begin to run from the first day upon which the one-hundred-eighty-day suspension of the license takes effect.

C. Upon discovery of a violation as defined in § 26-25A, the Code Enforcement Officer shall notify the licensee of its intent to revoke the license. The licensee shall have thirty (30) days upon which to request a hearing before the Zoning Board of Appeals. Such hearing shall provide for adequate due process as constitutionally required in an quasi-judicial proceeding. The Town Board may revoke the license if it finds that the licensee is in violation of this provision.

D. In the event that the licensee fails to make a timely request for a hearing, the Code Enforcement Officer shall permanently revoke the license and notify the licensee of the revocation and the reasons therefor.

E. The transfer or renewal of a license pursuant to this chapter shall not defeat the terms of this § 26-25.

### **§ 26-26. Effect of revocation.**

If a license is revoked, the licensee shall not be allowed to obtain another adult use license for a period of ten (10) years.

### **§ 26-27. When revocation effective.**

The revocation shall take effect five (5) days after the date the Code Enforcement

Officer mails the notice of revocation to the licensee or on the date the licensee delivers his license to the Code Enforcement Officer, whichever happens first.

## **ARTICLE IV, Employee Provisions**

### **§ 26-28. Records for employees.**

A. The licensee of an adult use establishment is responsible for keeping a record of all employees who are currently employed by the establishment and of all former employees who were employed by the establishment during the preceding one-year period. The record shall contain the current or former employee's full legal name, including any aliases, and his/her date of birth.

B. The original records required by Subsection A, or true and exact photocopies thereof, shall be kept at the adult use establishment at all times.

C. Any operator of the adult use establishment shall be responsible for knowing the location of the original records or the true and exact photocopies thereof.

D. Any operator of the adult use establishment shall, upon request by a law enforcement officer, Dutchess County Health Department official or a representative of the Code Enforcement Officer, make available for inspection the original records, or the true and exact photocopies thereof, while the establishment is open for business.

## **ARTICLE V, Operational Provisions For Adult Uses**

### **§ 26-29. General requirements.**

Each adult use establishment shall, regardless of whether it is licensed, observe the following general requirements. It shall:

A. Conform to all applicable building statutes, codes, ordinances and regulations, whether federal, state or local.

B. Conform to all applicable fire statutes, codes, ordinances and regulations, whether federal, state or local.

C. Conform to all applicable health statutes, codes, ordinances and regulations, whether federal, state or local.

D. Conform to all applicable zoning regulations and land use laws, whether state or local.

E. Keep the adult use license posted in a conspicuous place at the adult use establishment at all times, which license shall be available for inspection upon request at all times by the public. Adult bookstores, operating only as adult bookstores, shall keep the adult use permit posted in a conspicuous place at the adult bookstore at all times, which permit shall be available for inspection upon request at all times by the public.

F. Opaquely cover each nonopaque area through which a person outside the establishment may otherwise see inside the establishment. All activities of adult uses involving the display of specified anatomical areas or involving specified sexual activities must be inside the establishment and not visible to a person outside the establishment.

G. Maintain a continuously updated compilation of the records required in § 26-28.

### **§ 26-30. Adult theater.**

In addition to the general requirements for an adult use establishment contained in § 26-29, and the special requirements of § 26-31, an adult theater shall, regardless of whether it is licensed, observe the following special requirements.

A. Adult theaters with a hall or auditorium areas.

(1) If the adult theater contains a hall or auditorium area, the area shall comply with each of the following provisions. It shall:

(a) Have individual, separate seats, not couches, benches or the like, to accommodate the maximum number of persons who may occupy the area.

(b) Have a continuous main aisle alongside of the seating areas in order that each person seated in the areas shall be visible from the aisle at all times.

(c) Have a sign posted in a conspicuous place at or near each entranceway to the hall or auditorium area which lists the maximum number of persons who may occupy the hall or auditorium area, which number shall not exceed the number of seats within the hall or auditorium area.

(d) Have one (1) or more manager's stations. No one (1) manager's station can exceed thirty-two (32) square feet of floor area. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding rest rooms. Adult material shall not be available or allowed in rest rooms. If the premises has two (2) or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purposes from at least one (1) of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

(2) It shall be the duty of the licensee, the owner and the operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that the view area specified in § 26-30A(1)(d) remains unobstructed by any doors, walls, merchandisc, display racks or other materials at all times that any patron is present in the premises and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to § 26-13.

(3) It is the duty of the licensee, the owners and the operator of the premises to ensure that at least one (1) employee is on duty and situated in each manager's station at all times that any patron is present inside the premises and that the employee is continually monitoring the

activities in the adult theater for violations of the provisions of this chapter and of state law.

(4) The licensee of an adult theater may seek a variance from the provisions of § 26-30A(1)(d), (2) and (3). The variance request shall follow the procedural requirements established for zoning variances before the Zoning Board of Appeals. The only criteria required for issuance of the variance is that the applicant must demonstrate that the licensee has proposed operational procedures sufficient to guarantee, to a degree similar to the provisions of those subsections, that the areas of the establishment to which patrons have access are monitored for violations of this chapter and of state law. If sufficiently conditioned to assure monitoring and notice to patrons, the direct line of sight requirement of § 26-30A(1)(d) may be varied by the substitution of video surveillance.

(a) The Zoning Board of Appeals may condition the variance so as to satisfy itself that the operational procedures attendant to the variance will be followed, including but not limited to recordkeeping requirements.

(b) Failure to follow the conditions of the variance may result in a review by the Zoning Board of Appeals, at a public hearing, with full notice and opportunity for the applicant to be heard. Revocation of the variance may be justified if, based on the presentation at the hearing, the assurances serving as the basis for issuance of the variance are not being satisfied.

(5) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one (1) footcandle as measured at the floor level.

(6) It shall be the duty of the licensee, the owners and operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

B. If the adult theater contains adult booths, each adult booth shall comply with each of the following provisions:

(1) Have a sign posted in a conspicuous place at or near the entranceway which states that maximum number of persons who may occupy the booth, which number shall correlate with the number of seats in the booth.

(2) Have a permanently open entranceway not less than two (2) feet wide and/or less than six (6) feet high, which entranceway shall not have any curtain rods, hinges, rails or the like which would allow the entranceway to be closed or partially closed by any curtain, door or other partition.

(3) Have individual, separate seats, not couches, benches or the like, which correlate with the maximum number of persons who may occupy the booth.

(4) Have a continuous main aisle alongside the booth in order that each person situated in the booth shall be visible from the aisle as well as from the manager station at all times.

(5) Have, except for the entranceway, walls or partitions of solid construction without any holes or openings in such walls or partitions.

C. Refurbishing of adult theaters.

(1) Each adult theater subject to this chapter shall cover the floors of areas accessible to patrons with smooth and nonpermeable flooring which can withstand frequent effective cleaning with industrial-strength cleaning agents. Carpeting of any type is prohibited.

(2) Each adult theater subject to this chapter shall use smooth and nonpermeable upholstery material which can withstand frequent cleaning with industrial-strength cleaning agents to cover furniture permitted by this chapter for the use of patrons.

(3) Each adult theater subject to this chapter shall have, in areas accessible to patrons, interior wall surfaces which can withstand frequent cleaning with industrial-strength cleaning agents.

(4) Each adult theater subject to this chapter shall use only those shades, blinds and vertical blinds which can withstand frequent cleaning with industrial-strength cleaning agents. Draperies are prohibited.

D. Sanitation.

(1) All areas of each adult theater subject to this chapter accessible to patrons shall be maintained in a clean and sanitary condition. The surfaces of all floors, furniture, countertops, shades, blinds, vertical blinds, doors and walls of areas accessible to patrons shall be cleaned and sanitized a minimum of one (1) time each twenty-four (24) hours with an industrial-strength cleaner.

(2) All floors, furniture, countertops, shades, blinds, vertical blinds, doors and walls of areas accessible to patrons of adult theaters subject to this chapter shall be renovated or be replaced as needed. All furniture must be kept free from holes and rips.

(3) Any individual cleaning or sanitizing the areas accessible to patrons shall utilize an appropriate and effective adaptation of the United States Centers for Disease Control's universal precautions for the prevention of transmission of the HIV virus and other diseases. A copy of the approved procedure shall be kept on file at the adult theater and a copy shall be provided to each person cleaning or sanitizing the areas accessible to the patrons. Each such individual shall certify that he has read and understood the procedures by signing a copy of the procedure. The signed copy shall be kept as a part of the records of the adult theater and shall be open for inspection by the Code Enforcement Officer.

**§ 26-31. Special requirements for special cabarets, adult photographic or modeling studios and adult theaters.**

In addition to the general requirements for an adult use establishment contained in § 26-29, a special cabaret, an adult photographic or modeling studio and an adult theater, regardless of whether it is licensed, shall observe the following special requirements:

A. A stage shall be provided for the display or exposure of any specified anatomical area by an employee to a person other than another employee consisting of a permanent platform (or other similar permanent structure) raised a minimum of eighteen (18) inches above the

surrounding floor and encompassing an area of at least one hundred (100) square feet.

B. The stage shall be at least three (3) feet from the nearest table, chair or other accommodation where food or drink is served or consumed.

C. Any area in which a private performance occurs shall:

(1) Have a permanently open entranceway not less than two (2) feet wide and not less than six (6) feet high, which entranceway shall not have any curtain rods, hinges, rails or the like which would allow the entranceway to be closed or partially closed by any curtain, door or other partition.

(2) Have a wall-to-wall, floor-to-ceiling partition of solid construction without any holes or openings, which partition may be completely or partially transparent and which partition separates the employee from the person viewing the display.

## **ARTICLE VI, Location; Permits**

### **§ 26-32. Location of adult uses.**

A. Adult use establishments operating in the Town of Union Vale must be located within the C-2 Zone, as defined in the Union Vale Zoning Ordinance.

B. No adult use establishment, including an adult bookstore operating only as an adult bookstore, may be located within three hundred (300) feet of any property which is zoned or has a land use classification which permits residential use or any portion of a mixed-use district developed and utilized as residential, nor within three hundred (300) feet of any church, school, child-care facility or public recreation area which is validly located or has previously received legal authority to locate.

C. No adult use business establishment may be located within three hundred (300) feet of any other adult use.

D. The distance requirements under § 26-32A and B shall be measured along a straight line from the nearest residential property or the nearest property line of the church, public recreation area or adult use to the closest property line of the adult use. In a multitenant or multiuser building, such as a shopping center, said distance requirement shall be measured from the unit or closest portion of the building or structure utilized by and containing or being utilized by any facet of the adult use establishment.

E. Nothing in this § 26-32 shall be construed to permit the operation of any business or the performance of any activity prohibited under any other section of this chapter. Additionally, nothing in this chapter shall be construed to authorize, allow or permit the establishment of any business, the performance of any activity or the possession of any item which is obscene under the judicially established definition of "obscenity."

### **§ 26-33. Site Plan Review.**

A. No adult use establishment shall be allowed to commence or continue to operate

without first obtaining site plan review and approval from the Union Vale Planning Board.

B. In order to obtain site plan review, the applicant shall provide, in addition to a fee determined by the Town Board to be reasonably calculated to cover the costs of administering this permitting requirement,<sup>EN</sup> the following information:

- (1) Name, mailing address and telephone number.
- (2) Street address and a legal description of the property containing the proposed or existing adult use.
- (3) A site plan of the proposed establishment. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each site plan should be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various dimensions of the site, including property dimensions, building sizes, locations and sizes of the portions of the building containing the adult use. Multitenant buildings shall show interior and exterior locations and sizes of the areas proposed to be occupied by all facets of the adult business use and all setbacks from property lines.

(4) Known locations of any churches, public recreation facilities or other existing or proposed adult uses within approximately three hundred (300) feet of the proposed or existing adult use location for which the adult use permit is being sought.

(5) If the applicant is not the record owner of the subject parcel, the application must include a letter with the notarized signature of the record owner, purporting to be the record owner, and stating that the applicant is authorized to seek an adult use permit for the premises.

C. Upon receipt of a completed application, the Code Enforcement Officer, or any town employee designated by the Code Enforcement Officer, shall inspect the proposed location of the adult use and, within nine (9) days, notice the applicant of a certification of compliance or noncompliance. The Code Enforcement Officer may extend that period of time, at the request of the applicant, for purposes of clarification of issues raised by the review but in no event for a period of time in excess of twenty (20) days.

D. Certification of noncompliance.

(1) Where it is found that the location proposed in the application does not meet the distance requirements of § 26-32A of this chapter or is one where a valid adult use exists or is one where a valid adult use permit or valid certification of compliance has been issued for another adult use, the location of which is within the distance requirement of § 26-32B of this chapter from the proposed location, the applicant shall be notified of the certification of noncompliance of the proposed location with the location requirements of this chapter.

(2) Upon receipt of the certification of noncompliance, the applicant shall have ten (10) days to appeal the decision of noncompliance pursuant to the provisions of § 26-51.

E. Certification of compliance.

(1) Where it is found that the applicant's proposed location meets the distance

requirements of § 26-32 of this chapter and where no valid adult use exists or where no valid adult use permit or valid certification of compliance has been issued for another adult use, the location of which is within the distance requirements of § 26-32B from the proposed location, the applicant shall be notified of the certification of compliance of the proposed location with the location requirements of § 26-33A and B.

(2) Upon notification, the applicant shall have twenty (20) days to obtain the adult use permit, signed by the Code Enforcement Officer. Failure to obtain that permit within the twenty-day time period invalidates the certification of compliance and the applicant must reapply.

F. Conflicting applications.

(1) The Town Board recognizes the potential of creating nonconformities by granting adult use permits that conflict. The Code Enforcement Officer shall develop a system for tracking potentially conflicting applications and for ranking them by date and time of application/date of establishment.

(a) Between two (2) applications being processed at the same time which individually qualify under § 26-32A and B but would violate the provisions of § 26-32B if both were to receive permits, the application which was completed at the earliest date, as provided for in § 26-33B, shall be notified that his/her proposed location has been certified in compliance pursuant to the provisions of § 26-33C of this chapter.

(b) The conflicting applicant shall be notified of his/her application's certification of noncompliance pursuant to the provisions of § 26-32 of this chapter with a notation that the noncompliance was due to the earlier submittal of a conflicting application.

(2) The first applicant who has received the certification of compliance shall have twenty (20) days to secure the adult use permit, signed by the Code Enforcement Officer. Upon lapse of the period of validity of the certification of compliance, pursuant to the provisions of § 26-33E(2), the applicant must reapply.

(3) Any applicant who has received a certification of noncompliance pursuant to the provisions of § 26-33D of this chapter may use his/her prior application date in a resubmission for the purposes of establishing priority if the original application was made no more than seven (7) months previous. Otherwise he/she must reapply.

G. Continuing validity of the adult use permit.

(1) The adult use permit, signed by the Code Enforcement Officer, shall be valid for a period of six (6) months after issuance, during which time the applicant's adult use business must apply for an adult use license pursuant to Article III of this chapter.

(2) Once an adult use license is issued for a location which has a permit, the adult use permit shall remain valid unless the adult use license is revoked pursuant to the provisions of this chapter or unless the adult use is voluntarily discontinued for a period of thirty (30) days or more.

(3) Decisions by the Director of the Code Enforcement Officer to revoke an adult use permit may be reviewed pursuant to the provisions of § 26-51 of this chapter.

### **§ 26-34. Variances.**

A. If an applicant receives a certification of noncompliance because the location of the proposed adult use is in violation of the location requirements of this chapter, then the applicant may, not later than ten (10) calendar days after receiving notice of the certification of noncompliance, file with the Code Enforcement Officer a written request for a variance from the location restrictions of § 26-32 of this chapter. Filing of such a request within the ten-day period shall preserve the pending status of the application for purposes of the review of conflicting applications.

B. If the written request is filed with the Code Enforcement Officer within the ten-day limit, he shall schedule hearings before the Zoning Board of Appeals in accordance with the established variance procedures of Chapter 130, Land Development Regulations. In addition to the required findings of Chapter 130, the Commission must also find that a sufficient physical barrier separates the adult use establishment, for which a variance is being sought, from the land use(s) which has caused the adult use not to be in compliance with the distance requirement of this ordinance, so as to substantially fulfill the purpose of the distance requirement. Such physical barriers include, but are not limited to, limited access streets or highways, walls and natural or manmade waterways.

## **ARTICLE VII, Prohibitions**

### **§ 26-35. Operation of adult use without valid license.**

It shall be a violation of this chapter for any business entity or licensee to operate or for any person to be an operator or employee of an adult use establishment where the business entity, licensee or person knows or should know:

- A. That the establishment does not have an adult use permit or adult use license for any applicable classification.
- B. That the adult use establishment has a license which is under suspension.
- C. That the adult use establishment has a license which has been revoked.
- D. That the adult use establishment has a license which has expired or been canceled.

### **§ 26-36. Prohibited operations.**

A. It shall be a violation of this chapter for any business entity or licensee to operate or for any person to be an operator or employee of an adult use establishment which does not satisfy all of the general requirements of § 26-29 of this chapter.

B. It shall be a violation of this chapter for any business entity or licensee to operate or for any person to be an operator or employee of an adult theater which does not satisfy all of the special requirements of §§ 26-30 and 26-31 of this chapter.

C. It shall be a violation of this chapter for any business entity or licensee to operate

or for any person to be an operator or employee of an adult cabaret or adult theater which does not satisfy all of the special requirements of § 26-31 of this chapter.

D. It shall be a violation of this chapter for any business entity or licensee to operate or for any person to be an operator or employee of an adult use establishment and to knowingly, or with reason to know, permit, suffer or allow the entrance or exit of the adult use establishment to be locked when a person other than an employee is inside the establishment.

E. It shall be a violation of this chapter for any business entity or licensee to sell or otherwise provide alcoholic beverages, including beer and wine, in an adult use establishment.

### **§ 26-37. Prohibited acts by employees.**

It shall be a violation of this chapter for any business entity, licensee or for any operator of an adult use establishment, regardless of whether licensed under this chapter, to knowingly, or with reason to know, permit, suffer or allow any employee:

- A. To engage in any specified sexual activity at the adult use establishment.
- B. To display or expose any specified anatomical area at the adult use establishment, unless such employee is continuously positioned in an area as described in § 26-31A, B and, where applicable, C.
- C. To display or expose any specified anatomical area while simulating any specified sexual activity with any other person at the adult use establishment, including with another employee.
- D. To engage in a private performance unless such employee is in an area which complies with the special requirements of § 26-31.
- E. To, while engaged in the display or exposure of any specified anatomical area, intentionally touch, either directly or through a medium, any person, except another employee, at the adult use establishment, excluding, for purposes of passing a gratuity, that part of the person's arm distal to the wrist, commonly referred to as the hand, provided that the person maintains a distance of two (2) feet from the employee.
- F. To intentionally touch, either directly or through a medium, the clothed or unclothed body of any person at the adult use establishment, excluding another employee, at any point below the waist and above the knee of the person or to intentionally touch, either directly or through a medium, the clothed or unclothed breast of any female person, other than another employee.
- G. To intentionally straddle the legs of an employee over any part of the body of a person other than another employee at the establishment, regardless of whether there is a touch or touching.
- H. To, while engaged in the display or exposure of any specified anatomical areas, voluntarily be within three (3) feet of any person other than another employee.

**§ 26-38. Advertising prohibited activity.**

It shall be a violation of this chapter for an operator of an adult use establishment, regardless of whether it is licensed under this chapter, to advertise the presentation of any activity prohibited by any applicable state statute or this chapter.

**§ 26-39. Minors prohibited.**

It shall be a violation of this chapter for an operator of an adult use establishment, regardless of whether it is licensed under this chapter, to knowingly, or with reason to know, permit, suffer or allow:

- A. Admittance to the adult use establishment of a person under eighteen (18) years of age.
- B. A person under eighteen (18) years of age to remain at the adult use establishment.
- C. A person under eighteen (18) years of age to purchase goods or services at the adult use establishment.
- D. A person to work at the adult use establishment as an employee who is under eighteen (18) years of age.

**§ 26-40. Establishments without valid adult entertainment license.**

It shall be a violation of this chapter for any person to act as an employee of an adult use establishment that he knows or should know is not licensed under this chapter or which has a license which is under suspension, has been revoked or canceled or has expired.

**§ 26-41. Records for employees required.**

It shall be a violation of this chapter to be an operator of an adult use establishment, regardless of whether it is licensed under this chapter, at which the records for employees required by § 26-28 have not been compiled, are not maintained or are not available for inspection.

**§ 26-42. Engaging in prohibited activity.**

It shall be a violation of this chapter for any employee of an adult use establishment, regardless of whether it is licensed under this chapter, to engage in any of the activities described in § 26-37.

**§ 26-43. Touching.**

- A. Except for the minimal touching allowed and as regulated in § 26-37E involving the passing of a gratuity, it shall be a violation of this chapter for any person in an adult use establishment, other than another employee, to intentionally touch, either directly or through a

medium, an employee who is displaying or exposing any specified anatomical area at the adult entertainment establishment.

B. It shall be a violation of this chapter for any person in an adult use establishment, other than another employee, to intentionally touch, either directly or through a medium, the clothed or unclothed breast of an employee or to touch, either directly or through a medium, the clothed body of any employee at any point below the waist and above the knee of the employee.

C. Except involving the minimal touching of an employee's hand allowed in § 26-37E involving the passing of a gratuity, it shall be a violation of this chapter for any person, except another employee, to voluntarily be within three (3) feet of any employee displaying or exposing any specified anatomical area at the adult use establishment.

#### **§ 26-44. Exceeding occupancy limit of adult booth.**

It shall be a violation of this chapter for any person to occupy an adult booth in which booth there are more people than that specified on the posted sign required by § 26-30.

#### **§ 26-45. Use of rest rooms or dressing rooms.**

Notwithstanding any provision indicating to the contrary, it shall not be a violation of this chapter for any employee of an adult use establishment, regardless of whether it is licensed under this chapter, to expose any specified anatomical area during the employee's bona fide use of a rest room or during the employee's bona fide use of a dressing room which is accessible only to employees.

#### **§ 26-46. Hours of operation.**

A. It shall be a violation of this chapter for any operator of an adult use establishment to allow such adult use establishment to remain open for business or to permit any employee to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service or solicit a service between the hours of 2:00 a.m. and 8:00 a.m. of any particular day.

B. It shall be a violation of this chapter for any employee of an adult use establishment to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service or solicit a service between the hours of 2:00 a.m. and 8:00 a.m. of any particular day.

C. Subsections A and B above apply regardless of whether employees are no longer participating in the sale or rental of adult material, the display of specified anatomical areas or engaged in specified sexual activities after 2:00 a.m. An adult use establishment, licensed or permitted as such, will be considered an adult use at all times and is subject to all provisions of these regulations until such time as the adult use license or permit is suspended, canceled, revoked or voluntarily terminated.

#### **§ 26-47. Alteration of license or permit.**

It shall be a violation of this chapter for any person to alter or otherwise change the

contents of an adult use license without the written permission of the Code Enforcement Officer.

**§ 26-48. False statement or false information in applying for license.**

It shall be a violation of this chapter for any person applying for an adult use license to make a false statement which is intended to facilitate the issuance of a license or to provide false information which is intended to facilitate the issuance of a license.

**§ 26-49. Enforcement.**

A. Whoever violates any section of Article VII of this chapter shall be prosecuted and punished by a fine not to exceed five hundred dollars (\$500.) or imprisonment for a term not exceeding sixty (60) days, or both a fine and imprisonment, as may be imposed by a Court of competent jurisdiction.

B. In addition to the penalty provided for violation of ordinances in § 1-16 of the Town Code, adult bookstores, adult theaters, special cabarets, physical culture establishments or adult photographic or modeling studios not in conformity with the requirements shall be subject to the appropriate civil action, including injunctive relief, in the court of appropriate jurisdiction for their abatement. Each day that any violation is committed shall constitute a separate offense. Violations of the general provisions of § 26-29E, F or G or the applicable special requirements of § 26-30A(1)(a), (b), (c) and (d), § 26-30A(4) and (5), § 26-30B, C and D and § 26-31 shall constitute separate offenses after the time period allowed under § 26-23A has lapsed.

C. It is the responsibility of the licensee, owner, employee or operator of an adult use business establishment to ensure compliance with this chapter, notwithstanding the issuance of an occupational license, building permit, zoning clearance for an alcohol license or any other governmental permit.

**§ 26-50. Affirmative defenses.**

In prosecutions for violations of § 26-37, 26-42 or 26-43 of this chapter, it is a rebuttable presumption, where relevant, that the person with whom the charged individual is alleged to have performed the prohibited act is not an employee. It is an affirmative defense, where applicable, that the individual involved in the alleged violation is an employee with whom the otherwise prohibited act is allowed.

**ARTICLE VIII, Miscellaneous Provisions**

**§ 26-51. Review of decisions.**

Any decision of the Code Enforcement Officer made pursuant to this chapter may be immediately reviewed as a matter of right by the Zoning Board of Appeals. Decisions of the Zoning Board of Appeals may be reviewed by a court of competent jurisdiction upon the filing of an Article 78 proceeding by an aggrieved party.

**§ 26-52. Notice.**

Any notice required under this chapter shall be accomplished by sending a written notification by certified mail to the mailing address set forth on the application for the license or a permit. This mailing address shall be considered the correct mailing address unless the Code Enforcement Officer has been otherwise notified in writing.

**§ 26-53. Immunity from prosecution.**

The town or any town employee, including the Code Enforcement Officer and Town Constables shall be immune from prosecution, civil or criminal, for reasonable, good-faith trespass upon an adult use establishment while acting within the scope of his or its authority under this chapter.

**§ 26-54. Powers of Town Board.**

The Town Board may bring suit in Supreme Court to restrain, enjoin or otherwise prevent the violation of this chapter.

(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 2000 of the ~~(County)(City)~~(Town)(Village) of Union Vale was duly passed by the Town Board on May 11, 2000, 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 disapproved)(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 disapproved)(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 disapproved)(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 chairman 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...1....., above.

Marylou DeForest  
Clerk of the County legislative body, City, Town or Village Clerk  
or officer designated by local legislative body

(Seal)

Date: May 12, 2000

(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 Dutchess

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.

Sullivan  
Signature

Attorney to the Town  
Title

County  
City of Union Vale  
Town  
Village

Date: May 19, 2000