

Local Law Filing

New York State Department of State
41 Lake Street, Albany, NY 12231

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Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

Village of WATKINS GLEN, NEW YORK

Local Law No. 3 of the year 2003

A local law imposing a Moratorium on the Establishment of Businesses operated as Adult Uses

Be it enacted by the VILLAGE BOARD of the

Village of WATKINS GLEN, NEW YORK as follows:

SECTION 1. SHORT TITLE:

This Local Law shall be known and cited as the "2003 Adult Use Moratorium Law of the Village of Watkins Glen..

SECTION 2. LEGISLATIVE FINDINGS:

The Village of Watkins Glen recognizes that buildings and establishments operated as Adult Uses have implications throughout the community, which, if not properly regulated, could have effects on other businesses and possible effects on property values for neighboring properties as well as for other properties throughout the community. This is particularly true when Adult Uses are concentrated in one section of the community; in those instances, the Village Board believes that, if not regulated, Adult Uses can have a deleterious secondary effect upon the surrounding neighborhood. On the other hand, the Village Board of the Village of Watkins Glen also recognizes the constitutional right to operate businesses of this nature, subject to appropriate safeguards to insure that these businesses do not have an adverse impact upon the members of the community, including children. In order to enact appropriate legislation to address these competing concerns, the Village of Watkins Glen has enlisted the services of a consultant to provide the Village Board with a comprehensive plan as how to appropriately regulate businesses of this nature, including a plan as to where, within the Village of Watkins Glen, these businesses may be permitted, to insure that businesses of this nature can operate, with a minimum of detrimental impact to the community. The Village Board has further found that, unless reasonable measures are taken for an interim period to protect the public interest pending the completion of the necessary studies, meetings, and required public hearings, Adult Uses may occur within the Village of Watkins Glen which would frustrate the plan that the Village Board may wish to enact. In light of the fact that the characteristics of Adult Uses may have a

detrimental impact on the community if not reasonably regulated, including regulating the location where these businesses may operate, and regulating the concentration of these businesses at permitted locations, the Village Board has determined that a thorough examination of these issues, including zoning regulations with respect to Adult Uses, is necessary in order to protect the future health, safety and welfare of present and future residents of the Village of Watkins Glen. Therefore, the Village Board finds that the health, safety and welfare of the present and future residents of the Village of Watkins Glen will best be served by implementing a moratorium upon the development of Adult Uses for a further, yet reasonable period of time to permit the Village Board, together with the consultants engaged by the Village, including the Schuyler County Planning Department, the Village Planning Board, the Village Attorney and the Code Enforcement Officer, as well as having some appropriate advisory consultations with representatives of the Educational Community, the Village Police Department, the Clergy, the Community's Business Owners, including Real Estate Professionals, and Community Civic groups, to complete their review of Adult Use Development within the Village of Watkins Glen and to act on the important recommendations of such persons.

SECTION 3. INTENT:

It is the intent of the Village Board to continue to protect the public health, safety and welfare by enacting this moratorium concerning Adult Use Development for such reasonable period of time. During such period, the Schuyler County Planning Department, the Village Planning Board, the Village Attorney, Code Enforcement Officer and members of the Village Board shall all have had the necessary time frame within which to complete their ongoing evaluation, assessments and reassessments of plans for future development of Adult Uses within the Village of Watkins Glen, and the Village Board shall, thereafter, have had the necessary and proper time period to enact the requisite modifications to the zoning laws of the Village of Watkins Glen, or other appropriate regulations to address the conclusions that the Village Board believes will be in the best interests of the residents of the Village of Watkins Glen. It is expected that these zoning changes and/or regulations will be enacted to accomplish a uniform development of Adult Uses so as to prevent a deleterious secondary effect and public nuisance associated with Adult Uses. The Village Board, therefore, declares that the enactment of this Local Law is necessary to protect the public interest, including the public health, safety and welfare while current proposals are given further study and due consideration and all appropriate modifications are completed. The Village Board intends to utilize data, studies, and other community input received by the Village Board to insure the integrated, efficient, and appropriate regulation of Adult Uses within the Village of Watkins Glen as part of a comprehensive plan concerning Adult Uses within the Village of Watkins Glen.

SECTION 4. DEFINITIONS:

For purposes of this Local Law, the following terms shall have the meanings set forth below:

ADULT BOOKSTORE - An establishment or business, whether retail or wholesale, having, as a substantial or significant portion of its stock-in-trade, books, magazines and other

periodicals, and/or films and viewing materials for sale or viewing on premises, by use of motion picture devices or any coin-operated means, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, or an establishment or business containing a segment or section devoted to the sale, viewing or display of such material.

ADULT ENTERTAINMENT CABARET - A public or private establishment which is licensed to serve food, non-alcoholic beverages, and/or alcoholic beverages, which features totally nude dancers.

ADULT MINI-MOTION-PICTURE THEATER - An enclosed building with a capacity of less than fifty (50) persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

ADULT MOTION-PICTURE THEATER - An enclosed or unenclosed building or structure or portion of a building or structure or drive-in theater used for presenting materials, distinguished or characterized, by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

ADULT USE - Any establishment or business involved in the dissemination of material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, including, but not limited to, Adult Bookstores, Adult Mini-Motion-Picture Theaters, Adult Motion-Picture Theaters and Adult Entertainment Cabarets.

SPECIFIED ANATOMICAL AREAS:

a. Less than completely and opaquely covered:

1. Human genitals or pubic region.
2. The cleavage of the human buttocks.
3. That portion of the human female breast encompassed with an area falling below the horizontal line one would have to draw to intersect a point immediately above the top of the areola (the colored ring around the nipple). This definition shall include the entire lower portion of the breast but shall not be interpreted to include any portion of the cleavage of the 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 or opaquely covered.

SPECIFIED SEXUAL ACTIVITIES:

- a. Human genitals in a state of sexual stimulation or arousal.
- b. Acts of human masturbation, sexual intercourse or sodomy.
- c. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breasts.

SECTION 5. REGULATIONS:

A. Except as otherwise provided herein, effective on the effective date of this Local Law, and continuing for a period of six (6) months after the effective date of this Local Law, unless the Village Board, by resolution, establishes an earlier date, no building permit, special permit, preliminary or final site plan review, variance, certificate of occupancy, or other permit or approval relating to construction, alteration, modification, conversion, or change of use with respect to Adult Uses may be issued, nor shall any application be accepted with respect to any property for which a use as an Adult Use is contemplated, nor shall any business begin to operate as an Adult Use Business during this moratorium period, and no entertainment license pursuant to the zoning legislation of the Village of Watkins Glen for any Adult Use shall be granted during the effective period of this Local Law.

B. This moratorium may be extended for two (2) additional periods of up to three (3) months each by unanimous resolution of the Village Board upon a finding of the necessity for such extension.

SECTION 6. APPLICATIONS FOR RELIEF:

Whenever there is a showing by persons whose premises are affected by this moratorium that relief therefrom is necessary to avoid unnecessary financial hardship or a taking of private property beyond what is permissible by valid regulation, the Village Board, upon petition, may grant appropriate relief from this Local Law, subject to whatever conditions are deemed necessary to protect the public. Applications for such relief shall be by verified petition to the Village Board and shall be supported by competent financial evidence. The Village Board shall hold a hearing on any such petition within thirty (30) days and decide such applications within fifteen (15) days after the closing of such hearing. The default of the Village Board in acting on such application shall not result in a default granting of such relief but shall permit the applicant to seek such relief pursuant to Article 78 of the Civil Practice Law and Rules of New York State.

SECTION 7. PENALTIES FOR OFFENSES:

Any person, firm, entity or corporation who/which shall construct, erect, enlarge, convert or otherwise add to any building or structure in violation of the provisions of this Local Law, or shall violate any of the other provisions of this Local Law, shall be subject to penalties as

otherwise provided by laws of the Village of Watkins Glen for such violation, including the remedies provided in the Zoning Legislation of the Village of Watkins Glen.

SECTION 8. SEVERABILITY:

If any section, paragraph, or provision of this Local Law shall be held by a Court of competent jurisdiction to be invalid, such invalidity shall apply only to the section(s), paragraph(s) or provision(s) adjudged invalid, and the rest of this Local Law shall remain valid and effective.

SECTION 9. REPEAL OF EXISTING LAWS:

All existing ordinances, local laws or parts thereof, in conflict with the provisions of this Local Law are hereby repealed to the extent necessary to give this Local Law full force and effect during the effective period.

SECTION 10. EFFECTIVE DATE:

This Local Law shall take effect immediately upon its filing in the Office of the Secretary of State of the State of New York as provided in Section 27 of the Municipal Home Rule Law.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 3 of 2003 of the ~~(County)(City)(Town)~~(Village) of Waltham, Glen was duly passed by the Village Board on June 2, 2003, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after (Name of Legislative Body) disapproval) by the _____ and was deemed duly adopted on _____ 20____, (Elective Chief Executive Officer*) in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after (Name of Legislative Body) disapproval) by the _____ on _____ 20____. Such local law was submitted (Elective Chief Executive Officer*) to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after (Name of Legislative Body) disapproval) by the _____ on _____ 20____. Such local law was subject to (Elective Chief Executive Officer*) permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

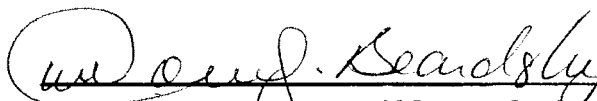
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20_____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20_____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____, above.


DONNA J. BEARDSLEY, Village Clerk

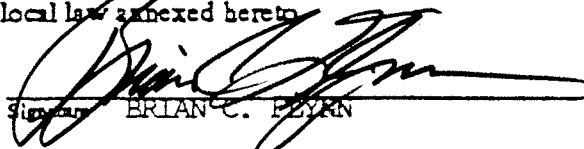
(Seal)

Date: June 9, 2003

(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 SCHUYLER

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.


BRIAN C. EYRN
VILLAGE ATTORNEY

Title

County
 City of Watkins Glen, New York
 Town
 Village

Date: June 9, 2003