

ADULT BUSINESS STUDY
TOWN AND VILLAGE OF ELICOTTVILLE
CATTARAUGUS COUNTY, NEW YORK

JANUARY 1998

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Village of Ellicottville
P.O. Box 478
Ellicottville, NY 14731
(716) 699-4636

Gary Palumbo, AICP
Town/Village Planner
P.O. Box 1170
Ellicottville, NY 14731
(716) 699-5565

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**ADULT BUSINESS STUDY
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January 1998**

EXECUTIVE SUMMARY

This study was initiated by the Town and Village of Ellicottville to investigate the need for, and if required, recommend land use controls to regulate the establishment of adult entertainment businesses in the Town and Village of Ellicottville. On April 28, 1997 the Village Board of Trustees and Town Board each passed resolutions imposing a temporary moratorium on approvals establishing sexually oriented businesses. The purposes of the moratorium were:

- a) to give the community the opportunity to evaluate the potential effects from the establishment of adult entertainment uses,
- b) to determine if a regulatory response was necessary, and
- c) if stronger land use controls were warranted to draft the regulatory changes for the legislative board's consideration.

Adult entertainment businesses provide materials/services of an adult nature. They are a category of establishments that sell or provide materials, entertainment or services that are primarily intended for adult use or entertainment. They include but are not limited to:

- a) establishments that sell adult books and magazines and adult videos (XXX),
- b) bars, restaurants, clubs, cabarets and other establishments that feature topless, or nude entertainment or dancing, and/or other services and entertainment of an adult nature, and
- c) establishments that offer hot oil body rubs, body painting, lingerie modeling, and
- d) message parlors.

Adult entertainment businesses tend to define themselves through their signage, advertising and exclusion of minors by reason of age.

Today, the adult entertainment industry is not confined to rundown commercial neighborhoods in large cities. Adult businesses can also be found affluent urban, suburban neighborhoods and rural communities. Although their "skid row" image is changing, adult businesses frequently cause an outcry of public concern. As the adult entertainment industry spreads, communities may be caught without adequate regulations to control where adult uses can locate or how they can operate and advertise. Communities can no longer depend upon the New York State Liquor Authority to help regulate topless establishments. The recent the development of nude juice bars, that may not require a liquor license, pose a new threat in communities with no regulation.

Regulation of adult entertainment businesses has been attempted in various ways. Local approaches to regulate adult entertainment on moral grounds, censorship of pornography, or licensing have failed constitutional (First Amendment) challenges. Today, the approach

most successfully used by local governments is to distinguish between the effects of an adult bookstore and conventional bookstore, and between the effects of X-rated movie theaters and standard theaters.¹ By looking at the secondary effects of adult businesses and not at the content of the material it is possible to regulate adult entertainment as a distinct land use category.

Currently, there are no adult businesses in Ellicottville. It was determined at the onset of this investigation that Ellicottville would not be immune to the effects an adult business could have on the residential neighborhoods or the historic central business district. Therefore, a preemptive approach was taken.

The current zoning regulations in the Town and Village do not define or regulate adult businesses any differently than other book or tape stores or bars. An adult bookstore could open in a vacant retail store or a topless bar could replace an existing bar today with little review by the Town or Village.

In New York State, the Court of Appeals has said that a municipality needs to conduct a study examining possible secondary effects before adopting regulations of adult uses. In this study, Ellicottville has referred to studies of other communities in order to document what secondary impacts can be expected. This was done because there are no existing no adult businesses in Ellicottville to examine.

The potential secondary effects examined relate to economic impacts, property values, fear of crime, and the negative impact on community character. Ellicottville is a community where recreational tourism is a significant economic generator. Negative impacts on the historic business district as well the recreation centers could effect their success. The community has encouraged four season family-oriented development through its planning and zoning. In areas where commercial and residential land uses are mixed the general quality of life of residents would be effected by the uncontrolled location of adult businesses.

It has been determined that the land use control best suited to regulating the location of adult businesses exists in municipalities' authority to implement zoning. However, adult entertainment businesses can not be entirely prohibited through local zoning and still withstand legal challenge. Nor can a municipality base its regulations on the content of materials sold or the nature of the entertainment provided. In order for a zoning law to be effective, adult uses need to be defined in a manner that differentiates them from traditional bookstores and bars. One method has been to use their exclusion on minors as part of the definition.

¹ William Toner, *Regulating Sex Businesses*, American Society of Planning Officials, PAS Report 327, May, 1977.

Local regulations should attempt to minimize secondary impacts to the community from an adult use rather than completely prohibit them. This study has identified the land uses most sensitive to the adverse effects of adult uses. Residential properties, the historic central business district, churches, child care facilities, parks, playgrounds, and civic facilities were identified. Limiting adult businesses to certain districts where they will have the least effect on the most sensitive land uses is the most acceptable method of control. Adult uses can be required to first obtain a special use permit. Within the criteria established to receive such a permit key requirements can include:

- a) buffers to other land uses identified as being most susceptible to the negative impacts of adult uses
- b) dispersion through minimum distances between two adult uses,
- c) limits on the number of establishments per property
- d) requirements for screening and limiting signage.

This study concludes that the possible secondary effects from adult entertainment uses to the residential neighborhoods and central business district pose a significant enough threat that zoning amendments should be adopted in order to define district and disperse them. In January 1998 the Village Board and Town Board each adopted amendments to their zoning documents establishing regulations on adult entertainment businesses.

I. INTRODUCTION

A. PURPOSE OF ADULT BUSINESS STUDY

The purpose of this study is to investigate the need for, and if required, recommend land use controls to regulate the establishment of adult entertainment businesses in the Town and Village of Ellicottville. It is the community's intent that this work give the Town and Village guidance on how to best protect residential neighborhoods, the central business district, and the community in general from negative impacts that may result from uncontrolled development of adult entertainment businesses. The focus of this special study is on the secondary effects to the neighbors and community and not on the content of material provided or the nature of the entertainment offered at adult entertainment businesses.

In the context of this study, the terms "adult uses", "adult entertainment businesses" "adult businesses" and "adult entertainment" are used interchangeably. They are characterized as a category of establishments that sell or provide materials, entertainment and/or services that are primarily intended for adult use or entertainment. They include but are not limited to a) establishments that sell adult books and magazines and adult videos (XXX), b) bars, restaurants, clubs, cabarets and other establishments that feature topless, bottomless or nude entertainment or dancing, and/or other services and entertainment of an adult nature, and c) establishments that offer hot oil body rubs, body painting, lingerie modeling, and d) message parlors. Adult entertainment businesses define themselves a) through their advertising, b) by primarily dealing in materials/services of an adult nature, and c) by excluding minors by reason of age.

This study describes the status and trends in regulating the adult entertainment industry in New York State by reference to other communities' studies and regulations. It describes the potential problems that may be expected in Ellicottville from the establishment of adult businesses. Draft amendments to the zoning regulations of the Town and Village regulating adult businesses are offered for the legislative boards' consideration.

B. THE ELLICOTTVILLE SITUATION

Ellicottville is a small community in rural western New York not unlike many other towns that host tourist destinations. With a year-round population of approximately 1,600 there is also a large (and growing) second home population. In Ellicottville, Holiday Valley and HoliMont ski areas are the main winter attractions. In the summer, a variety of outdoor recreational activities including golf, cycling and hiking attract visitors. A variety of festivals and special event weekends are also held annually including the Summer Festival of Arts, Taste of Ellicottville, Fall Festival, Christmas Stroll and Winter Carnival.

Ellicottville's central business district in the Village has also become a destination of its own with a wide variety of gift and ski shops, accommodations and restaurants. The central business district is comprised of approximately two and one-half blocks of primarily row style 2-3 story brick buildings with stores on the ground floor and apartments above. The buildings front on the edge of the sidewalk approximately 15' from the curb line. The commercial businesses typically have large plate glass windows dominating the first floor facade. In 1991, the Ellicottville Historic District was listed on both the New York State and National Registers of Historic Places. The historic district is located within the central business district along Washington Street and in the oldest adjoining residential neighborhoods.

*As a community partially dependent upon the tourism industry, the atmosphere and aesthetic features of the community take on an economic value for Ellicottville.*¹ It has long been accepted that one component to Ellicottville's continued success will be its ability to remain attractive as a tourism destination point. A prime objective of Village efforts in planning and zoning has been to protect the physical character of the community. This has been accomplished through its vigorous efforts to enact and enforce land use controls such as zoning, subdivision regulations, sign control regulations and architectural design guidelines.

The relationship between economic vitality and strong municipal commitment can also be seen in the partnering work of the Main Street Commission. In 1995 the Village Board and Ellicottville Chamber of Commerce established the Main Street Commission. The Commission's stated goals refer to promoting year round recreation that is family oriented, creating new family activities and preserving the character of the community. The Main Street Commission recognizes the potential threat adult entertainment businesses could pose to the success of local businesses that depend on recreation visitors and therefore has supported regulation of adult uses.

Second home growth has created a seasonal population of part-time residents that hold the same expectations of Ellicottville as they have of their home community. Second home owners depend upon Ellicottville for more than a hotel room or place to have dinner. Ellicottville has become a "home away from home" for many families rather than just as a transient vacation spot. Since the 1960's, visitors have bought second homes in Ellicottville and have developed the same desires and concerns of any permanent resident. According to the 1990 Census over 66% of the houses in the Town and over 46% of the houses in the Village were used as seasonal/recreational homes.² More than 260 new homes have been built since 1990 with outstanding approvals for another 300. Although the year round population has declined, the vitality and sense of community has remained strong with the growth of recreational tourism. In Ellicottville, the overriding

¹ Village of Ellicottville Zoning Local Law. Village of Ellicottville Board of Trustees. February 1991.

² U.S. Bureau of the Census. 1990 Census of Population & Housing. Summary Population and Housing Characteristics. New York. U.S. Government Printing Office. August 1991.

economic interest in regulating adult entertainment businesses lies in protecting the attractiveness of the community as a family-oriented recreation destination upon which a substantial number of the downtown businesses depend.

C. A PREEMPTIVE APPROACH

At this time there are no adult businesses in Ellicottville. Adult businesses were identified as an area of concern during the Village of Ellicottville Comprehensive Planning Commission's recent efforts to review and revise the Village Master Plan. The current Town Zoning Ordinance, 1990 and Village Zoning Local Law, 1991 lack definitions, districting, or regulations specifically related to adult uses. However, both zoning documents do allow book (and tape) stores, bars/restaurants and indoor entertainments throughout three zoning districts in the Village and four zoning districts in the Town. Therefore, under these current regulations, an adult entertainment use could open with little or no examination by the Town or Village. For example, an adult bookstore could open within any vacant retail commercial establishment without any discretionary approval from the Planning Board. Likewise, an existing bar or restaurant could change its theme and offer topless entertainment without additional approvals required from the Town or Village. This realization led to concern for maintaining the character of the community as a family oriented recreation destination, and subsequently to the interest in developing a preemptive response.

It was determined that the community would take these early steps in order to head off future problems before an adult entertainment business was established. These preemptive steps include 1) enacting temporary moratoriums on establishing adult uses while, 2) preparing a joint Town and Village study investigating the possible effects on the community from adult entertainment businesses and, 3) preparation of proposed zoning text amendments to regulate where and how adult uses could be allowed in Ellicottville in the future.

II. REGULATORY CONTEXT

A. MORATORIUM

At a joint meeting of the Ellicottville Town Board and Village Board of Trustees held on April 28, 1997 each board passed a local law imposing a temporary moratorium on granting approvals establishing sexually oriented businesses. The purposes of the moratorium were a) to give the community an opportunity to evaluate perceived threats from the establishment of such uses, b) to determine if a regulatory response was necessary, and c) if stronger land use controls were warranted to draft the regulatory changes for the legislative board's consideration.

A moratorium and study were deemed necessary due to the controversial nature of the issue in light of free speech and constitutional challenges to similar regulatory efforts by other communities in New York State and elsewhere in the United States.

B. LIMITED ABILITY TO REGULATE

Adult entertainment businesses can not be entirely prohibited through local zoning and still withstand legal challenge. *Early attempts to regulate or license adult uses were generally not upheld by the courts. Approaches that ran contrary to the spirit and intent of the First Amendment to the U.S. Constitution were struckdown as unconstitutional.*³ It has been established through various court decisions, including Young v. American Mini Theaters, Inc., 427 U.S.50 (1976), that the most defensible course of action is to draft regulations that minimize the secondary impacts to a community resulting from the location of adult uses. In order to show that regulating the establishment of adult uses is meant to minimize secondary impacts rather than to regulate speech(content), a special study evaluating such impacts is required.

At the Federal level, the U.S. Supreme Court found in Renton v. Playtime Theaters, Inc., 475 U.S. 41 (1986) that a municipality may rely on other communities' studies. However, there is an apparent conflict because in 1989 the New York State Court of Appeals (in Town of Islip v. Caviglia, 73 N.Y. 2d544) *reiterated that municipalities could regulate the location of SOB's [Sexually Oriented Businesses] and needed a study to prove secondary effects*⁴. It upheld the Town of Islip law because Islip did an individualized study. Therefore, *at this point in time in New York State, the courts have not yet recognized that*

³ J. Theodore Fink, *Adult Use Study of the Town of Hyde Park*, Hyde Park Town Board, February 1996.

⁴ Barbara C. Sanel, *Regulating Sexually Oriented Businesses*, NYCOM Municipal Bulletin, May 1996.

*you can rely on studies from other municipalities and should conduct [your] own study.*⁵

The intent of regulations on adult businesses should not be to regulate the content of material or nature of entertainment provided by a business but rather to protect neighborhoods from unfavorable changes in regards to safety, character of the community and land values. Local regulations can limit adult uses in two ways. First, local regulations can limit where adult businesses locate via zoning districts. Secondly, municipalities can require that adult businesses obtain a special use permit allowing enhanced review and enabling the municipality to place conditions upon its approval.

Zoning regulations need to define adult entertainment businesses clearly and then require that a proposed adult business apply for a special use permit from the municipal board given the authority to issue them. (In Ellicottville, both the Village and Town planning boards are authorized to grant conditional use approvals [special use permits] pursuant to Section 7-725-b and to Section of the NYS Village Law 274-b of the New York Town Law respectively.) The benefit of this approach is that planning boards can address specific problems by placing conditions on the special use permits. Therefore, by treating them as conditional uses, more control can be exerted over adult businesses, resulting in better protection to the neighbors from adverse effects. Some of these methods can include establishing minimum separation distances to residential uses, churches, schools and public facilities. The use of buffers was upheld by Young v. American Mini Theaters, Inc., 427 U.S.50 (1976) and Cupid's Video Boutique v. Roth, 203 A.D.2d 70, 610 N.Y.S.2d 24 (1st Dept. 1994).⁶ Limiting both exterior advertizing and the proximity of adult uses to each other can also temper their impact on neighborhoods and reduce the "skid row effect" identified in a 1962 Detroit, Michigan ordinance.⁷

In summary, while the authority for municipalities to regulate adult uses has been upheld in the courts, that authority is also limited in its scope. First, while municipalities can not prohibit adult entertainment businesses throughout the entire municipality they can be restricted to certain zoning districts. In addition, a study addressing the possible secondary effects to the community must be done. Emphasis of any subsequent regulations should be placed on the attempt to limit secondary effects without regulating the content of materials sold or nature of entertainment or services provided. Municipalities can require special use permits and may apply enhanced requirements such as buffer zones.

⁵ Barbara C. Sanel, *Regulating Sexually Oriented Businesses*, NYDCM Municipal Bulletin, May 1996.

⁶ William L. Sharp, Esq., *Municipal Regulation of Adult Uses*, New York State Department of State, 1996.

⁷ William Toner, *Regulating Sex Businesses*, American Society of Planning Officials, PAS Report 107, May 1977.

C. A REGULATORY ALTERNATIVE

If specific regulations on adult entertainment businesses are enacted, the most appropriate method would be for the Town and Village of Ellicottville to each adopt amendments to their respective zoning regulations. Zoning definitions will require revision. The zoning district(s) where adult uses will be allowed as conditional uses must be identified. Specific standards can also be applied through the Conditional Use review process.

Appended to this study are proposed amendments to the Village of Ellicottville Zoning Local Law, 1991 and to the Town of Ellicottville Zoning Ordinance, 1990.

III. ADULT ENTERTAINMENT INDUSTRY

A. GROWTH AND EXPANSION

The adult entertainment industry is no longer confined to the rundown commercial neighborhoods of large cities. Today adult entertainment establishments locate in urban, suburban and rural communities. Although their "skid row" image is changing, they typically still cause an outcry of public concern. In New York City, *there are more topless bars than previously, due to a proliferation of topless bars affecting an "upscale" image.*⁸ Adult bookstores locate in suburban neighborhoods as well. When adult entertainment businesses open in communities that do not have zoning provisions regulating them, local officials are forced to re-act under pressure from the general public. After an adult bookstore opened in Amherst, New York, town officials began to review the adult use issue. A local law was subsequently adopted and the offending bookstore would have one year to come into compliance⁹. Amortization was used in the Town of Islip, New York because local controls were not in place before several adult entertainment uses were established. In a more rural setting, as well as closer to Ellicottville, an adult bookstore recently opened in the Village of Delevan, Town of Yorkshire, bringing the realization that "it can happen here".

As the adult entertainment industry spreads, communities can be caught without the proper controls over where adult uses can locate or how they can operate and advertise. In addition, with advent of nude juice bars, communities can not depend upon the New York State Liquor Authority to help regulate topless bars. Various communities have approached these issues differently. For the most part, local regulation has been shaped by case law resulting from challenges to earlier attempts to regulate.

B. PREVIOUS STUDIES

Because there are no adult entertainment businesses currently operating in Ellicottville, potential secondary effects have to be assessed by looking at what has happened in other communities. Many communities in New York, and nation-wide, have prepared special studies addressing the secondary effects of adult entertainment establishments. Combined these studies provide an analysis otherwise unavailable to communities that do not have existing adult entertainment establishments.

⁸ Joseph B. Rose, *Adult Entertainment Study*, Department of City Planning, NYC, November 1994.

⁹ The Amherst Bee, *Locations for Adult Businesses Narrowed in Proposed Town Law*, January 22, 1997.

This study relies on the findings of other adult entertainment studies both in New York State and nationwide. In preparing this study, those documents and their corresponding regulations were reviewed for similarities to the Ellicottville situation. This was done in order to develop an appropriate strategy for addressing adult uses in Ellicottville. While some of the communities reviewed differ greatly from Ellicottville in size and urban development, the potential effects from adult uses at the neighborhood level is still applicable.

NEW YORK CITY, NY. In New York City, several studies have identified impacts associated with adult entertainment establishments. Due to its size, New York City has a large enough number establishments to track trends in type and location of new adult businesses. In New York City, the number of adult book and video establishments grew from 29 to 86 between 1984 and 1993. The number of topless and nude bars also grew from 54 to 68 during the same period. In terms of their location, adult entertainment uses have a tendency to concentrate in specific areas.¹⁰ In 1994, surveys done in various business districts were compared. Differences between areas with and without high concentrations of adult entertainment establishments were identified. The Overall Findings and Conclusions of the 1994 NYC Adult Entertainment Study are summarized as follows:¹¹

- Adult entertainment uses tend to concentrate; they cluster in central locations.
- In the areas where adult uses have concentrated, the study identified numerous secondary effects. Owners of other types of businesses overwhelmingly believed that their businesses had been adversely effected. A substantially higher incidence of criminal activity was also found in the areas where adult uses were most concentrated.
- Areas with less dense concentrations of adult uses found fewer impacts than the areas with the higher concentrations. However, the community leaders still expressed fear of the results of proliferation.
- The strongest negative reactions came from residents living near adult entertainment uses.
- In the areas where adult entertainment uses were isolated other businesses typically reported that the adult uses had not yet been adversely effected their neighborhoods.
- Real estate brokers reported that adult entertainment establishments were perceived to negatively affect nearby property values.
- Adult entertainment accessory business signs were found to be generally larger, more often illuminated, and graphic (sexually-oriented) compared with the signs of other nearby commercial uses. Community residents viewed this signage as out of keeping with neighborhood character and were concerned about the

¹⁰ Joseph B. Rose, *Adult Entertainment Study*, Department of City Planning, NYC, November 1994.

¹¹ Joseph B. Rose, *Adult Entertainment Study*, Department of City Planning, NYC, November 1994.

exposure of minors to graphic sexual images.

*The consensus among those expressing opposition to the operation of adult uses is that adult entertainment establishments have a negative impact on communities in which they are located. These impacts include: inappropriate exposure of children and teenagers to graphic sexual images, increased crime, diminishing property values, adverse effects upon the climate for other types of commercial activities, and overall negative influences upon community character.*¹²

ISLIP, NY. The study completed by the Town of Islip in 1980 was initiated in part by the public concern when a new adult book store/peep show opened. A case study, including an examination of public resentment through newspaper accounts, and an inventory of other existing adult entertainment businesses were conducted. Similar to the New York City study, the Town of Islip was able to look at the effects from existing adult uses. The case study could then be used to determine what locational factors were responsible for the outpouring of neighborhood residential opposition.¹³ The inventory of 15 existing adult entertainment uses examined zoning conformance, neighboring land use, value (assessed), and building condition. An individual site analysis was prepared for each business. The Islip study encouraged the limitation of adult uses to industrial districts in order to prevent skid row effects in the Historic Downtowns of Islip.¹⁴

HYDE PARK, NY. In Hyde Park, an adult use study was prepared in 1996 for the Town Board by Green Plan, Inc. Of the studies reviewed for New York communities, the work in Hyde Park is most applicable to the situation in Ellicottville because a) it is smaller in size than New York City or Islip, b) both have strong tourism industries, and c) neither community had an active adult entertainment business when regulations were proposed. The Hyde Park study concluded that it is appropriate for the Town of Hyde Park to regulate adult businesses differently from other commercial establishments.¹⁵

OTHER COMMUNITIES. Many communities throughout the United States have documented the negative effects from the location of adult entertainment businesses. The Hyde Park study summarizes the results of several of those studies.¹⁶ The detrimental effects identified by those studies frequently related to increased crime, reduced property values, detrimental impacts on commercial areas and negative changes to the character of residential neighborhoods. The studies that identified the secondary

¹² Joseph B. Rose, *Adult Entertainment Study*, Department of City Planning, NYC, November 1984.

¹³ Daniel Doliman, *Study and Recommendations for Adult Entertainment Businesses in the Town of Islip*, Town of Islip Department of Planning and Development, September 1980.

¹⁴ Daniel Doliman, *Study and Recommendations for Adult Entertainment Businesses in the Town of Islip*, Town of Islip Department of Planning and Development, September 1980.

¹⁵ Green Plan, Inc., *Adult Use Study of the Town of Hyde Park*, February 1996.

¹⁶ Green Plan, Inc., *Adult Use Study of the Town of Hyde Park*, February 1996.

effects noted above include those prepared for the State of Minnesota; Phoenix, Arizona; Austin, Texas; Whittier California; Indianapolis, Indiana.

C. REGULATORY RESPONSES

One common conclusion of the studies reviewed has been that the concentration of adult businesses can create a "skid row effect". Communities in New York and throughout the United States have responded to adult uses in various ways. Most often the regulatory response has been to follow the Detroit, Michigan method to disperse adult uses rather than let them concentrate in any particular area. *The Detroit "Anti-Skid-Row Ordinance" is based on observations of the types of businesses which have a degrading effect on the surrounding properties. These businesses were identified as being: bars, pawn shops, public lodging houses, and adult entertainment businesses.*¹⁷ Today in Ellicottville, local zoning already regulates most of the "skid row" businesses identified in the Detroit ordinance. The one exception is adult entertainment businesses.

*Detroit city officials didn't set out to regulate pornographic uses. They were trying mainly to prevent the development of more skid rows. They had two objectives: first, to keep typical skid-row uses separate from one another, and, second to keep these same uses separate from residential areas of the city.*¹⁸ In order to avoid a First Amendment challenge to regulation of adult uses it needs to be shown that the regulation is *not predominately intended to control the content of the material purveyed and is not a purposeful attempt to regulate speech, but rather is intended to control the secondary effects of such uses on the community.*¹⁹

In Islip, new adult uses were prohibited from neighborhood commercial areas because their concentration would cause a "dead zone". It was determined that the location of adult uses in various downtown districts, was contrary to the community efforts to revitalize those areas and attract private investment. The adults-only definition applied in the Islip regulation avoids emphasis on the content of the material, avoiding Constitutional questions based on the First Amendment, and allowing pornographic uses to define themselves.²⁰ The Islip study looked at each existing adult business establishment and documented the public concerns, resentment and past actions through news articles and letters. In the subsequent zoning ordinance changes, Islip chose to disperse adult uses. It set minimum distance requirements between adult uses and other

¹⁷ Daniel Collman, *Study and Recommendations for Adult Entertainment Businesses in the Town of Islip* Town of Islip Department of Planning and Development . September 1980.

¹⁸ William Zoner, *Regulating Sex Businesses*, American Society of Planning Officials, PAS Report 107, May 1977.

¹⁹ Barbara C. Fanel, *Regulating Sexually Oriented Businesses*, NYCDM Municipal Bulletin, May 1984.

²⁰ Daniel Collmann, *Study and Recommendations for Adult Entertainment Businesses in the Town of Islip* Town of Islip Department of Planning and Development . September 1980.

land uses such as schools, churches parks and residential districts as well as other adult uses. Non-conforming adult uses were amortized over five years and had to close. The Islip regulations were challenged and upheld by the New York State Court of Appeals in 1989²¹. The Court recognized that the elimination and prevention of adverse effects of adult entertainment uses is a legitimate government interest, subject to land use regulation, provided the that the predominant purpose of the regulation is to control adverse impacts, and not to control content or preclude alternative avenues of expression.²²

The Hyde park regulatory response also was to adopt zoning amendments. The amendments defined "adult uses", established a new land use category and restricted them to one zoning district. Hyde Park also established minimum distance requirements, required special use permits and added special provisions for signage. A "waiver" or appeal process was established. Of the studies and regulations reviewed, the method of regulation used in Hyde Park is the most applicable to the situation in Ellicottville.

D. SUMMARY

The review of the various special studies on adult entertainment uses by other communities leads to the conclusion that the location of adult entertainment businesses can cause negative effects on the immediate neighborhood. In particular, those negative effects can include increased crime, decreased market values, public resentment, a general blighting of the commercial district and a negative influence upon community character.

The common regulatory response to mitigate the possible negative effects from adult uses has been through zoning regulations. The result of such regulations to ensure that adult uses can locate in a manner that a) disperses them from each other and b) provides a safe buffer from the most sensitive land uses, such as residences, churches, schools, historic resources and the central business district.

²¹ *Town of Islip v. Daviglia*, 73 NYS2d 844 (1989).

²² *Green Plan, Inc., Adult Use Study of the Town of Hyde Park*, Hyde Park Town Board, February 1986.

IV. POTENTIAL THREAT AND POSSIBLE SECONDARY EFFECTS

At the beginning of this investigation, input was sought locally from various concerned organizations. The Village Comprehensive Planning Committee initiated the discussion during that committee's review of the Village Master Plan. The Town and Village Planning Boards each reviewed the initial proposal for a moratorium. The Main Street Commission, a committee of the Chamber of Commerce and Village Board, also expressed concern over adult entertainment businesses. It supported this study's attempt to create a preemptive response. These groups made recommendations to the Town and Village legislative boards to establish the temporary moratoriums on the establishment of sexually oriented businesses pending the results a study to determine their potential impacts on the neighboring community. From its inception, the proposal to regulate adult entertainment uses in Ellicottville focused on location issues and the secondary effects those businesses may have on the neighborhood. It has not been concerned with the content of the materials those business might sell or the nature of the entertainment or services they may provide.

Ellicottville has a long established stake in regulating land uses through zoning beginning with the Village's first zoning local law in 1964. Past plans were prepared in 1986 for the Village and in 1990/91 for the Town and Village. Both municipalities are currently reviewing and revising their master plans and zoning regulations. Master Planning efforts have recognized recreational tourism as an important aspect of the local economy. *The economic well being of the ski areas (and for tourism in general) is vital to the economic stability of the community.*²³ Another focus of local planning efforts has been to balance the development of recreational tourism and second home development with the preservation of the community character and the interests of full time residents.

Ellicottville has evolved since the 1960's into a successful community with two strong economies. First and older is the industrial base with segments in hardwoods milling, and light manufacturing of precision tools and metal products. The second is the recreational tourism industry which includes skiing, biking and golf. Ellicottville also attracts day trip visitors to the historic shopping district. Ellicottville has become one of the two leading attractions in Cattaraugus County for tourism and recreation. In 1992, the County identified 3,133 jobs in the tourism/recreation industry.²⁴ The strength of the local industries combined with the growth in tourism and recreation has helped the community maintain, with few exceptions, high quality housing stock and commercial buildings that are occupied and in excellent repair.

²³ Jack Johnson, Town of Ellicottville Master Plan Report, Town of Ellicottville Town Board, April 1991.

²⁴ Joseph B. Garner III Ph.D., U.S. Route 119 Economic Development Strategy, Cattaraugus County Legislature, July 1993.

In the draft revision to the Village Master Plan, the inter-relationship between the various downtown businesses and the recreational tourism industry is discussed. *The retail sector balances the provision of goods and services for general consumption with specialty retail aimed at the recreational visitor in the form of sport and gift shops, entertainment, and food and drink. In planning for the future of the Village of Ellicottville, it is important to consider how growth in each of these areas effects the other as well as the residential characteristics of the Village.*²⁵ One concern of this study is the negative effect adult entertainment businesses could have on the existing retail sector as concluded in New York City and Islip studies.

A. POTENTIAL FOR ADULT USES IN ELLICOTTVILLE

In the 1960's the growth of the local ski industry began to make its impact on Ellicottville. The character of both the residential and commercial communities began to change. For many the change was for the better with new jobs, stores, and restaurants. However, over the years the downside of being a seasonal community began to show. *By the early 1980's, many shops on Washington Street...were closed for eight months of the year. Half of the homes were owned by non-residents, and most of these remained vacant during the off-season.*²⁶ Currently, the central business district not only has shops that close part of the year but it also is faced with frequent store front vacancies and non-resident land owners. These factors combined with the fact that an estimated 900,000 visitors frequent Ellicottville every year has led to local concern that an adult entertainment business will be attracted to Ellicottville.

In 1996, during the annual Fall Festival an incident brought local attention to the vulnerability of the central business district to an adult entertainment business locating in Ellicottville. The Fall Festival is a two day event that coordinates a variety of family-oriented activities including craft and food vendors, music, antique and quilt shows and kiddie rides. Activities are located throughout the CBD on private and public properties as well as at the Holiday Valley and HoliMont ski areas. During the 1996 Fall Festival, and for one or two weekends before, a local bar owner brought in female dancers as part of beer/liquor promotions. Although the women remained scantily clothed and their activities did not exceed the thresholds of most adult entertainment regulations, the incident still caused enough local concern to initiate local interest in regulating adult entertainment businesses.

The existing zoning schemes in both the Village and Town allow a reasonable mixing of residential and commercial land uses. Many commercial uses are allowed in one or more residential districts with conditional use approval (special use permit) from the Planning

²⁵ Draft Village of Ellicottville Master Plan. Comprehensive Planning Committee, 1996.

²⁶ Sheila Surrall, Taking Charge in Ellicottville. Update Planner. Update New York Chapter American Planning Association, 1991.

Board. This is especially true in the Recreational Commercial-High Density districts where town houses, retail establishments and bars/restaurants are all allowed together. This mixed land use pattern could led to conflicts between residential and adult uses.

B. POSSIBLE SECONDARY EFFECTS

Because Ellicottville is a recreational tourism destination, there is a direct relationship between the health of the local economy and the character of the community. The character of the community is partly defined by the business mix and the general ambience of the historic business district. If adult uses were to locate within the historic business district it could counter Ellicottville's efforts to create a family-oriented four season resort community.

Establishment of adult uses near residential areas could have a disruptive effect on the aesthetic qualities and residential values of established neighborhoods. It is believed that the location of an adult business will make a neighborhood less desirable for both current residents and potential home purchasers alike.

The typical brash signage utilized by the adult entertainment industry would not be consistent with the character of the historic district. Also, it would be not be consistent with the intent of the Town Zoning which is to *a) insure the tasteful display of signs in the high density commercial and residential areas of Route 219 South and Route 242 West and b) to secure economic stability in property values in the Town.*²⁷

C. SENSITIVE LAND USES

Previous studies have shown that adult businesses should be segregated from certain other land uses which are sensitive to the potential negative effects from adult uses. Adult uses should be dispersed and segregated in order to protect a) the existing character of the community, b) the quality of life within existing neighborhoods and, c) the economic stability of existing businesses. In Ellicottville the land uses and places most sensitive to the adverse impacts of having an adult business as a neighbor include:

1. Historic District - CBD.

The Ellicottville Historic District was placed on the New York State and National Registers of Historic Places on June 26, 1991 and August 22, 1991 respectively. The district is represented on the Village Zoning Map as an overlay district. Within that district land uses that require conditional use approval from the Planning Board are also subject to review under the

²⁷ Town of Ellicottville Zoning Ordinance Ellicottville Town Board April 1990.

Village's architectural design guidelines.

2. Churches.

There are six churches in Ellicottville:

- a) Holy Name of Mary Roman Catholic Church - 20 Jefferson Street.
- b) Solomon's Porch Ministries - 28 Parkside Drive.
- c) St. John's Episcopal Church - 2 West Washington Street.
- d) St. Paul's Lutheran Church - 6360 Route 242 East.
- e) United Church of Ellicottville Presbyterian - 53 Elizabeth Street.
- f) Zion Community Church - 46 Martha Street.

3. School.

The Ellicottville Central School is located approximately one half mile south of the Town line on U.S. Route 219 in the Town of Great Valley. At this time the Town of Great Valley does not have zoning or other land use controls that would prohibit an adult entertainment business from locating in the near vicinity of the Ellicottville Central School.

4. Child Care.

There is one licensed child care facility in Ellicottville. It is located at the Holiday Valley Resort.

5. Recreation Areas, Parks and Play Grounds and Public/Civic Facilities:

- a) Nannen Arboretum, Parkside Drive. Eight acre preserve at Cooperative Extension.
- b) Village Park, Parkside Drive. Approximately fifteen acres developed with a playground ball fields (including stadium), skating rink, pavilions and bathrooms. The park hosts the Town youth program.
- c) Town of Ellicottville Soccer Field/Fire Hall, Fillmore Extension. Six acres.
- d) Town Hall, 1 West Washington Street.
- e) Ellicottville Historical Society (Museum), 2 Washington Street.
- f) HoliMont, Route 242 West. Private membership ski facility.
- g) Holiday Valley, Route 219 South at Holiday Valley Road. Public ski resort

6. Residential Neighborhoods.

In the Village zoning, the districts that are designated primarily for residential uses include the Village Residential District, Low Density District, Medium Density District and High Density District. The Village Residential district encompasses the most land area and virtually surrounds the Village

Commercial District. It is built-out with single family homes, many having accessory apartments or home retail establishments. The majority of vacant land available for residential development, approximately 50 acres, is located in the Village Medium Density District.

In the Town, the majority of the land area is in the Agricultural-Residential District. Limited commercial uses including restaurants and bars are allowed in the A-R District. The majority of residences are in the Recreational Commercial-High Density District. It is in the HD District where town houses have developed, however limited commercial activities are also permitted, allowing possible conflicts with adult businesses. Additional residential districts include the Low Density District and the Medium Density District.

In the Village and adjoining areas within the Town, residential neighborhoods can be easily defined. There are distinctive residential streets and town house developments. However, since the majority of the area in the township is rural in nature with low density housing on large lots along town roads neighborhoods are harder to define. Therefore, the residential sensitivity should be expressed in terms of residential property and not neighborhoods.

D. PROPOSED DISTRICTS AND SEPARATION DISTANCES

In order to locate adult uses in areas where their effect on adjoining neighbors will be minimized they should be limited to the industrial districts where there are the fewest residences or retail commercial establishments. These include the Village Industrial Zone, the Town Industrial Zone and the Town Light Industrial-Service Commercial District.

In addition to being limited to industrially zoned areas the Town and Village can further control where an adult use can locate. Minimum separation distances can be established in order to provide an appropriate buffer between adult uses and those land uses determined to be sensitive to the possible negative secondary effects of adult uses. Minimum separation distances also prevent concentrations of adult uses. The minimum separation distances for an adult entertainment uses are proposed as follows:

	<u>Village</u>	<u>Town</u>
property currently in residential use:	300'	500'
another adult business:	500'	1,000'
church, school, day care center, park or playground, civic facility or historic resource:	500'	500'

V. CONCLUSIONS AND RECOMMENDATIONS

A. CONCLUSIONS:

The adult entertainment industry is growing and spreading geographically. Due to its attractiveness as a recreation destination Ellicottville may be more vulnerable than other similarly-sized communities because of its ready market of transient visitors.

At this time the existing land use regulations in the Town and Village do not address adult uses. They are not defined, restricted by district, or prohibited. Currently, it would be possible for an adult entertainment business to open wherever a retail commercial establishment or restaurant is now allowed.

Because Ellicottville's existing zoning allows a great deal of commercial/residential mixing there is an increased potential for conflicts between adult entertainment and residential land uses.

Ellicottville's economic health is partially dependant upon recreational tourism. It is feared that the uncontrolled establishment of adult entertainment businesses would conflict with Ellicottville's efforts to remain a family oriented four season community.

Previous studies by other municipalities have documented that secondary effects from adult entertainment establishments may include increased crime, decreased property values, negative impact upon other commercial businesses and a deterioration of residential neighborhoods. A common conclusion of those studies has been that if adult entertainment uses are not regulated (with districting and separation distances) the adjoining neighborhoods may decline.

Both the New York State Court of Appeals and the United States Supreme Court have affirmed the right of a community to regulate the location of adult uses based on these secondary effects.

Municipalities can regulate adult entertainment businesses by limiting them to certain zoning districts or neighborhoods where the secondary impacts are minimized. The regulations must leave some reasonable alternatives to where they can locate.

There are certain land uses that are more susceptible to the impacts from an adult entertainment neighbor. They include, but are not limited to, residential neighborhoods, schools, churches, public facilities, parks and playgrounds and historic resources. In Ellicottville the historic business district is vulnerable because of its dependance upon recreational tourism.

Separation distances or buffers can be utilized to mitigate impacts to those most sensitive land uses identified.

Additional control is available by placing adult entertainment businesses in a land use category that requires review and approval of a special use permit.

Public hearings have been held to hear comments on the proposed moratoriums on the establishment of sexually oriented businesses and on the proposed zoning text amendments. To date no opposition to the study, or proposed regulations have been received.

It is the conclusion of this study that the regulation of adult entertainment uses in the Town and Village of Ellicottville is appropriate and necessary. Having regulations in place will ensure that if and when an adult entertainment business proposes to open in this community there will be appropriate locations set aside where it will be allowed. The proposed regulations will also protect to the greatest extent possible, neighbors and community in general from possible negative secondary effects that may occur resulting from the establishment of an adult entertainment use.

B. RECOMMENDATIONS

Following adoption of this study, which includes the review of adult entertainment studies and zoning regulations of various communities as well as an evaluation of their applicability to the situation in Ellicottville, it is recommended that the following actions be undertaken in order to avoid adverse secondary effects from the location of adult entertainment businesses:

1. The Town and Village should each adopt amendments to their zoning regulations to define, create a new land use category, district and regulate the establishment of adult uses.
2. Due to the limited number of commercial districts and their proximity to existing residential development the most appropriate zoning districts to allow adult uses are: the Industrial Zone in the Village, and the Light Industrial-Service Commercial District in the Town and the Industrial Zone in the Town.
3. In order to give the Town and Village the greatest opportunity to review specific proposals, the establishment of adult entertainment businesses should be considered Conditional Uses (special use/site plan) just as any other retail commercial or restaurant is treated under the current zoning.

4. Outdoor advertising and signage should be limited in order to protect the community character.

5. The following minimal separation distances should be established in order to provide an appropriate buffer between adult entertainment businesses and adjoining land uses.

	<u>Village</u>	<u>Town</u>
property currently in residential use:	250'	500'
another adult business:	500'	1,000'
church, school, day care center, park or playground, civic facility or historic resource:	500'	500'

C. PROPOSED ZONING AMENDMENTS

Draft amendments to the Town Zoning Ordinance and Village Zoning Local Law are presented for the Town and Village's consideration in Appendix A.

VI. APPENDIX

A. PROPOSED ZONING TEXT AMENDMENTS:

- Town of Ellicottville
- Village of Ellicottville

B. STATE ENVIRONMENTAL QUALITY REVIEW - Environmental Assessment Forms:

- Town of Ellicottville
- Village of Ellicottville

C. TABLE 1. LANDS IN INDUSTRIAL ZONES

D. PUBLIC HEARING COMMENTS AND MINUTES

**RESOLUTION AUTHORIZING ADOPTION BY
THE BOARD OF TRUSTEES OF THE
VILLAGE OF ELLICOTTVILLE OF LOCAL LAW NO. 1 OF THE YEAR 1998
A LOCAL LAW AMENDING THE VILLAGE
OF ELLICOTTVILLE ZONING LOCAL LAW #1 OF 1991**

WHEREAS, a Resolution was duly adopted by the Board of Trustees of the Village of Ellicottville for a public hearing to be held by said Board of Trustees on January 12, 1998 at 7:00 P.M. at Ellicottville Town Hall to hear all interested parties on a proposed Local Law entitled "A Local Law Amending the Village of Ellicottville Zoning Local Law #1 of 1991", and

WHEREAS, notice of said public hearing was duly advertised in the Salamanca Press, the official newspaper of the Village of Ellicottville, on December 29, 1997, and

WHEREAS, said public hearing was duly held on January 12, 1998 at 7:00 P.M. at the Ellicottville Town Hall and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said Proposed Local Law, or any part thereof, and

WHEREAS, pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) it has been determined by the Village Board of Trustees that adoption of said proposed Local Law would not have a significant effect upon the environment and could be processed by other applicable governmental agencies without further regard to SEQR, and

WHEREAS, the Cattaraugus County Department of Planning recommended approval of the proposed Local Law on December 4, 1997, pursuant to Section 239m of the General Municipal Law, and

WHEREAS, the Village of Ellicottville Planning Board on December 9, 1997 recommended approval of the proposed Local Law, and

WHEREAS, the Board of Trustees of the Village of Ellicottville, after due deliberation, finds it in the best interest of the Village to adopt said Local Law,

NOW, THEREFORE, BE IT RESOLVED, that the Board of Trustees of the Village of Ellicottville hereby adopts said Local Law No. 1 of 1998 entitled "A Local Law Amending the Village of Ellicottville Zoning Local Law #1 of 1991", a copy of which is attached hereto and made a part of this Resolution, and be it further

RESOLVED, that the Village Clerk be and she hereby is directed to enter said Local Law in the minutes of this meeting and in the Local Law Book of the Village of ELlicottville, and to give due notice of the adoption of said Local Law to the Secretary of State of New York.

VILLAGE OF ELLICOTTVILLE

Local Law No. 1 of the year 1998

A local law amending Zoning Law #1 of the year 1991.

Be it enacted by the Village Board of Trustees of the Village of Ellicottville as follows:

SECTION 1. Legislative Intent. In April of 1997, the Village Board directed the Village Planner to conduct a study of the potential detrimental effects to the Village if adult uses were to be established in close proximity to sensitive land uses. At the present time, there are no land uses in the Village that could be classified as "adult uses". After careful review of the study prepared by the Planner, the Village Board does hereby find that adult uses could result in potential adverse effects on the Village's residential areas as well as its schools, places of worship, parks and other designated open space areas, historic and scenic resources, and civic and cultural facilities.

SECTION 2. SEQR Determination. The Village Board of Trustees of the Village of Ellicottville determined, as lead agency pursuant to the State Environmental Quality Review Act (SEQR), that passage of this local law will not have a significant effect on the environment and thereby issued a negative declaration on April 28, 1997.

SECTION 3. Application. This local law shall apply to all areas of the Village of Ellicottville.

SECTION 4. Severability. The invalidity of any word, section, clause, paragraph, sentence, part or provision of this local law shall not affect the validity of any other part of this local law

which can be given effect within such part or parts.

SECTION 5. Amendments to the Zoning Law. The following changes to Local Law #1 of the year 1991 of the Village of Ellicottville are hereby made:

A. That Section 2 of said Local Law entitled - Definitions shall be amended by adding the following definitions:

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

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

(b) Adult entertainment cabaret. A public or private nightclub, bar, restaurant or similar establishment which presents topless or bottomless dancers, go-go dancers, strippers, male or female impersonators, exotic dancers, or other similar entertainment, and which establishment excludes any minor by reason of age.

(c) Adult video store. An establishment having as a substantial or significant portion of its stock in trade, videotapes or films for sale or viewing on premises by use of motion picture devices, video equipment or other coin operated means, and which establishment excludes any minor by reason of age.

(d) Peep show. A theater which presents material in the form of live shows, films, or videotapes viewed from an enclosure for which a fee is charged and which excludes any minor by reason of age.

(e) Massage establishment. Any establishment having a fixed place of business where massages are administered for pay, including but not limited to massage parlors, sauna baths and steam baths. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or duly

licensed physical therapist or duly licensed massage therapist, or barber shops or beauty salons in which massages are administered only to the scalp, face, neck, or shoulders. This definition shall also exclude health clubs which have facilities for physical exercise such as tennis courts, racquet ball courts or exercise rooms, and which do not receive their primary source of revenue through the administration of massages.

(f) Adult motel. A motel which excludes minors by reason of age, or which makes available to its patrons in their rooms films, slide shows, or videotapes, which if presented in a public movie theater would exclude any minor by reason of age.

(g) Adult theater. A theater that customarily presents motion pictures, films, videotapes, or slide shows and that excludes any minor by reason of age.

(h) Body painting studio. An establishment or business which provides the service of applying paint or other substance whether transparent or non-transparent to or on the human body and which excludes any minor by reason of age.

(i) Adult model studio. Any establishment where, for any form of consideration or gratuity, figure models are provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons other than the proprietor, paying such consideration or gratuity and which excludes any minor by reason of age. This provision shall not apply to any school of art which is operated by an individual, firm, association, partnership, corporation or institution, which meets the requirements established in the New York State Education Law for the issuance of conferring of, and is in fact authorized to issue and confer a diploma.

SCHOOL - A facility, either public or private that provides a curriculum of elementary and/or secondary academic instruction, including kindergartens, elementary schools, junior high schools, and/or high schools.

HOUSE OF WORSHIP - An institution that people regularly attend or reside in to participate in or hold religious services, meetings, or other activities. A house of worship includes churches, synagogues, temples, monasteries, and convents.

PARK - Any public or private land available for recreational, educational, cultural, or aesthetic use.

CIVIC FACILITY - Buildings, structures, and uses owned and operated by the Village of Ellicottville and regularly used for neighborhood meetings and other forms of public assembly.

HISTORIC RESOURCE - Any historic building, structure, facility, site or district, or prehistoric site that is listed on the State and/or National Registers of Historic Places. Any historic building, structure, facility, site or district, or prehistoric site that has been proposed by the New York Board on Historic Preservation for a recommendation to the State Historic Preservation Officer for nomination for inclusion in the National Register of Historic Places. Any locally significant historic resource designated pursuant to Article 5-K of the New York State General Municipal Law.

SCENIC RESOURCE - Any road, highway, lane, district, or corridor designated pursuant to Article 49 of the New York State Environmental Conservation Law. Any area designated a Scenic Area of Statewide Significance pursuant to New York State's Coastal Management Program (19 NYCRR 602.5).

B. That Section 3 of Local Law #1 of 1991 Subdivision 7 entitled Industrial Zone (I) paragraphs A. Purpose and B. Uses shall be amended as follows:

(1) Paragraph A. Purpose shall have the following sentence added: "Adult uses shall be a conditional use in the Industrial Zone."

(2) Paragraph B Uses shall have its first sentence amended to read: Respective uses within the zone are manufacturing, fabrication, processing, storage warehousing, wholesale distribution, and adult uses (adult uses is a conditional use).

C. That the following shall be added to Section 3

Subdivision 10 of the said Local Law #1 entitled Schedule of Requirements - Land Use Tables:

USE DESCRIPTION	C	VR	LD	VMD	HD	VC	I
ADULT USES	NP	NP	NP	NP	NP	NP	C

D. Section 11 of the said Local Law #1 of 1991 entitled Miscellaneous Requirements is hereby amended by adding the following as Subsection 7:

7. Adult Uses

A. Adult uses, due to their nature, have serious objectionable characteristics that can have a significant impact on the neighborhood and community in which they are located, particularly when located in close proximity to residential areas and recreational commercial areas. The objectionable characteristics of these uses are further heightened by their concentration in any one area thereby having deleterious effects on adjacent areas. The uncontrolled proliferation of such uses would be inconsistent with the Village as a primarily residential and family oriented community as well as a recreational destination. Such uses can contribute to the blighting or downgrading of areas in which they are located as a result of their related potential for an increase in crime and the undermining of the economic, moral and social welfare of the community. The special regulations deemed necessary to control the undesirable secondary effects arising from adult uses are set forth below. The primary purpose of these controls and regulations is to preserve the integrity and character of the residential community. The provisions of this section have neither the purpose nor the effect of imposing a limitation or restriction on the contact of any communicative materials, or to deny access by adults to adult uses.

B. No adult use shall be established except upon the receipt of a Conditional Use approval from the Planning Board in accordance with Section 6 of this local law and the provisions herein. All adult uses shall only be allowed in the district(s) as identified in the Land Use Tables of this local law. An adult use shall also conform to the following requirements:

1) An adult use shall not be located within a three hundred foot radius of any property currently in residential use. .

2) No adult use shall be located within a five-hundred foot radius of another adult use.

3) No adult use shall be located within a five hundred foot radius of any house of worship, school, day care center, park or playground, civic facility, or historic resource.

4) No more than one adult use shall be located on any lot.

5) No adult use shall be located in any building that is used in whole or part for residential uses.

6) All building openings, including doors and windows shall be located, covered or screened in such a manner as to prevent a view into the establishment from any public street, sidewalk or parking area.

7) As a condition of approval of any adult use, there shall be a restriction that there shall be no outdoor, sign, display or advertising of any kind other than one identification sign limited to only the name of the establishment. Such sign shall be reviewed by the Planning Board in conjunction with the Conditional Use application and shall conform to all signage requirements of said this local law as per Section 11-1 SIGNS.

8) No loudspeakers or sound equipment shall be used by adult uses that can be heard by the public from outside the establishment.

Section 6. Effective Date. This local law shall take effect upon filing in the office of the Secretary of State.