

**VILLAGE OF CROTON-ON-HUDSON
BOARD OF TRUSTEES**

LOCAL LAW INTRODUCTORY NO. 2 OF 2024

**A LOCAL LAW TO REPEAL CHAPTER 66 ADULT ENTERTAINMENT USE
BUSINESSES OF THE CODE OF THE VILLAGE OF CROTON-ON-HUDSON AND TO
AMEND CHAPTER 230 ZONING TO PROVIDE FOR THE ADMINISTRATION AND
REGULATION OF ADULT ENTERTAINMENT USE BUSINESSES**

Be it enacted by the Board of Trustees of the Village of Croton-on-Hudson as follows:

Section One. Chapter 66 of the Code of the Village of Croton-on-Hudson entitled “Adult Entertainment Use Businesses” is hereby repealed in its entirety.

Section Two. Section 230-18C., Light Industrial LI District, of the Zoning Law of the Village of Croton-on-Hudson is hereby amended as follows (see underline for added text):

§ 230-18 Light Industrial LI District

C. Special permit uses. Subject to the issuance of a special permit therefor by the Village Board of Trustees, and excluding those uses prohibited under Subsection E of this section, the following uses:

10. Adult entertainment use businesses, provided that the requirements set forth in § 230-48.4 are met.

Section Three. Article VII of Chapter 230, entitled “Supplementary Regulations” is hereby amended to add a new Section 230-48.4, entitled “Adult entertainment use businesses” to read as follows:

§ 230-48.4. Adult entertainment use businesses

- A. Findings and purpose. The Board of Trustees of the Village of Croton-on-Hudson hereby finds that adult entertainment business uses of property, by their very nature, have serious objectionable characteristics that can have a significant impact on the neighborhood and community in which they are located. The Board of Trustees further finds that:
1. The uncontrolled proliferation and inappropriate location of such uses would be inconsistent with existing development and future plans for the Village of Croton-on-Hudson in that such uses can contribute to the blighting or downgrading of neighborhoods 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.

2. Such uses can adversely impact the general health, safety and economic well-being of the entire community and, in particular, the children of the community.
3. The location of such uses in areas where children reside or may regularly assemble is of great concern to the Village of Croton-on-Hudson.

In order to prevent the deleterious location and concentration of such businesses and to ensure that those effects will not adversely affect the health, safety and economic well-being of the community, the Board of Trustees of the Village of Croton-on-Hudson finds it in the public interest to enact these standards which regulate the placement, construction and/or permitting of adult entertainment use businesses in the Village of Croton-on-Hudson. Therefore, it is the primary purpose of this section to restrict adult entertainment use businesses to nonresidential areas of the village and to specifically reduce their potential accessibility to children.

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

ADULT BOOKSTORE or ADULT VIDEO STORE

A retail or wholesale commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following, for consumption on or off the premises: books, magazines, periodicals or other printed materials, or photographs, films, motion picture, videocassettes or video reproductions, slides, or other visual representations which depict, describe, or relate to sexual activities or sexual anatomical areas; or instruments, devices, or paraphernalia which are designed for use in connection with specific sexual activities. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specific sexual activities or specified anatomical areas and still be categorized as an "adult bookstore" or "adult video store" so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe or specified anatomical specified sexual activities or specified anatomical areas. For the purposes of this definition, "principal business purpose" shall mean 40% or more of the following:

- A. The number of different titles or kinds of such merchandise;
- B. The number of copies or pieces of such merchandise;
- C. The amount of floor space devoted to the sale and/or display of such merchandise; or
- D. The amount of advertising which is devoted to such merchandise, whether in print or broadcast media.

ADULT ENTERTAINMENT CABARET

A nightclub, bar, restaurant or similar public or private establishment which presents:

- A. Persons who appear in a state of nudity;
- B. Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or

- C. Films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

ADULT ENTERTAINMENT USE

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

ADULT MOTEL

A hotel, motel or similar for-profit short-term rental establishment which:

- A. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides or other photographic reproductions which are characterized by the depiction or description of sexual activities or sexual anatomical areas; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions;
- B. Offers a sleeping room for rent for a period of time that is less than 10 hours; or
- C. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than 10 hours.

ADULT MOTION-PICTURE THEATER

An enclosed or unenclosed building, structure or any portion thereof used for presenting films, motion pictures, videocassettes, slides or similar photographic reproductions distinguished or characterized by primary emphasis on matter depicting, describing or relating to sexual activities or sexual anatomical areas for observation by patrons.

ADULT THEATER

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

BUSINESS

Any person, firm, association, partnership, corporation or other entity, whether for profit or not for profit.

ESTABLISH or ESTABLISHMENT

Any of the following:

- A. The opening or commencement of any adult entertainment use business as a new business;
- B. The conversion of an existing business, whether or not an adult entertainment use business, to any adult entertainment use business;
- C. The addition of any adult entertainment use business to any other existing adult entertainment use business; or
- D. The relocation of any adult entertainment use business.

PEEP SHOWS

A theater which presents materials distinguished or characterized by primary emphasis on matters depicting, describing or relating to sexual activities or sexual anatomical areas, in the form of live shows, films or videotapes, viewed from an individual enclosure, for which a fee is charged.

PERSON

Any individual, firm, partnership, corporation, club, association or legal representative, acting individually or jointly.

SCHOOL

Any facility, public or private, which offers classes or provides other educational services for minors.

SEXUAL ACTIVITIES

Any act of masturbation, fellatio, sodomy, sexual intercourse or fondling or other erotic touching of a person's genitals, pubic area, buttocks or breasts.

SEXUAL ANATOMICAL AREAS

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

TRANSFER OF OWNERSHIP OR CONTROL (of an adult entertainment use business)

Any of the following:

- A. The sale, lease or sublease of the business;
- B. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means; or
- C. The establishment of a trust, gift or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

C. Uses Permitted. In addition to the requirements of this Chapter, no business or person shall construct, establish or be issued a certificate of occupancy for any adult entertainment use business within the Village of Croton-on-Hudson unless such use meets the following standards:

1. No adult entertainment use shall be located in any zoning district except those districts zoned for light industrial use (LI).
2. No adult entertainment use shall be closer than 500 feet from any lot line of any other lot on which there is another adult entertainment use.
3. No adult entertainment use shall be established closer than 500 feet from the lot line of any area where youth may regularly assemble, including but not limited to, a school, nursery school, daycare center, library, hospital, church or other regular place of religious worship, community center, park, playground, recreational area or field.
4. No more than one adult entertainment use as defined above shall be located on any individual lot.
5. No adult entertainment use shall be established unless the provisions of all applicable laws, rules and regulations of the Village of Croton-on-Hudson have been met. Where there is a conflict between the regulations as provided in this section and any other law, rule or regulation of the Village of Croton-on-Hudson, the most restrictive law, rule or regulation shall apply.

D. Waiver of Restrictions. The restrictions enumerated in this § 230-48.4 may be waived by the Village Board of Trustees if the applicant shows and the Board finds that the following conditions have been met in addition to the general conditions contained in this chapter:

1. That the proposed use will not be contrary to the public interest or injurious to nearby properties and the spirit and intent of this chapter will be observed; and
2. That the establishment of an additional use of the type in the area will not be contrary to any program of neighborhood conservation or improvement, either residential or nonresidential.

E. Inspection requirements.

1. Prior to the commencement of any adult entertainment use business or upon any transfer of ownership or control, the premises must be inspected and found to be in compliance with all laws, rules and regulations within the jurisdiction of the Fire Department, the Village Engineer and other code enforcement officials.
2. The Fire Department, the Village Engineer and other code enforcement officials shall complete their certification that the premises are in compliance within 20 days of the inspection of the premises by such officials. The certification shall be promptly presented to the Village Manager.

3. An applicant or permittee and/or licensee shall permit representatives of the Village Police Department, Fire Department, Engineering Department or other village departments or agencies to inspect the premises of an adult entertainment use business for the purpose of insuring compliance with the law at any time it is occupied or open for business.
 4. The Village Manager shall suspend the right to conduct such adult entertainment use for a period not to exceed 30 days if he determines that the owner and/or operator or an employee of the owner and/or operator has:
 - a. Violated or is not in compliance with any section of this chapter.
 - b. Engaged in excessive use of alcoholic beverages while on the adult entertainment use business premises.
 - c. Refused to allow an inspection of the adult entertainment use business premises as authorized by this chapter.
 - d. Knowingly permitted gambling by any person on the adult entertainment use business premises.
 - e. Knowingly allowed possession, use or sale of controlled substances on the premises.
 - f. Knowingly allowed prostitution on the premises.
 - g. Knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or other sexual conduct to occur in or on the permitted and/or licensed premises.
 5. Prior to any suspension, the Village Manager or Code Enforcement Officer shall provide the owner and/or operator with a notice with the grounds for the suspension. The notice stating the grounds shall be provided to the owner and/or operator in writing. The owner and/or operator has the right to present its written response to this notice to the Village Manager within 10 days of receipt of said notice. The Village Manager may not suspend the right to conduct such adult use until 15 days after the notice is given to the owner and/or operator or until after receiving the owner's and/or operator's response, whichever is sooner.
- E. Penalties for offenses; enforcement.
1. A person who knowingly owns, manages, operates, conducts or maintains any of the uses governed by these provisions in any way which is contrary to this section shall be subject to prosecution and punishment under § 1-12 of the Code of the Village of Croton-on-Hudson or, in the alternative, violation of this chapter may be enforced by injunction.
 2. The continuation of a violation of the provisions of this chapter shall constitute, for each day the violation is continued, a separate and distinct offense hereunder.
 3. If any part or provision of this chapter or the application thereof to any persons or circumstances shall be judged invalid, such judgment shall be confined to the part or

application adjudged to be invalid. Such decision shall not affect the validity of the section as a whole or any part thereof, other than the part so decided to be invalid.

4. An adult entertainment use business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the operation of the adult entertainment use business, of a school, nursery school, daycare center, library, hospital, church or other regular place of religious worship, community center, park, playground, recreational area or field within 500 feet of the adult entertainment use business.

Section Four. Severability

If any section, subsection, clause, phrase or other portion of this Local Law is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

Section Five. Effective Date

This local law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.