

Chapter 76

ADULT USES

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[HISTORY: Adopted by the Board of Trustees of the Village of St. Johnsville 3-9-1982 by L.L. No. 1-1982. Amendments noted where applicable.]

GENERAL REFERENCES

Zoning — See Ch. 275.

§ 76-1. Preamble and purposes.

- A. WHEREAS, petitions have been circulated in the past two years by residents within the Village and Town of St. Johnsville respectively, urging the St. Johnsville Village Board and the St. Johnsville Town Board to each adopt an ordinance prohibiting the showing of pornographic movies in theaters and prohibiting adult bookstores or other outlets for pornography and obscenity in public within their respective communities; and
- B. WHEREAS, buildings and establishments operated as adult uses have the characteristic result of deteriorating property values of adjoining properties in the community; and
- C. WHEREAS, it is the opinion and conviction of the Village of St. Johnsville and the Town of St. Johnsville respectively that obscenity and pornography traffic is not in the best interests of either community; and
- D. WHEREAS, the Village of St. Johnsville desires to set forth reasonable restrictions and regulations for its community standard and therefore elects to join forces with the Town of St. Johnsville to support, establish and to hereby constitute a “geographic area” of mutual community standards with regard to obscenity and pornography and adult uses as hereinafter set forth;
- E. NOW, THEREFORE, this chapter is adopted to prevent deteriorating property values, higher crime rates, traffic congestion and depressed neighborhood conditions in the Village of St. Johnsville and to promote the health, safety, general welfare and good order of the residents of the Village of St. Johnsville by regulating the concentration of adult uses. This chapter is intended to relegate and restrict adult uses to nonresidential, nonbusiness and noncommercial areas of this Village and to otherwise regulate their operation.

§ 76-2. Definitions.

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

ADULT BOOKSTORE — An establishment having as substantial portion of its stock-in-trade sexual devices, books, magazines, films for sale or viewing on the premises, by use of motion-picture devices or any other coin-operated means, and other periodicals 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 with a section devoted to the sale or display of such material, which excludes minors by virtue of age.

ADULT MINI-MOTION-PICTURE THEATER — An enclosed building with a capacity of less than 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, when such establishment is customarily not open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age.

ADULT MOTION-PICTURE THEATER — An enclosed building with a capacity of less than 50 or more persons used regularly and routinely for presenting films or material having as a dominant theme, 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, when such establishment excludes any minor by reason of age.

PERSON — Any person, firm, partnership, corporation, association or legal representative, acting individually or jointly.

SPECIFIED ANATOMICAL AREAS —

- A. Less than completely and opaquely covered human genitals, pubic region or female breast below a point immediately above the top of the areola.
- B. Acts of human masturbation, sexual intercourse or sodomy.
- C. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.

§ 76-3. Location and use restrictions.

- A. Location restrictions. Adult uses, including but not limited to adult motion-picture theaters, adult mini-motion-picture theaters and adult bookstores shall be permitted, subject to the requirements of Chapter 275, Zoning, of the Code of the Village of St. JohnsVille and subject to the following restrictions and regulations:
 - (1) No such adult use shall be allowed within 500 feet of another existing adult use.
 - (2) No such adult use shall be located within 500 feet of the boundaries of any zoning district which is zoned exclusively for residential uses: those zones designated R-1 or R-2, or residential uses in C-1 or M-1 Districts.
 - (3) No such adult use shall be located within 500 feet of a preexisting school, place of worship, park or playground or residence.

- (4) No such adult use shall be located in any zoning district except the M-1 District.

B. Regulations.

- (1) There shall be no exposure of the interior adult bookstore or adult motion-picture theater to the outside and no outside displays.
- (2) The legal age for admittance to an adult bookstore or adult motion-picture theater is 18 years of age.

§ 76-4. Registration.

- A. The owner of a building or premises, his agent for the purpose of managing or controlling or collecting rents or any other person managing or controlling a building or premises, any part of which contains an adult use, shall register the following information with the Village Clerk of the Village of St. Johnsville:
- (1) The address of the premises.
 - (2) The name and address of the owner(s) of the premises and the names and addresses of the beneficial owners if the property is in a land trust.
 - (3) The name of the business or the establishment subject to the provisions of this chapter.
 - (4) The name(s) and addresses of the owner, beneficial owner of the major stockholder(s) of the business or the establishment subject to the provisions of this chapter.
 - (5) The date of initiation of the adult use.
 - (6) The nature of the adult use.
 - (7) If the premises or building is leased, a copy of said lease.
- B. Display of registration. The owner, manager or agent of a registered adult use shall display in a conspicuous place on the premises of the adult use a copy of the registration filed with the Village Clerk.
- C. Violation. It is a violation of this chapter for the owner or person in control of any property to establish or operate thereon or to permit any person to establish or operate thereon an adult use without having properly registered said adult use with the Village Clerk.

§ 76-5. Special registration use permit.

- A. No use as described in this chapter shall be established until the issuance of a special registration use permit by the Board of Trustees of the Village of St. Johnsville. Application for such special registration use permit shall be in writing to the Board of Trustees and shall consist of a description of the premises for which the permit is sought, a plain and concise statement of the use which is proposed, the full information required

for registration in § 76-4A herein, and such additional information as shall be required by the Board of Trustees. The Board of Trustees shall call a public hearing for the purpose of considering the request for a special registration use permit. At least 10 days' notice of the time and place of the public hearing shall be given by the publication of a notice in a newspaper of general circulation in the Village, and indicating the general nature of the public hearing and the fact that those persons interested therein may be heard at the time and place of such hearing.

- B. A special registration use permit issued under the provisions of this section shall not be transferable.
- C. Approval by the Village Board of Trustees and registration by the Village Clerk shall be permitted only upon full compliance with the provisions of this chapter.

§ 76-6. Penalties for offenses. ¹

Failure to register said adult use with the Village Clerk as hereinbefore directed is an offense in violation of this chapter and, upon conviction thereof, is punishable by a fine not to exceed \$250 or imprisonment for not more than 15 days, or both. Continuation of such violation for each subsequent period of one week shall be a separate offense punishable as set forth herein.

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).