

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

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.

County City Town Village
(Select one.)

of HOWARD

Local Law No. 3 of the year 2012

A local law entitled "Regulation of Adult Entertainment and Uses in the Town of Howard".
(Insert Title)

Be it enacted by the TOWN BOARD of the
(Name of Legislative Body)

County City Town Village
(Select one.)

of HOWARD as follows:

SEE ATTACHED.

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

LOCAL LAW NO. 3 OF THE YEAR 2012

A Local Law, entitled "Regulation of Adult Entertainment and Uses in the Town of Howard".

Be it enacted by the Town board of the Town of Howard as follows:

Section 1. Purpose and intent.

It is the intent of the Town of Howard to regulate Adult Entertainment and Uses in order to reduce or mitigate potential secondary impacts of such uses that have occurred in other communities, including, but not limited to, increased crime rates, noise, and traffic; decreased property values; and general deterioration of neighborhoods and hindrance of economic development.

Section 2. Definition.

Adult uses shall be defined as follows:

Adult Bookstore and/or Video Store: A commercial establishment which has a significant or substantial portion of its stock in trade or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior business or advertising to the sale, rental, or any form of consideration, of anyone or more of the following: books, magazines, periodicals or other visual representations which are characterized by the exposure or emphasis of specified sexual activities or specified anatomical areas or instruments, devised or paraphernalia which are designed for use in connection with specified sexual activities which are for sale, rental, or viewing on or off the premises. An establishment may have other principal business purposes that do not involve the offering for sale or rental or viewing of materials depicting or describing specified sexual activities or specified anatomical areas, and still be categorized as an adult book and/or video store so long as one of its principal purposes is offering for sale or rental, or some form of consideration, the specified materials which depict or describe specified anatomical areas or specified sexual activities.

Adult Entertainment Cabaret: A public or private establishment which regularly presents topless and/or bottomless dancers, strippers, waiters, or waitresses, male or female impersonators of exotic dancers, or other similar entertainment, or film, motion pictures, videos, slides, or other photographic material, or which utilizes employees, as part of their employment to regularly expose patrons to specified sexual activities or anatomical areas.

Adult Entertainment: Any use or substantial or significant part thereof in which is provided, in pursuance of a trade, calling business or occupation, goods, including books, magazines, pictures, slides, film, phonographic records, prerecorded magnetic or laser, video, or other media, and any other reading, viewing or listening matter, or services including activities, facilities, performances, exhibitions, viewings and encounters, the principal feature or characteristic of which is the nudity or partial nudity of any person, or in respect of which the word "nude", "naked", "topless", "bottomless", "sexy" or any other word or picture, symbol or representation having like meaning or implication is used in any advertisement.

Adult Theater: A theater, concert hall, auditorium, or similar establishment which for any form of consideration regularly features live performances characterized by the exposure of specified sexual activities or specified anatomical areas.

Adult Motion Picture Theater: Any motion picture theater where, for any form of consideration, films, motions pictures, video cassettes, slides or other photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material characterized by the emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

Massage Establishment: Any establishment having a fixed place of business where massages, or any other treatment or manipulation of the human body, are administered for any form of consideration or gratuity, as part of or in connection with specified sexual activities or where any person providing such treatment or services related thereto exposes specified anatomical areas. This definition shall not be construed to include hospital, nursing home, or medical clinic, or office of a physician, surgeon, chiropractor or osteopath, duly licensed physical therapist, or duly licensed massage therapist or barbershop or beauty salon, athletic club, health club, school, spa or similar establishment where massage or similar manipulation of the human body is offered as an incidental accessory service.

Specified Sexual Activities. (1) Human genitals in a state of sexual stimulation or arousal; or (2) acts of human masturbation, sexual intercourse, oral copulation, or sodomy; or (3) fondling or other erotic touching of human genitals, pubic regions, buttocks, or breasts.

Specified Anatomical Areas. (1) Less than completely and opaquely clothing covered human genitals, pubic region, buttocks, and female breasts directly and laterally below the top of the areola; and (2) human male genitals in a discernible turgid state even if completely and opaquely clothing covered.

Section 2A.

Other Definitions as used in this Local Law:

Business: A commercial enterprise selling producing, or manufacturing a product or proprietary information for retail, wholesale, or charitable purposes.

Property Parcel: Property or properties of contiguous ownership by one entity or person(s).

Section 3. Restrictions.

A. Adult uses shall be permitted subject to the following restrictions:

Adult uses are prohibited within:

1. One Thousand Five Hundred (1,500) feet of any single-family, two-family, or multiple-family dwelling.
2. One Thousand Five Hundred (1,500) feet of any public or private school, Library or day care center, or other business.
3. One Thousand Five Hundred (1,500) feet of any church or other religious facility or institution.
4. One Thousand Five Hundred (1,500) feet of any public park, public bike or pedestrian path, playground, playing field, cemetery, or civic or recreational facility.
5. Eight Thousand (8,000) feet of any other existing adult use.
6. Five Hundred (500) feet from any property parcel.

B. No more than one adult use shall be located on any lot or property parcel.

C. The distances provided above shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the property parcel upon which the adult use is to be located to the nearest point of the property parcel from which the adult use is to be separated.

D. No adult use shall be conducted in any manner that allows the observation of any material depicting, describing, or relating to specified sexual activities or specified anatomical areas from any property not operating as an adult use. This provision shall apply to any sign, show, window or other opening.

E. There shall be no outdoor sign, display or other advertising of any kind other than one identification sign limited to only the name of the establishment.

Section 4. Penalties.

Any person committing an offense against any provision of this chapter shall be guilty of a violation punishable by a fine not exceeding \$250.00, or by imprisonment for a term not exceeding fifteen (15) days, or by both such fine and imprisonment. The continuation of an offense against the provisions of this chapter shall constitute, for each day the offense is continued, a separate and distinct offense. The Town may also maintain an action or special proceeding for an injunction or other equitable relief to compel compliance with, or to restrain the violation of, this chapter. The use of any remedy shall not prevent the use of any other remedy hereunder. The listing of remedies herein shall not deprive the Town of the use of any other remedies provided by other provisions of law.

Section 5. Effective Date.

This local law shall take effect immediately upon filing with the New York State Secretary of State.

(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 2012 of the ~~(County)(City)~~(Town)(Village) of HOWARD was duly passed by the TOWN BOARD on OCTOBER 10, 2012, in accordance with the applicable provisions of law.

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 disapproval) by the _____ and was deemed duly adopted on _____ 20____, 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 disapproval) by the _____ on _____ 20____.

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 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 disapproval) by the _____ on _____ 20____. Such local law was subject to 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 1 above.

Lincoln A. Khan

Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: October 15, 2012

(Seal)