

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 12231

(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~~ of CLAY
Town
~~Village~~

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED
NOV 17 2006
MISCELLANEOUS
& STATE RECORDS

Local Law No. 9 of the year 20 06

A local law Adding a new Chapter 68 entitled "ADULT USES" to the Code of the Town of Clay. The purpose of this Local Law is to preserve the character and quality of life in Town neighborhoods and business areas by controlling documented harmful and adverse secondary effects of a concentration or proliferation of adult uses on surrounding area. Also the intent is to maintain property values, prevent crime, protect retail trade, restrict minors' access to adult uses, and maintain the general welfare and safety for Town of Clay residents.

Be it enacted by the Town Board of the
(Name of Legislative Body)

~~County~~
~~City~~ of Clay as follows:
Town
~~Village~~

Said Local Law No. 9 of the Year 2006 to read as follows: (See Attached)

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

**PROPOSED LOCAL LAW NO. 9 OF THE YEAR 2006
TOWN OF CLAY**

**A LOCAL LAW ADDING A NEW CHAPTER 68
ENTITLED "ADULT USES" TO THE CODE OF THE TOWN OF CLAY**

IT IS ENACTED by the Town Board of the Town of Clay, County of Onondaga as follows:

SECTION 1. Adding a new **Chapter 68** entitled "**ADULT USES**" to the Code of the Town of Clay. The purpose of this local law is to preserve the character and quality of life in Town neighborhoods and business areas by controlling documented harmful and adverse secondary effects of a concentration or proliferation of adult uses on surrounding areas. Also the intent of this Chapter is to maintain property values, prevent crime, protect retail trade, restrict minors' access to adult uses, and maintain the general welfare and safety for the Town of Clay residents.

The Town Board called public hearing on August 21, 2006 for September 6, 2006.

Town Board held and completed public hearing on September 18, 2006.

Local Law No. 6 of 2006 as approved by Town Board sent to Dept. of State on _____.

On _____ received letter from Dept. of State with notification of date filed being _____.

§ 68.01 Title

This Local Law shall be known as "**Adult Uses**" and shall consist of the following text.

§ 68.02 Intent.

The intent of this Chapter is to preserve the character and quality of life in Town neighborhoods and business areas by controlling documented harmful and adverse secondary effects of a concentration or proliferation of adult uses on surrounding areas such as decreased property values, attraction of transients, parking and traffic problems, increased crime (including prostitution, rape and assaults in the vicinity of such uses), loss of business for surrounding non-adult-use businesses and deterioration of neighborhoods. Also the intent of this Chapter to maintain property values, prevent crime, protect retail trade, restrict minors' access to adult uses, and maintain the general welfare and safety for Town of Clay residents.

§ 68.03 Definitions.

ADULT USE ESTABLISHMENT -- A private establishment or any part thereof which presents any of the following entertainment, services or sales or rentals on one or more occasions:

- (a) **ADULT ARCADE** -- Any place to which the public is permitted or invited wherein coin-operated, slug-operated or electronically, electrically or mechanically controlled still or motion-picture machines, projectors or other image-producing devices are maintained to show images thereon said devices or portions thereof and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.
- (b) **ADULT BOOKSTORE or ADULT VIDEO STORE** -- A business which utilizes 25% or more of its retail selling area for, any one of the following: books, magazines, periodicals, films, motion pictures, videocassettes, slides, compact discs and/or computer-generated or other visual representations which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.
- (c) **ADULT CABARET** -- A nightclub, bar, restaurant or similar commercial establishment which permits or provides for the entertainment of its patrons any of the following:
 - (1) Person(s) who appears in a state of nudity.
 - (2) Live performances which are characterized by the exposure of any specified anatomical area(s) or by the performance or depicting of any specified sexual activity(ies).
 - (3) Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of any specified sexual activity(ies) or any specified anatomical area(s).

- (d) ADULT MOTEL -- A hotel, motel or similar commercial establishment which:
- (1) Offers accommodations to the public for any form of consideration and which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic or visual reproductions which are characterized by the depiction or description of any specified sexual activity(ies) or specified anatomical area(s) and has a sign or other means of visual display of information which is visible from the public right-of-way and which advertises the availability of this adult type of photographic reproductions.
 - (2) Offers a sleeping room for rent for a period of time that is less than 10 hours.
 - (3) Allows a tenant or occupant of a sleeping room to sub-rent the room to another(s) for a period of time that is less than 10 hours.
- (e) ADULT MOTION-PICTURE THEATER -- A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic or visual reproductions are shown and which are characterized by the depiction or description of any specified sexual activity(ies) or any specified anatomical area(s).
- (f) ADULT THEATER -- A theater, concert hall, auditorium or similar commercial establishment which permits or provides acts, shows or entertainment by persons who appear in a state of nudity, or who display or exhibit any specified anatomical area(s).
- (g) ESCORT AGENCY -- A person or business entity who/which furnishes, offers to furnish or advertises to furnish escorts as one of its business purposes, for consideration in any form or amount.
- (h) NUDE MODEL STUDIO -- Any place where a person who appears in a state of nudity or displays any specified anatomical area(s) is provided for the purpose of being observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by another person or persons who pay money or any form of consideration therefore.
- (i) MASSAGE PARLOR -- An establishment where, for any form or amount of consideration, massage, alcohol rub fomentation, electric, magnetic or similar treatment or manipulation of part or all of the human body is administered, unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist or similar professional person licensed by the State of New York. This definition shall not include an athletic club, health club, school, gymnasium, reducing salon, spa or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service to such aforementioned principal use(s).

- (j) **SEXUAL ENCOUNTER CENTER** -- A business or commercial enterprise that, as one of its business purposes, offers for any form of consideration any of the following:
 - (1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex.
 - (2) Activities between male and female persons and/or persons of the same sex when one or more of the persons is displaying any specified anatomical area.
- (k) **ESCORT** -- A person who, for consideration, agrees or offers to act as a companion, guide or date for another person, or who agrees or offers to privately model lingerie or to privately remove in the presence of another part or all of his/her clothing.
- (l) **NUDITY** -- A state where a person is bare, naked or unclothed, or displays or exhibits a less than completely and opaquely covered specified anatomical area(s).
- (m) **SPECIFIED ANATOMICAL AREAS** -- Any of the following:
 - (1) Less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breast(s) below a point immediately above the top of the areole(s); or
 - (2) Human male genitals in a state of sexual stimulation or arousal, or in a discernibly turgid state, even if completely and opaquely covered.
- (n) **SPECIFIED SEXUAL ACTIVITY** -- Any of the following:
 - (1) Masturbation, sexual intercourse, oral copulation or sodomy.
 - (2) Fondling or other erotic touching of human genitals, pubic regions, buttocks, anus or female breasts.
 - (3) Masochism, erotic or sexually oriented torture or flagellation, beating or the infliction of pain.
 - (4) Erotic touching, fondling or other such contact between an animal and a human being.

§ 68.04 Regulations.

Adult use establishment shall be a permitted use in any non residential zoning district subject to all regulations therein, and further provided that:

- (a) An adult use may not be located within 1,000 feet of:
 - (1) A church, synagogue or regular place of worship;

- (2) A public or private pre-school, elementary, or secondary school or licensed child day-care center.
 - (3) A boundary of any residential zoning district; or
 - (4) A public park.
- (b) An adult use may not be located within 1,000 feet of an adjacent municipality.
 - (c) An adult use may not be located within 1,000 feet of another adult use, or on the same lot or parcel of land with another adult use.
 - (d) An adult use may not be located or operated in a building or structure which contains another adult use.
 - (e) An adult use may not be located within or within 1,000 feet of the Clay Industrial Park.
 - (f) An adult use may not be located within 500 feet of any County road located within the Woodard Industrial Park.
 - (g) For the purposes of this section, measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest exterior wall of the building or structure in which an adult use is located to:
 - (1) The nearest property line of the lot or parcel of land on which a religious institution, or public or private elementary or secondary school or licensed child day-care center is located in the Town of Clay.
 - (2) The nearest boundary of a public park or a residential zoning district of the Town of Clay.
 - (3) The nearest exterior wall of the structures in which another adult use is located.
 - (h) Where the adult use is contained within a structure in a multiuse building containing two or more businesses separated by common walls, or in an enclosed shopping mall, the distances in Subsections D(3)(f)[1], [2] and [3] above shall be measured from the nearest interior or exterior wall enclosing the adult use location within the shopping center structure or enclosed mall.
 - (i) All adult uses shall be conducted in an enclosed building. Regardless of location or distance, adult uses shall be arranged and conducted so that no visual observation can be made from the exterior of an enclosed building containing an adult use therein of any specified anatomical area or any specified sexual activity by virtue of any display in or on the building which depicts, exhibits or shows said area or activity. This prohibition shall apply to any display, decoration, sign or window or other opening, or any other means or method of visual portrayal of information or advertisement.

§ 68.05 Nonconforming adult uses.

- (a) Any adult use establishment lawfully operating on the effective date of this section which is in violation of the requirements of this section shall be deemed a nonconforming use subject to the provisions of § 230-23, except as otherwise provided herein.
- (b) An adult use business lawfully operating as a conforming use shall not be rendered a nonconforming use by the location, subsequent to the lawful operation of such adult use, of a business, a religious institution, public or private elementary or secondary school, public park, licensed day-care center or a residential zoning district within 1,000 feet of the adult use business.

§ 68.06 Effective date.

This local shall take effect immediately upon filing with the 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. 9 of 20 06 of the ~~(County)(City)~~(Town)(~~Village~~) of Clay was duly passed by the Town Board on September 18 2006, in accordance with the applicable provisions of law.
(Name of Legislative Body)

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

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

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 _____.
(Name of Legislative Body)
(Elective Chief Executive Officer*)
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.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

* 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.)

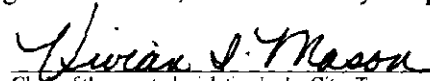
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified 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.

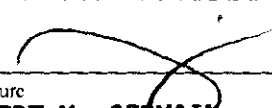

Clerk of the county legislative body, City, Town or Village Clerk or
officer designated by local legislative body
VIVIAN I. MASON, TOWN CLERK
Date: 10-06-06

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF ONONDAGA

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.


Signature
ROBERT M. GERMAIN
TOWN ATTORNEY
Title

~~County~~
~~City~~ of CLAY
Town
~~Village~~

Date: 10-06-06