

ARTICLE XIV ADULT ENTERTAINMENT

1401.1 **PURPOSE** – It is recognized that buildings and establishments operated as adult uses have serious objectionable operational characteristics. In order to promote the health, safety and general welfare of the residents of the Village of Dansville, this section is intended to restrict adult uses to nonresidential and non business areas of the Village. The Village Board hereby finds that the operational characteristics of adult uses are concentrated; therefore, this section is intended to promote the health, safety and general welfare of the residents of the Village of Dansville by regulating the concentration of such uses.

1401.2 **DEFINITIONS** – Unless specifically defined below, words or phrases used in this section shall be interpreted so as to give them the meaning they have in common usage and to give this section it's most reasonable application.

ADULT BOOKSTORE – An establishment or business, whether retail or wholesale, having as a substantial or significant portion of its stock-in-trade, books, magazines and other periodicals, films and viewing materials for sale or viewing on the premises, by use of a motion picture devices or any coin operated means, 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 or business containing a segment or section devoted to the sale or display of such material.

ADULT ENTERTIANMENT CABARET – A public or private establishment which is licensed to serve food and/or alcoholic beverages, which features topless dancers, strippers, male or female impersonators or similar entertainers.

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.

ADULT MOTION-PICTURE THEATER – An enclosed or unenclosed building or structure or drive theater used for presenting materials having a dominate 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.

ADULT USE – Any establishment or business involved in the dissemination of material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, including but not limited to adult bookstores, adult motion-picture theaters and adult entertainment cabarets.

BUSINESS – Any commercial enterprise, association or arrangement for profit.

DISSEMINATION – The transfer of possession, custody, control or ownership of or the exhibition pr presentation of any performance to a customer, member of the public or business invitee of any material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

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

SPECIFIED ANATOMICAL AREAS:

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

SPECIFIED SEXUAL ACTIVITIES:

- (1) Human genitals in a state of sexual stimulation or arousal.
- (2) Acts of human masturbation, sexual intercourse or sodomy.
- (3) Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.

SUBSTANTIAL CONNECTION:

- (1) In a sole partnership, an individual who owns, operates, controls or conducts, directly or indirectly, any premises, building or location upon which any adult use takes place.
- (2) In a partnership, limited or general, an individual who shares in any potential profits or losses of the business or who shares in the ownership of any of the assets of the partnership business.
- (3) In a corporation, an individual who is an officer, director or a holder, either directly, indirectly or beneficially, of more than 0% of any class of stock.
- (4) Any person who furnishes more than 20% of the capital financing or assets of such business, whether in cash, goods or services.

1401.3 **Restrictions; applicability.**

In addition to the requirements of the Zoning Law of the Village Dansville, adult uses shall be permitted subject to the following restrictions:

- A. No adult use shall be allowed within 500 feet of another existing adult use.
- B. No adult use shall be located within 500 feet of the boundaries of any zoning district which is zoned for residential use or commercial district.
- C. No adult use shall be located within 500 feet of a preexisting school or place of worship.
- D. No adult use shall be located in any zoning district, except those districts zoned industrial district.
- E. This chapter shall not apply to any establishment existing on the effective date of said ordinance.

1401.4 **OBSERVATION FROM PUBLIC WAY PROHIBITED.**

No adult use shall be conducted in any manner that permits the observation of any material depicting, describing or relating to specified sexual activities or specified anatomical areas from any public way or from any property not registered as an adult use. Those provisions shall apply to any display, decoration, sign, show window, screen or other opening.

1401.5 **CERTIFICATE OF APPLICATION; FEE.**

- A.** No person, firm, corporation or other entity shall lease, rent, maintain, operate, use or allow to be operated or used any business or establishment or any part thereof which contains an adult use, without first complying with the provisions of this section as set forth below.
- B.** In addition to any and all other necessary licenses and permits, no form of adult use shall be allowed to operate nor be allowed to continue to operate, until a certificate of registration is filled with the Village Clerk containing:
- (1)** The address of the premises.
 - (2)** The name and address of the owner(s) of the premises and the name and address of the beneficial owner(s) 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, the business and home address and the business or home telephone number of all owners of the business or establishment subject to the provisions of this chapter.
 - (5)** The names, the business and home addresses and the business or home telephone numbers of all those persons having a substantial connection with the business or establishment subject to the provisions of this chapter.
 - (6)** The date of the initiation of the adult use.
 - (7)** The exact nature of the adult use.
 - (8)** If the premises or the building in which the business containing the adult use is located is leased, a copy of the lease.
- C.** If any changes occur in the information required for the certificate of registration, the Village Clerk shall be notified of such change and a new or amended certificate filed within thirty (30) days of such change.
- D.** The processing fee for each certificate of registration or amendment thereto shall be \$1,000.00. Such certificate of registration shall be effective concurrently with the special permit issued annually as provided in §609.1, and the processing fee provided in this section shall be an annual charge.
- E.** No certificate of registration issued under the provisions of this section shall be transferable to any person other than the registrant, nor shall a certificate of registration be transferable for use at any premises, building or location other than that stated in the certificate of registration.
- F.** The owner, manager or agent of any adult use shall cause a copy of the certificate of registration issued under the provisions of this section to be prominently displayed on the premises, building or location for which it is issued.
- G.** Any knowingly false statement, or any statement which the registrant or applicant should reasonably have known to be false, which is provided in the certificate of registration or any document or information supplied therewith shall be grounds for rejection, suspension or revocation of the certificate of registration.
- H.** It is a violation of this section for the owner or person in control of any property to establish or operate thereon or to permit any person to establish or operate an adult use without having in force a certificate of registration complying with this section.

1401.6**SPECIAL USE PERMIT.**

- A.** No Use described in this section shall be established until the issuance of an annual special use permit by the Village Clerk. Application for such a special use permit shall be in conformity with this chapter and as provided herein. The application shall be in writing, to the Village Clerk, 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 and such additional information as shall be required by the Village Clerk. The Village Clerk shall call a public hearing for the purpose of considering the request for each and every special use permit. At least ten (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 of Dansville, indicating the general nature of the public hearing and the fact that those persons having interested therein may be heard at the time and place of such hearing.
- B.** A special use permit issued under the provisions of this section shall not be transferable.