

Chapter 59
ADULT USES

GENERAL REFERENCES

Zoning — See Ch. 200.

§ 59-1. Legislative purpose.

It is hereby declared the policy of the Village of Palmyra, State of New York, that in order to preserve public peace and good order and to safeguard the health, safety, and welfare of the Village, and to prevent the deleterious, secondary and blighting effects of adult entertainment establishments, it is necessary to regulate and control the operations and conduct of places offering adult entertainment and to fix certain responsibilities and duties of persons owning, operating, or controlling such establishments and employed therein.

§ 59-2. Definitions.

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

ADULT BOOKSTORE —

- A. Any business enterprise having as a substantial portion of its stock-in-trade books, magazines, pamphlets, pictures, drawings, photographs, motion-picture films or sound recordings, or printed, visual and audio material of any kind, which are characterized by their emphasis on the description or depiction of specified anatomical areas or specified sexual activities; or any business enterprise having a substantial area of its establishment devoted to the sale and display of such materials.
- B. For purposes of this definition, a “substantial portion” or “substantial area” shall mean more than 30% of the business is devoted to the sale and display of adult materials as determined by any of the following:
 - (1) The number of different titles of printed, visual or audio materials of any kind which are characterized by their emphasis on the description or depiction of specified anatomical areas or specified sexual activities;
 - (2) The number of copies of printed, visual or audio materials of any kind which are characterized by their emphasis on the description or depiction of specified anatomical areas or specified sexual activities;
 - (3) The amount of floor space devoted to the sale and display of printed, visual or audio materials of any kind which are characterized by their emphasis on the description or depiction of specified anatomical areas or specified sexual activities;

- (4) The dollar amount of sales of printed, visual or audio materials of any kind which are characterized by their emphasis on the description or depiction of specified anatomical areas or specified sexual activities; or
- (5) The amount of on-site advertising which can be viewed by passersby, or the amount or cost of advertising in print or broadcast media devoted to printed, visual or audio materials of any kind which are characterized by their emphasis on the description or depiction of specified anatomical areas or specified sexual activities.

ADULT ENTERTAINMENT ESTABLISHMENT —

- A. Any business enterprise having as a substantial portion of its activity the presentation, characterized by emphasis on the description or depiction of specified anatomical areas or specified sexual activities, of live shows; motion-picture films or sound recordings presented to a common audience in an enclosed common area; visual or audio material presented by coin- or slug-operated, or electronically or mechanically controlled, still- or action-picture machines, projectors or other image-producing devices to five or fewer persons per machine at any one time; any business enterprise serving food and beer, wine or liquor whose entertainers or waiters and waitresses appear in a state that displays any specified anatomical areas; or any business enterprise that offers services requiring the client or customer to display any specified anatomical areas, except medical and health services establishments.
- B. For purposes of this definition, a “substantial portion” shall mean more than 30% of its activity is devoted to presentations characterized by emphasis on description or depiction of specified anatomical areas or specified sexual activities as determined by any of the following:
 - (1) The number of presentations characterized by emphasis on the description or depiction of specified anatomical areas or specified sexual activities;
 - (2) The size of the audiences attending presentations characterized by emphasis on the description or depiction of specified anatomical areas or specified sexual activities;
 - (3) The amount of floor space devoted to presentations characterized by emphasis on the description or depiction of specified anatomical areas or specified sexual activities;
 - (4) The amount of time devoted to presentations characterized by emphasis on the description or depiction of specified anatomical areas or specified sexual activities;
 - (5) The amount of income generated from presentations characterized by emphasis on the description or depiction of specified anatomical areas or specified sexual activities; or
 - (6) The amount of on-site advertising which can be viewed by passersby, or the amount or cost of advertising in print or broadcast media devoted to presentations characterized by emphasis on the description or depiction of specified anatomical areas or specified sexual activities.

BAR and/or LOUNGE — Any place of public assembly in which the business of, directly or indirectly, selling and/or serving drink to the public is conducted, with or without incidental musical entertainment; provided, however, that dancing and live entertainment of any kind are not permitted. A bar and/or lounge will not constitute a “cabaret” as herein defined.

CABARET¹ — Any room, place or space in the Village where, for gain or profit, live or mechanically reproduced music is provided in connection with dancing or where, for gain or profit, any musician, group of musicians, floor show or similar live entertainment is provided. A full-service restaurant providing full-course meals with waiter and waitress service and which has, as part of the occupancy and services offered, background music for the benefit of patrons seated at tables and wherein dancing is prohibited shall not constitute a cabaret for the purposes of this chapter; provided, however, that such full-service restaurant shall notify the Village Clerk before it expects to offer such services to its patrons. This term shall include establishments known as “dance halls” and “discotheques.”

DANCE HALL — Any place of public assembly in which dancing is carried on and to which the public may gain admittance either with or without the payment of a fee.

DISCOTHEQUE (and the like) — Any place of public assembly in which the business of, directly or indirectly, selling and/or serving food, drinks and/or alcoholic beverages to the public is conducted, in which dancing is carried on by any musical entertainment and to which the public may gain admission either with or without the payment of a fee.

PERSON — An individual, partnership, club, association, corporation, society or any other organized group of persons, and includes officers, directors, stockholders and trustees of a club, corporation, association or society.

PLACE OF PUBLIC ASSEMBLY — Any room, place or space which is occupied or arranged to be occupied for recreational, amusement, social, sports or similar purposes; or any building, shed or enclosure, whether indoor or outdoor, coming within the occupancy and other similar classifications of this chapter as determined by the officer charged with the enforcement of this chapter. For the purposes of interpretation, the term “public assembly” where used in this chapter shall include the term “public assembly” or “assembly” as may be used in other codes, laws, ordinances, rules or regulations as may be applicable in the Village of Palmyra.

SPECIFIED ANATOMICAL AREA — ²

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

SPECIFIED SEXUAL ACTIVITY — ³

- A. The fondling or other erotic touching of covered or uncovered human genitals, pubic region, buttock or female breast; or

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

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

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

- B. Any actual or simulated act of human masturbation, sexual intercourse or deviate sexual intercourse.

§ 59-3. Operation of establishments prohibited.

It shall be unlawful for any person to conduct, maintain, or operate in the Village of Palmyra an adult bookstore or an adult entertainment establishment.

§ 59-4. Exposure prohibited.

- A. Exposure by individuals. In any cabaret, bar and/or lounge, dance hall or discotheque establishment or any other place of public assembly within the Village of Palmyra, it shall be unlawful for a female to expose that portion of her breast below the top of the areola or to appear before or come in contact with patrons with the portion of her breast below the top of the areola not covered with a fully opaque covering, or for any person, male or female, to show the lower part of the torso uncovered or so thinly covered or draped as to appear uncovered, or to appear in any scene, sketch, act or entertainment with breasts (in case of a female) or the lower part of the torso uncovered or so thinly draped as to appear uncovered.⁴
- B. Promoting exposure. It shall be unlawful for any person conducting, maintaining or operating a cabaret, bar and/or lounge, dance hall or discotheque establishment or any other place of public assembly within the Village of Palmyra to suffer or permit any waitress, barmaid, entertainer or other person who comes in contact with or appears before or is likely to come in contact with or appear before patrons with breasts uncovered in such a manner that the portion of the breast below the top of the areola is not covered with a fully opaque covering or the lower part of the torso uncovered or so thinly covered or draped is to appear uncovered or to appear in any scene, sketch, act or entertainment with breasts or the lower part of the torso uncovered or so thinly draped as to appear uncovered. Reference to breasts in this section refers to females only. Reference to the lower part of the torso refers to both male and female.

§ 59-5. Penalties for offenses.

Any person who shall violate any provision of this chapter shall be guilty of a misdemeanor punishable by a fine not exceeding \$1,000 or imprisonment for a period not to exceed 15 days, or both, and each day's continued violation shall constitute a separate violation.

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