

# Local Law Filing

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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 Floral Park

Local Law No. 2 of the year 2018

A local law Amending the Village Code Regarding the Location of Hookah Bars and  
(insert Title)

Vape Shops Within the Village

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

County  City  Town  Village  
(Select One.)

of Floral Park as follows:

## Section 1. Legislative Intent

This Local Law amends the Village Code so as to provide that Hookah Bars and Vape Shops may only be located in a B-3 Zoning District.

## Section 2. Section 99-18 of the Village Code As Amended

### §99-18. Adult uses (B-3 District).

The following adult uses shall be allowable in a B-3 District and in no other district:

#### A. Purposes and consideration.

- (1) In the execution of this section, it is recognized that there are some uses which are entitled to a certain degree of constitutional protection. Nevertheless, such uses, due to their very nature, have serious objectionable characteristics. The objectionable characteristics of these uses are further heightened by their concentration in any one area, thereby having deleterious effects on adjacent areas. Special

regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhoods or land uses.

- (2) It is further declared that the location of these uses in regard to areas where our youth may regularly assemble and the general atmosphere encompassing their operation is of great concern to the Incorporated Village of Floral Park.
- (3) These special regulations are itemized in this section to accomplish the primary purposes of preventing a concentration of these uses in any one area and restricting their accessibility to minors.

B. Definitions. As used in this section, the following terms shall have the meanings indicated:

ADULT BOOKSTORE – An establishment having as a substantial or significant portion of its stock-in-trade books, magazines, other periodicals, films, slides, videotapes, computer software and sexual paraphernalia and which establishment is customarily not open to the public generally but excludes any minor by reason of age.

ADULT DRIVE-IN THEATER – A drive-in theater that customarily presents motion pictures that are not open to the public generally but excludes any minor by reason of age.

ADULT ENTERTAINMENT CABARET – A public or private establishment which presents nude or partially nude dancers, strippers, male or female impersonators or exotic dancers, or other similar entertainments, and which establishment is customarily not open to the public generally but excludes any minor by reason of age.

ADULT MOTEL – A motel which is not open to the public generally but excludes minors by reason of age, or which make available to its patrons in their rooms films, slide shows or videotapes, which if presented in a public movie theater would not be open to the public generally but would exclude any minor by reason of age.

ADULT NOVELTY STORE – An establishment having as a substantial or significant portion of its stock-in-trade adult novelties or materials as such are defined in §235.00, Subdivision 2, of the Penal Law of the State of New York, and which establishment is customarily not open to the public generally but exclude any minor by reason of age.

ADULT THEATER – A theater that customarily presents motion pictures, films, videotapes or slide shows that are not open to the public generally but exclude any minor by reason of age.

**BODY PIERCING SALON** – An establishment which performs piercing activities upon body parts and which establishment is customarily not open to the public generally but excludes any minor by reason of age.

**HEAD SHOP** – An establishment having as a substantial or significant portion of its stock-in-trade drug paraphernalia or accouterments and which establishment is customarily not open to the public generally but excludes in any minor by reason of age.

**HOOCAH BAR** – Any facility or location whose business operation, whether as its primary use or as an ancillary use, includes the smoking of tobacco or other substances through one of more hookah pipes (also commonly referred to as a “hookah,” “waterpipe,” “shisha” or “narghile”), including, but not limited to, establishments known variously as “hookah bars,” “hookah lounges” or “hookah cafes.”

**MASSAGE ESTABLISHMENT** – Any establishment having a fixed place of business where massages are administered for pay, including but not limited to massage parlors, sauna baths and steam baths. This definition shall not be constructed to include a hospital, nursing home or medical clinic or the office of a physician, surgeon, chiropractor, osteopath or duly licensed physical therapist, or barbershops or beauty salons in which massages are administered only to the scalp, face, neck or shoulders. This definition also shall exclude health clubs which have facilities for physical exercise rooms, and which do not receive their primary source of revenue through the administration of massages.

**PEEP SHOWS** – A theater which presents material in the form of live shows, films or videotapes, viewed from an individual enclosure, for which a fee is charged and which is not open to the public generally but excludes minors by reason of age.

**TATTOO PARLOR** – An establishment which performs tattoo activities and which is not open to the public generally but excludes minors by reason of age.

**VAPE SHOP** – Any facility or location whose business operation, whether as its primary use or as an ancillary use, includes the smoking or selling of electronic cigarettes, vapors, e-liquids, otherwise legal marijuana derivatives, or other substances that are smoked through an Electronic Cigarette or any similar product.

C. The adult uses as defined in Subsection B above are to be restricted as to location in the following manner in addition to any other requirements of this Code:

- (1) Any of the above uses shall not be located within a two-hundred-foot radius of any area zoned for residential use.

- (2) Any of the above uses shall not be located within a one-fourth-mile radius of another such use.
- (3) Any of the above uses shall not be located within a two-hundred-fifty foot radius of any school, church or other place of religious worship, park, playground or playing field.

D. The restrictions enumerated in Subsection C above may be waived by the Board of Trustees of the Village if the applicant shows and the Board finds, after public hearing, that the following conditions have been met:

- (1) That the proposed use will not be contrary to the public interest or injurious to nearby properties and that the spirit or intent of this chapter will be observed;
- (2) That the establishment of an additional use of this type in the area will not be contrary to any program of neighborhood conservation or improvement, either residential or nonresidential; and
- (3) That 51% or more of the property owners within the restricted area as defined in Subsection C of this section have signed a petition stating that they have no objection to the establishment of one of the uses defined above.

E. No more than one of the adult uses as defined above shall be located on any lot.

F. By amortization, the right to maintain a legal nonconforming adult use shall terminate in accordance with the following schedule:

<b>Amount of Investment as of the Effective Date of This Chapter</b>	<b>Date Before Which Use Shall Terminate</b>
\$ to \$10,000	December 31, 1997
\$10,001 to \$25,000	December 31, 1998
\$25,001 to \$50,000	December 31, 1999
\$50,001 to \$100,000	December 31, 2000
\$100,000 or more	December 31, 2001

NOTE: The term "capital investment," as used above, is defined to mean the initial outlay by the owner or operator of the use to establish the business as of the date of the enactment of this chapter, exclusive of the fair market value of the structure in which the use is located.

**Section 3. Severability**

If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court's order or judgment shall not affect, impair, or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence,

paragraph, subdivision, or part of this local law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

**Section 4. Effective Date**

This local law 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. 2 of 2018 of the (County)(City)(Town)(Village) of Floral Park was duly passed by the Board of Trustees on September 18, 2018, 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) \_\_\_\_\_  
*(Name of Legislative Body)*~~

~~(repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted \_\_\_\_\_  
*(Elective Chief Executive Officer\*)* 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) \_\_\_\_\_  
*(Name of Legislative Body)*

(repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_, 20\_\_\_\_.  
*(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) \_\_\_\_\_  
*(Name of Legislative Body)*~~

~~(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 as 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 legislature body, City, Town or Village Clerk or officer designated by local legislative body


Date: September 18, 2018

(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 NASSAU

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  \_\_\_\_\_  
John E. Ryan  
Village Attorney

Title \_\_\_\_\_  
County \_\_\_\_\_  
City \_\_\_\_\_  
Town of Floral Park \_\_\_\_\_  
Village \_\_\_\_\_

Date: September 18, 2018