

(Please Use this Form for Filing your 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~~

of Machias  
Local Law No. 1 of the year 19 81

A local law REGULATING THE SALE, LOAN OR DISPLAY OF OBSCENE MATERIALS  
(Insert title)  
TO MINORS

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

~~County~~  
~~City~~  
Town  
~~Village~~

of Machias as follows:

Section 1. Definitions.

(A) "Minor" means a person less than seventeen years of age.

(B) "Sexually explicit nudity" means a state of undress so as to expose the human male or female genitals, pubic area or buttocks with less than a full opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered or uncovered male genitals in a discernibly turgid state.

(C) "Sexual conduct" means actual or explicitly simulated acts of masturbation, homosexuality, sexual intercourse or physical contact in an act of apparent sexual stimulation or gratification with a person's clothed or unclothed genitals, pubic area, buttocks or, if such be female, breast.

(D) "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

(E) "Sadomasochistic abuse" means actual or explicitly simulated flagellation or torture by or upon a person who is nude or clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

(F) "Harmful to minors" means that quality of any description or representation, in whatsoever form, of nudity, sexual conduct, sexual excitement or sadomasochistic abuse, when it:

(1) Predominantly appeals to the prurient, shameful or morbid interest of minors;

(2) Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and

(3) Is, when taken as a whole, lacking in serious literary, artistic, political or scientific value for minors.

(G) "Knowingly" means having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry or both of:

(1) The character and content of any material described herein which is reasonably susceptible of examination by the defendant; and

(2) The age of the minor provided, however, that an honest

(If additional space is needed, please attach sheets of the same size as this and number each)

mistake shall constitute an excuse from liability hereunder if the defendant made a reasonable bonafide attempt to ascertain the true age of such minor.

Section 2. Unlawful Acts.

(A) It shall be unlawful for any person knowingly to sell or loan for monetary consideration to a minor:

(1) Any picture, photograph, drawing, sculpture, motion picture film or similar visual representation or image of a person or portion of the human body which depicts sexually explicit nudity, sexual conduct or sadomasochistic abuse and which is harmful to minors; or

(2) Any book, pamphlet, magazine, printed matter however reproduced or sound recording which contains any matter enumerated in subparagraph (1) of this paragraph or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct or sadomasochistic abuse and which, taken as a whole, is harmful to minors.

(B) It shall be unlawful for any person knowingly to sell to a minor an admission ticket or pass, or knowingly admit a minor to premises whereon there is exhibited a motion picture, show or other presentation which, in whole or in part, depicts sexually explicit nudity, sexual conduct or sadomasochistic abuse and which is harmful to minors or to exhibit any such motion picture at any such premises which are not designated to prevent viewing from any public way of such motion picture by minors not admitted to any such premises.

(C) It shall be unlawful for any minor falsely to represent to any person mentioned in paragraph (A) or paragraph (B) hereof, or to his agent, that such minor is seventeen years of age or older, with the intent to procure any material set forth in paragraph (A), or with the intent to procure such minor's admission to any motion picture, show or other presentation, as set forth in paragraph (B).

(D) It shall be unlawful for any person knowingly to make a false representation to any person mentioned in paragraph (B) hereof, or to his agent, that he is the parent or guardian of any minor, or that any minor is seventeen years of age or older with the intent to procure any material set forth in paragraph (A), or with the intent to procure such minor's admission to any motion picture, show or other presentation as set forth in paragraph (B).

(E) It shall be unlawful for any person knowingly to exhibit, expose or display in public at newsstands or any other business or commercial establishment frequented by minors or where minors are or may be invited as part of the general public:

(1) Any picture, photograph, drawing, sculpture, motion picture film, or similar visual representation or image of a person or portion of the human body which depicts sexually explicit nudity, sexual conduct or sadomasochistic abuse and which is harmful to minors; or

(2) Any book, pamphlet, magazine, printed matter however reproduced, or sound recording which contains any matter enumerated in subparagraph (1) of this paragraph, or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct or sadomasochistic abuse and which, taken as a whole, is harmful to minors.

Section 3. Exceptions to Application of this Law.

(A) Nothing contained in this section shall be construed to apply to:

(1) The purchase, distribution, exhibition or loan of any work of art, book, magazine or other printed or manuscript material by any accredited museum, library, school or institution of higher learning;

(2) The exhibition or performance of any play, drama, tableau or motion picture by any theatre, museum, school or institution

of higher learning, either supported by public appropriation or which is an accredited institution supported by private funds; or

(3) Persons who may possess or distribute obscene matter or participate in conduct otherwise prescribed by this section when such possession, participation, distribution or conduct occurs in the course of law enforcement activities, or in the course of bonafide scientific, educational or comparable research or study, or like circumstances of justification.

Section 4. Penalties. A violation of this Law is hereby declared to be a misdemeanor, and any person or corporation violating the same may, upon conviction thereof, be punished by a fine not exceeding One Thousand (\$1,000.00) Dollars for an individual or Five Thousand (\$5,000.00) Dollars for a corporation or by imprisonment not exceeding one (1) year or by both such fine and imprisonment.

Section 5. Separability. If any part of this section shall be judged by any Court of competent jurisdiction to be invalid, such judgment shall not affect or impair the remainder thereof.

Section 6. Effective Date. This Law shall take effect upon the filing thereof in the office of the Secretary of State of the State of New York.

(Complete the certification in the paragraph which applies to the filing of this local law and strike out the matter therein 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. 1 of 1981  
~~XXXXX~~  
of the ~~City~~ of Machias was duly passed by the Town Board  
~~Village~~ (Name of Legislative Body)  
on January 19, 1981 in accordance with the applicable provisions of law.

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

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 19\_\_\_\_\_  
County \_\_\_\_\_  
of the City \_\_\_\_\_ was duly passed by the \_\_\_\_\_ (Name of Legislative Body)  
Town \_\_\_\_\_  
Village \_\_\_\_\_  
on \_\_\_\_\_ 19\_\_\_\_ and ~~not disapproved~~  
and was approved \_\_\_\_\_ by the \_\_\_\_\_  
repassed after disapproval \_\_\_\_\_ Elective Chief Executive Officer \*  
and was deemed duly adopted on \_\_\_\_\_ 19\_\_\_\_, 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 19\_\_\_\_\_  
County \_\_\_\_\_  
of the City \_\_\_\_\_ was duly passed by the \_\_\_\_\_ (Name of Legislative Body)  
Town \_\_\_\_\_  
Village \_\_\_\_\_  
on \_\_\_\_\_ 19\_\_\_\_ and ~~not disapproved~~  
and was approved \_\_\_\_\_ by the \_\_\_\_\_  
repassed after disapproval \_\_\_\_\_ Elective Chief Executive Officer \*  
on \_\_\_\_\_ 19\_\_\_\_. Such local law was submitted to the people by reason of a  
mandatory referendum, and received the affirmative vote of a majority of the qualified electors voting  
permissive general  
thereon at the special election held on \_\_\_\_\_ 19\_\_\_\_, in accordance with the appli-  
cable provisions of law.

4. (Subject to permissive referendum, and final adoption because no valid petition filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 19\_\_\_\_\_  
County \_\_\_\_\_  
of the City \_\_\_\_\_ was duly passed by the \_\_\_\_\_ (Name of Legislative Body)  
Town \_\_\_\_\_  
Village \_\_\_\_\_  
on \_\_\_\_\_ 19\_\_\_\_ and ~~not disapproved~~  
and was approved \_\_\_\_\_ by the \_\_\_\_\_  
repassed after disapproval \_\_\_\_\_ Elective Chief Executive Officer \*  
on \_\_\_\_\_ 19\_\_\_\_. Such local law being subject to a permissive referendum and no  
valid petition requesting such referendum having been filed, said local law was deemed duly adopted on  
\_\_\_\_\_ 19\_\_\_\_, 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 chairman of the county legislative body, the mayor of a city or village or the supervisor of a town, where such officer is vested with power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

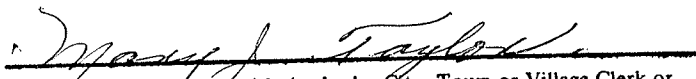
I hereby certify that the local law annexed hereto, designated as local law No. .... of 19.... of the City of ..... having been submitted to referendum pursuant to the provisions of § 36 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the special election held on ..... 19..... 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 19..... of the County of ....., State of New York, having been submitted to the Electors at the General Election of November ....., 19 ....., 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 of 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  
Town Clerk

Date: January 20, 1981

(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 CATTARAUGUS

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

Town Attorney

Title

Date: January

1981

County

City

Town

Village

of Machias