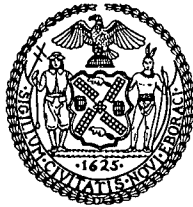




**COMPREHENSIVE**  
**CITY PLANNING CALENDAR**  
**of**  
**The City of New York**  
—  
**CITY PLANNING COMMISSION**  
—  
**MONDAY, MAY 7, 2001**  
—  
**SPECIAL MEETING AT 1:00 P.M.**  
**in**  
**SPECTOR HALL**  
**22 READE STREET, MANHATTAN**



**Rudolph W. Giuliani, Mayor**  
**City of New York**  
**Prepared by Rosa R. Romero, Calendar Officer**

## CITY PLANNING COMMISSION

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22 Reade Street, New York, N.Y. 10007-1216

JOSEPH B. ROSE, *Chairman*  
ALBERT ABNEY  
ANGELA M. BATTAGLIA  
AMANDA M. BURDEN, *A.I.C.P.*  
IRWIN G. CANTOR, *P.E.*  
ANGELA R. CAVALUZZI, *R.A.*  
KATHY HIRATA CHIN, *Esq.*  
ALEXANDER GARVIN  
WILLIAM J. GRINKER  
KENNETH J. KNUCKLES, *Esq.*  
JOHN MEROLO, *Commissioners*  
ROSA R. ROMERO, *Calendar Officer*

The regular public meetings of the Commission shall be held twice monthly on Wednesday at 10:00 a. m. in City Hall, Manhattan, unless otherwise ordered.

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MAY 7, 2001

I. PUBLIC HEARINGS OF THE FOLLOWING MATTERS TO BE  
SCHEDULED FOR WEDNESDAY, MAY 23, 2001  
STARTING AT 10:00 A.M.  
CITY HALL  
NEW YORK, NEW YORK

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CITYWIDE

No. 1

CITYWIDE

N 010508 ZRY

IN THE MATTER OF an application submitted by the Department of City Planning, pursuant to Section 201 of the New York City Charter for an amendment of the Zoning Resolution of the City of New York, relating to adult establishments.

Matter in greytone is new, to be added;

Matter in ~~strikeout~~ is existing text, to be deleted;

\*\*\* indicates where unchanged text appears in the Resolution

Section 12-10  
DEFINITIONS

\*\*\*

Adult Establishment (10/25/95)

1. Adult Establishment: An "adult establishment" is a commercial establishment ~~where a "substantial portion" of the establishment~~ which is or includes an adult book store, adult eating or drinking establishment, adult theater, or other adult commercial establishment, or any combination thereof as defined below:

(a) An adult book store is a book store ~~which has as that~~ offers "printed or visual material" for sale or rent to customers where a "substantial portion" of its stock-in-trade of "printed or visual material" consists of "adult printed or visual material", defined as any one or more of the following:

~~(1) books, magazines, periodicals or other printed matter which are characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas"; or~~

~~(2) photographs, films, motion pictures, video cassettes or other visual representations which are "printed or visual material" characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas";~~

(b) An adult eating or drinking establishment is an eating or drinking establishment which regularly features in any portion of such establishment any one or more of the following:

(1) live performances which are characterized by an emphasis on "specified anatomical areas" or "specified sexual activities"; or

(2) films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas"; or

- (3) employees who, as part of their employment, regularly expose to patrons "specified anatomical areas"; and

which is not customarily open to the general public during such features because it excludes or restricts minors by reason of age.

- (c) An adult theater is a theater commercial establishment which regularly features one or more of the following:

- (1) films, motion pictures, videocassettes, slides or similar photographic reproductions characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas"; or
- (2) live performances characterized by an emphasis on "specified anatomical areas" or "specified sexual activities"; and

which is not customarily open to the general public during such features because it excludes or restricts minors by reason of age.

An adult theater shall include commercial establishments where such materials or performances are viewed from one or more individual enclosures.

- (d) An other adult commercial establishment is a facility — other than an adult book store, adult eating or drinking establishment, adult theater, commercial studio, or business or trade school — which features employees who as part of their employment, regularly expose to patrons "specified anatomical areas" and which is not customarily open to the general public during such features because it excludes or restricts minors by reason of age.

~~For the purpose of defining adult establishments,~~

2. Defined Terms:

- (a) For purposes of paragraph (1) (a), "printed or visual materials" are books, magazines, or other printed matter, including product packaging or wrapping, or photographs, films, motion pictures, video cassettes, slides or other visual matter;
- (b) For purposes of paragraph (1)(a)(b) and (c), "specified sexual activities" are: (1 i) human genitals in a state of sexual stimulation or arousal; (2 ii) actual or simulated acts of human masturbation, sexual intercourse or sodomy; or (3 iii) fondling or other erotic touching of human genitals, pubic region, buttock, anus or female breast;
- (c) For purposes of paragraph (1)(a)(b)(c) and (d), "specified anatomical areas" are: (1 i) less than completely and opaquely concealed: (1 aa) human genitals, pubic region, (1 bb) human buttock, anus, or (1 cc) female breast below a point immediately above the top of the areola; or (2 ii) human male genitals in a discernibly turgid state, even if completely and opaquely concealed.

~~For the purpose of determining whether a "substantial portion" of an establishment includes an adult bookstore, adult eating or drinking establishment, adult theater, or other adult commercial establishment, or combination thereof, the following factors shall be considered: (1) the amount of floor area and cellar space accessible to customers and allocated to such uses and (2) the amount of floor area and cellar space accessible to customers and allocated to such uses as compared to the total floor area and cellar space accessible to customers in the establishment.~~

- (d) For the purpose of determining under paragraph (1)(a) whether a bookstore has a "substantial portion" of its stock in materials defined in paragraphs (a)(1) or (a)(2) hereof a book store's stock-in-trade of "printed or visual" material consists of "adult printed or visual material", the following factors shall be considered: (1) (i) the amount of such stock of "adult printed or visual material" accessible to customers as compared to the total stock of "printed or visual material" accessible to customers in the

establishment; and (2) (ii) the amount of *floor area* and *cellar* space accessible to customers containing such stock of "adult printed or visual material"; and (3) (iii) the amount of *floor area* and *cellar* space accessible to customers containing such stock "of adult printed or visual material" as compared to the total amount of *floor area* and *cellar* space accessible to customers in the establishment containing "printed or visual material" which is not "adult printed or visual material", provided that "printed or visual material" which is not "adult printed or visual material" (hereinafter for purposes of this paragraph "other printed or visual material") shall not be considered stock-in-trade for purposes of this paragraph where such store has one or more of the following features:

- (aa) The absence of separate sections of the store with stock-in-trade of any "adult printed or visual material" and stock-in-trade of "other printed or visual material," or the presence of any "adult printed or visual material" in a section of the store otherwise consisting primarily of "other printed or visual material."
- (bb) An absence of any fixed, permanent and complete visual partition between a section of the store with "adult printed or visual material" and a section of the store with "other printed or visual material";
- (cc) An interior configuration and lay-out which requires customers to pass through a section of the store with "adult printed or visual material" in order to access a section of the store with "other printed or visual material";
- (dd) One or more individual enclosures where adult movies or live performances are available for viewing by customers;
- (ee) A method of operation which requires customer transactions with respect to "other printed or visual material" to be made in a section of the store which includes "adult printed or visual material";
- (ff) A method of operation under which "other printed or visual material" is offered to customers on a substantially more limited basis than "adult printed or visual material," such as the offering of "other printed or visual material" for sale only and the offering of "adult printed or visual material" for sale or rental;
- (gg) A greater number of different titles of "adult printed or visual material" than the number of different titles of "other printed or visual material";
- (hh) A method of operation which excludes or restricts minors from the store as a whole or from any section of the store with "other printed or visual material";
- (ii) A sign that advertises the availability of "adult printed or visual material" which is disproportionately large relative to a sign that advertises the availability of "other printed or visual material," when compared with the proportions of adult and other printed or visual materials offered for sale or rent in the store, or the proportions of floor area or cellar space accessible to customers containing stock of adult and other printed or visual materials;
- (jj) A window display in which the number of products or area of display of "adult printed or visual material" is disproportionately high relative to the number of products or area of display of "other printed or visual material," when compared with the proportions of adult and other printed or visual materials offered for sale or rent in the store, or the proportions of floor area or cellar space accessible to customers containing stock of adult and other printed or visual materials;

(kk) Other features, as set forth in rules adopted by the commissioner of buildings, which render the sale or rental of "adult printed or visual material" a substantial purpose of the business conducted in such store as evidenced by an amount of customer activity and/or volume of sale or rental transactions involving "other printed or visual material" relative to the amount of customer activity and/or volume of sale or rental transactions involving "adult printed or visual material" which is disproportionately low by comparison with the proportion of "other printed or visual material" and "adult printed or visual material" offered for sale or rent in the store, or the proportion of #floor area# and #cellar# space accessible to customers containing stock of "adult printed or visual material" to that containing stock of "other printed or visual material."

(e) For the purposes of paragraph (1) (b), an "eating or drinking establishment" includes: (i) any portion of a commercial establishment within which food or beverages are offered for purchase, or are available to or are consumed by customers or patrons, and (ii) any portion of a commercial establishment from which a portion of a commercial establishment described in (i) above is accessible by customers or patrons.

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### 32-01

#### Special Provisions for Adult Establishments

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(b) In C6-4, C6-5, C6-6, C6-7, C6-8, C6-9, C7 or C8 Districts, #adult establishments# no #adult establishment# shall be located at least established less than 500 feet from a church, a #school#, a #Residence District#, a C1, C2, C3, C4, C5-1, C6-1, C6-2 or C6-3 District, or a #Manufacturing District#, other than an M1-6M District, in which new #residences#, new #joint living-work quarters for artists# or new #loft dwellings# are allowed, under the provisions of the Zoning Resolution, as-of-right or by special permit or authorization. No provisions or findings of such special permit or authorization which require an assessment of the impact of new #residences#, new #joint living-work quarters for artists# or new #loft dwellings# on #commercial# or #manufacturing uses# within a #Manufacturing District# shall be construed as a limitation on the scope of this provision. However, on or after October 25, 1995, an #adult...

(c) in C6-4, C6-5, C6-6, C6-7, C6-8, C6-9, C7 or C8 Districts, #adult establishments# no #adult establishment# shall be located established at least less than 500 feet from another a previously established #adult establishment#.

(d) in C6-4, C6-5, C6-6, C6-7, C6-8, C6-9, C7, or C8 districts, no more than one #adult establishment# permitted under this Section shall be located established on a #zoning lot#.

\*\*\*

(f) #adult establishments# which existed on were established on the effective date...

For purposes of this section, an #adult establishment# shall be established upon the date of a permit issued by the department of buildings therefor, or, in the case of an #adult establishment# in existence prior to [effective date of proposed text], as determined by the department of buildings, subject to rules as the department of buildings may prescribe regarding the failure to perform work authorized under a permit or to commence operation pursuant to a permit and the discontinuance of an #adult establishment#.

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## Special Provisions for Adult Establishments

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- (a) ~~#adult establishments#~~ are not permitted in a ~~#Manufacturing District#~~ in which ~~#residences#~~, ~~#joint living-work quarters for artists#~~ or ~~#loft dwellings#~~ are, under the provisions of the Zoning Resolution, allowed as-of-right or by special permit or authorization. No provisions or findings of such special permit or authorization which require an assessment of the impact of new ~~#residences#~~, new ~~#joint living-work quarters for artists#~~ or new ~~#loft dwellings#~~ on ~~#commercial#~~ or ~~#manufacturing uses#~~ within a "Manufacturing District#" shall be construed as a limitation on the scope of this provision.
- (b) In all other ~~#Manufacturing Districts#~~, ~~#adult establishments#~~ no ~~#adult establishment#~~ shall be ~~located~~ established ~~at least~~ less than 500 feet from a church, a ~~#school#~~, a ~~#Residence District#~~, a C1, C2, C3, C4, C5-1, C6-1, C6-2 or C6-3 District, or a ~~#Manufacturing District#~~, other than an M1-6M District, in which new ~~#residences#~~, new ~~#joint living-work quarters for artists#~~ or new ~~#loft dwellings#~~ are allowed, under the provisions of the Zoning Resolution, as-of-right or by special permit or authorization. No provisions or findings of such special permit or authorization which require an assessment of the impact of new ~~#residences#~~, new ~~#joint living-work quarters for artists#~~ or new ~~#loft dwellings#~~ on ~~#commercial#~~ or ~~#manufacturing uses#~~ within a "Manufacturing District#" shall be construed as a limitation on the scope of this provision. However, on or after October 25, 1995, an ~~#adult establishment#~~ that otherwise complies with the provisions of this paragraph shall not be rendered ~~#non-conforming#~~ if a church or a ~~#school#~~ is established on or after April 10, 1995 within 500 feet of such ~~#adult establishment#~~.
- (c) ~~#Adult establishments#~~ No ~~#adult establishment#~~ shall be ~~located at least~~ established less than 500 feet from another ~~#adult establishment#~~.
- (d) No more than one ~~#adult establishment#~~ permitted under this Section shall be ~~located~~ established on a ~~#zoning lot#~~.

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- (f) ~~#Adult establishments#~~ which ~~existed on~~ were established on October 25, 1995 and conform to all provisions of the Zoning Resolution relating to ~~#adult establishments#~~ other than the provisions of all or any combination of paragraphs (c), (d), and (e) of this Section, shall not be subject to the provisions of Section 52-77 (Termination of Adult Establishments).

For purposes of this section, an ~~#adult establishment#~~ shall be established upon the date of a permit issued by the department of buildings therefor, or, in the case of an ~~#adult establishment#~~ in existence prior to [effective date of proposed text], as determined by the department of buildings, subject to rules as the department of buildings may prescribe regarding the failure to perform work authorized under a permit or to commence operation pursuant to a permit and the discontinuance of an ~~#adult establishment#~~.

Resolution for adoption scheduling May 23, 2001 for a public hearing.