

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 188

CASE NO. 77-15

December 8, 1977

Pursuant to notice, a public hearing of the District of Columbia Zoning Commission was held on July 28, 1977, to consider an amendment to the text of the D. C. Zoning Regulations. This amendment would provide for the definition of sexually oriented business establishments, would prohibit such establishments in any zone district other than C-3-B and C-4, and would permit them in C-3-B and C-4 Districts only under certain conditions.

The Commission finds that the majority of the existing sexually oriented business establishments are located in the C-3-B and C-4 Districts, which are restricted to downtown areas, and specifically in a number of concentrated locations within those districts. The Commission finds that there has recently been an expansion of such businesses into areas outside of the downtown area, specifically including a C-2-A District on "M" Street in Georgetown.

The Commission finds that sexually oriented business establishments can and do have serious negative impacts upon the areas in which they are located, particularly if there are a number of such businesses concentrated in an area. The Commission finds that such businesses can create a poor visual image of areas, can reduce property values, can discourage investment of new business capital in an area and can discourage and inhibit the leasing of space in adjoining buildings. The Commission further finds that the District of Columbia, as the nation's capital, is a major tourist attraction, and that such businesses detract from the District as a tourist attraction, thereby creating an economic loss to the city.

The Zoning Act empowers the Commission to promote the morals of the community as one of the purposes of zoning. The Commission finds that such businesses would be inappropriately located in or adjacent to residential areas, because of the negative effects such establishments may have on family life and stability.

The Commission finds that the concentration of such uses magnifies the negative impacts of such uses, and tends to increase the detrimental effects of such uses.

The Commission finds that the application was referred to the National Capital Planning Commission under the terms of the District of Columbia Self-Government and Governmental Reorganization Act and that the NCPC reported that the proposed amendment would not have a negative impact on the Federal Establishment in the National Capital and is not inconsistent with the Comprehensive Plan for the National Capital.

Based on the foregoing findings, and the evidence of record in this case the Commission hereby determines that the restriction of sexually oriented business establishments to the C-3-B and C-4 Districts is appropriate, and furthermore, that the strict regulation of such businesses within such districts is also appropriate. The Commission hereby orders adoption of the following amendments to the text of the Zoning Regulations:

1. Add new definitions in Section 1202 as follows:

"Specified sexual activities; activities as follows:

1. Acts of human masturbation, sexual intercourse, sexual stimulation or arousal, sodomy or bestiality.
2. Fondling or other erotic touching of human genitals, pubic region, buttock or breast".

"Specified anatomical areas: parts of the human body as follows:

1. Less than completely and opaquely covered:
(a) human genitals, pubic region, (b) buttock, and
(c) female breast below a point immediately above the top of the areola; and
2. Human genitals in a discernibly turgid state, even if completely and opaquely covered."

"Sexually-oriented business establishment: an establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other periodicals, films, materials and articles or an establishment

which presents as a substantial or significant portion of its activity, live performances, films or other material which are distinguished or characterized by their emphasis on matters depicting, describing or related to specified sexual activities and specified anatomical areas. Such establishments may include, but are not limited to, bookstores, newstands, theaters and amusement enterprises. If an establishment is a sexually oriented business establishment, as defined herein, it shall not be deemed to constitute any other use permitted under the authority of these Regulations.

2. Permit sexually-oriented business establishments as special exceptions in C-3-B and C-4 Districts by adding new sub-paragraphs 5103.47 and 5104.45, as follows:

5103.47 Sexually-oriented business establishment, provided that:

- A. No portion of such establishment is located within 600 feet of a residential or special purpose district.
- B. No portion of such establishment is located within 600 feet of a church, school, library, or playground, or the area which is under the jurisdiction of the Commission of Fine Arts pursuant to the Shipstead-Luce Act, 46 STAT. 366, as amended.
- C. No portion of such establishment is located within 300 feet of any other sexually-oriented business establishment.
- D. There shall be no display of goods or services visible from the exterior of the premises.
- E. The establishment will be compatible with other uses in the area.
- F. Such use will not become objectionable because of its effect on the character of the neighborhood or because of noise, traffic, or other conditions.
- G. The establishment will not have an adverse impact on religious, educational, and governmental facilities located in the area.

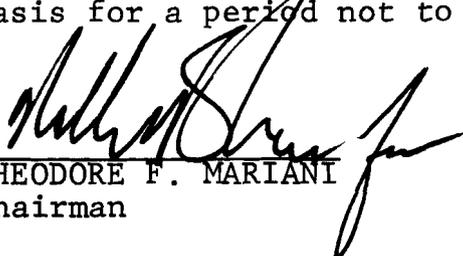
5104.45 Sexually-oriented business establishment, provided that:

- A. No portion of such establishment is located within 600 feet of a residential or special purpose district.
 - B. No portion of such establishment is located within 600 feet of a church, school, library or playground, or the area which is under the jurisdiction of the Commission of Fine Arts pursuant to the Shipstead-Luce Act, 46 STAT. 366, as amended.
 - C. No portion of such establishment is located within 300 feet of any other sexually-oriented business establishment.
 - D. There shall be no display of goods or services visible from the exterior of the premises.
 - E. The establishment will be compatible with other uses in the area.
 - F. Such use will not become objectionable because of its effect on the character of the neighborhood or because of noise, traffic, or other conditions.
 - G. The establishment will not have an adverse impact on religious, educational, and governmental facilities located in the area.
3. Prohibit sexually oriented business establishments in C-M and M Districts by modifying Paragraph 6101.31 as follows:
- 6101.31 Any commercial use permitted in a C-4 District under Paragraph 5104.3, except establishments which have as a principal use the administration of massages and sexually-oriented business establishments.
4. Prohibit sexually-oriented business establishments in C-R Districts by adding a new Paragraph 4502.417, as follows:
- 4502.417 Sexually-oriented business establishments
5. Prohibit sexually-oriented business establishments in W Districts by adding a new Paragraph 4402.417, as follows:
- 4402.417 Sexually-oriented business establishment.

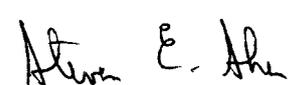
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Vote of the Commission taken at the public meeting held on November 11, 1977: 4-0 (Walter B. Lewis, John G. Parsons and Theodore F. Mariani to approve, Ruby B. McZier to approve by proxy, George M. White not present, not voting).

The Commission also hereby orders the termination of the effect of Order No. 180, which had established regulations governing sexually oriented businesses on an emergency basis for a period not to exceed 120 days.



THEODORE F. MARIANI
Chairman



STEVEN E. SHER
Executive Director

This order was adopted by the Zoning Commission at its public meeting held on December 8, 1977 by a vote of 5-0 (George M. White, Ruby B. McZier, Walter B. Lewis and John G. Parsons to adopt, Theodore F. Mariani to adopt by proxy).

In accordance with Section 3.62 of the Rules of Practice and Procedure before the Zoning Commission of the District of Columbia, this order is effective on 16 DEC 1977.

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