

# Prince George's County Council

## Agenda Item Summary

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**Meeting Date:** 9/9/2009  
**Reference No.:** CB-029-2009  
**Draft No.:** 4  
**Proposer(s):** Dernoga, Bland, Campos, Olson, Dean  
**Sponsor(s):** Dernoga, Bland, Campos, Olson, Dean, Knotts  
**Item Title:** An Act concerning Adult Book Stores and/or Adult Video Stores for the purpose of providing a declaration of findings and policies regarding adult book stores and/or adult video stores; providing for the purpose and intent of this legislation; requiring adult book store and/or adult video store licenses; providing for the contents of an adult book store and/or adult video store license application; establishing certain timeframes and administrative procedures for processing adult book store and/or adult video store licenses; providing for certain zoning compliance; providing for the approval and denial of an adult book store and/or adult video store license; providing for the suspension and revocation of an adult book store and/or adult video store license; and generally relating to adult book store and/or adult video store licensing.

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**Drafter:** Kathleen H. Canning, Legislative Officer  
**Resource Personnel:** Anne C. Magner, Associate County Attorney  
Tom Matzen Deputy Director, Department of Environmental Resources

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### LEGISLATIVE HISTORY:

<b>Date Presented:</b>	6/23/2009	<b>Executive Action:</b>	9/22/2009 S
<b>Committee Referral:</b>	6/23/2009 - PZED	<b>Effective Date:</b>	11/9/2009

**Committee Action:** 7/15/2009 - FAV(A)

**Date Introduced:** 7/21/2009  
**Public Hearing:** 9/9/2009 - 1:30 PM

**Council Action (1)** 9/9/2009 - ENACTED  
**Council Votes:** MB:A, WC:A, SHD:A, TD:A, CE:A, AH:A, TK:A, EO:A, IT:A  
**Pass/Fail:** P  
**Remarks:**

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### AFFECTED CODE SECTIONS:

05-2701, 05-2702, 05-2703, 05-2704, 05-2705, 05-2706, 05-2707

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### COMMITTEE REPORTS:

#### PZED Committee Report

**Date 7/15/2009**

Committee Vote: Favorable with amendments, 5-0 (In favor: Council Members Dean, Olson, Bland, Dernoga and Exum)

The committee discussed CB-29-2009 and CB-28-2009 simultaneously due to their related subject matter. CB-29-2009 provides for the licensing of adult book stores and/or adult video stores. CB-28-2009 amends the Zoning Ordinance to provide for the regulation of adult book stores and/or adult video stores.

The Council members heard testimony about secondary effects of adult book stores and/or adult video stores including but not limited to: prostitution and other sex related offenses, drug use and dealing, health risks through the spread of AIDS and other sexually transmitted diseases, crime and blight.

Further, the Council members heard adult business testimony regarding City of Littleton, Colorado v Z.J. Gifts D-4, LLC, a limited liability company, dba Christal's, 541 U.S. 774, 124 S.Ct. 2219 (2004) , Marlowe Height's Periodicals, Inc. v. Prince George's County, Court of Special Appeals of Maryland, No. 1348, September 2000, Filed August 20, 2003, and The Pack Shack, Inc. v. Howard County, Maryland, No. 55, September Term 2001, Filed September 10, 2003.

The Legislative Officers indicated that the purpose of this bill is to provide reasonable regulations for adult book stores and adult video stores without unreasonably infringing upon protected expressive activities. The bill specifically addresses a suitable timeframe for issuance of a use and occupancy permit based by the timelines set forth in Littleton which were upheld by the U.S. Supreme Court.

The Committee Director summarized written referral comments that were received. The Office of Law reviewed CB-29-2009 and determined that it is in proper legislative form with no legal impediments to its adoption.

The Board of Appeals Administrator reviewed CB-29-2009 and provided the following comments. On page 2, lines 4-5, the title of the new division should be underlined. On page 7, lines 14-16, proposed language would authorize appeals to the Board of Administrative Appeals pursuant to Section 4-121. Since the new Code sections proposed in CB-29-2009 would be incorporated into Subtitle 5, not Subtitle 4, and other divisions of Subtitle 5 include provisions regarding appeals, it would seem the same should be done for this new division of Subtitle 5.

Bill Hunt, Senior Legislative Auditor, representing the Office of Audits and Investigations, addressed the committee regarding the fiscal impact statement for CB-29-2009. As indicated in the statement prepared by Mr. Hunt, the Department of Environmental Resources officials do not currently project a significant increase in overall County expenditures related to administration of the new licensing requirement. While the enactment of CB-29-2009 likely will generate a small increase in County revenues, the bill is not currently expected to have a significant or material measureable overall fiscal impact on the County.

Dale Hutchison, M-NCPPC Information Management Division Chief, addressed the committee providing an overview of maps identifying I-1 and I-2 zoned land in the County as well as locations of existing adult book stores and adult video stores based on historical data provided by the Department of Environmental Resources.

Major Robert Liberati and Detective A. Hayes, Prince Georges County Police Department, discussed the data concerning existing locations, with Detective Hayes commenting that based on his site visits to those businesses on the list, there are only 14 businesses in operation. Council Member Dean requested an updated list and map of these locations.

Major Dwayne Preston, District VI Commander, informed the committee that his district includes a business located on Harford Avenue in Beltsville. Major Preston did not have the specific number, however, he noted that his District has received calls for service related to this location in Beltsville. Council Member Exum requested that Major Preston submit documentation of the number of calls to be included in the legislative file for this bill. Similarly, at the request of Council Chairperson Bland, the Chief of Police will be asked to provide this information for all Districts throughout the County.

Roger Horwitz, representing Marlow Heights Video, addressed the committee regarding his concerns with the legislation indicating that the business has been operating on St. Barnabas Road since 1976 and there have been no issues or problems related to its operation.

Eva Murphy, representing Maryland Coalition Against Pornography; Art McKnew, and Rosetta Agres spoke in support of the legislation.

The committee voted favorable on the legislation including the amendment recommended by the Board of Appeals Administrator.

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**BACKGROUND INFORMATION/FISCAL IMPACT:**

(Includes reason for proposal, as well as any unique statutory requirements)

This legislation provides for the licensing of adult book stores and adult video stores. This legislation is focused on mitigating the secondary effects that are detrimental to the public health, safety and welfare. This licensing requirement is essential to maintaining the records for the business of adult book stores and adult video stores. This legislation provides a framework for deciding whether an adult book store and adult video store application should be approved or denied and for the suspension or revocation of a license.

7/21/2009 - CB-29-2009 (DR-2) was amended on the floor prior to introduction; DR-3 introduced.

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**CODE INDEX TOPICS:**

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**INCLUSION FILES:**

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