

**COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND  
SITTING AS THE DISTRICT COUNCIL  
2009 Legislative Session**

Bill No. CB-28-2009

Chapter No. 41

Proposed and Presented by Council Members Dernoga, Bland, Campos, Olson and Dean

Introduced by Council Members Dernoga, Bland, Campos, Olson, Dean and Knotts

Co-Sponsors \_\_\_\_\_

Date of Introduction July 21, 2009

**ZONING BILL**

1 AN ORDINANCE concerning

2 Adult Book Stores and/or Adult Video Stores

3 For the purpose of revising the definition of adult book store; establishing certain timeframes and  
4 administrative procedures for processing adult book store and/or adult video store use and  
5 occupancy permit applications; granting a variance for adult video stores; extending the time  
6 period that adult book stores and/or adult video stores may continue in operation; permitting  
7 adult book stores and/or adult video stores by right in the I-2 Zone, under certain circumstances;  
8 making additional legislative findings regarding adult book stores and/or adult video stores;  
9 increasing certain requirements for adult book stores and/or adult video stores; and generally  
10 relating to adult book stores and/or adult video stores.

11 BY repealing and reenacting with amendments:

- 12 Sections 27-107.01,
- 13 27-229,
- 14 27-248,
- 15 27-473,
- 16 27-901,
- 17 27-902,
- 18 27-903,
- 19 27-904,

20 The Zoning Ordinance of Prince George's County, Maryland,

1 being also  
2 SUBTITLE 27. ZONING.  
3 The Prince George's County Code  
4 (2007 Edition, 2008 Supplement).

5 BY adding:

6 Section 27-905,  
7 The Zoning Ordinance of Prince George's County, Maryland,  
8 being also  
9 SUBTITLE 27. ZONING.  
10 The Prince George's County Code  
11 (2007 Edition, 2008 Supplement).

12 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,  
13 Maryland, sitting as the District Council for that part of the Maryland-Washington Regional  
14 District in Prince George's County, Maryland, that Section 27-107.01, 27-229; 27-248, 27-473,  
15 27-901, 27-902, 27-903, and 27-904 of the Zoning Ordinance of Prince George's County,  
16 Maryland, being also Subtitle 27 of the Prince George's County Code, be and the same are  
17 hereby repealed and reenacted with the following amendments:

18 **SUBTITLE 27. ZONING.**

19 **PART 2. GENERAL.**

20 **DIVISION 1. DEFINITIONS.**

21 **Sec. 27-107.01. Definitions.**

22 (a) Terms in the Zoning Ordinance are defined as follows:

23 \* \* \* \* \*

24 (6) **Adult Book Store and/or Adult Video Store**: Any commercial establishment,  
25 which does not have a use and occupancy permit to operate as a movie theatre [otherwise qualify  
26 as a theater] or nonprofit free-lending library, that either:

27 (A) Has ten percent (10%) or more of its stock on the retail floor space of the  
28 premises to which the public is admitted, or has ten percent (10%) or more of its stock on display  
29 in the display space, in books, periodicals, photographs, drawings, sculpture, motion pictures,  
30 films, video cassettes, compact discs, digital video discs, digital video recorders or other visual  
31 representations which depict sadomasochistic abuse, sexual conduct, or sexual excitement [, as

1 defined by Article 27, Section 416A of the Annotated Code of Maryland] as defined by Section  
2 27-902 of the County Code; or

3 (B) Has on the premises one (1) or more mechanical devices for viewing such  
4 materials.

5 **SUBTITLE 27. ZONING.**

6 **PART 3. ADMINISTRATION.**

7 **DIVISION 5. APPEALS AND VARIANCES.**

8 **SUBDIVISION 2. BOARD OF ZONING APPEALS.**

9 **Sec. 27-229. Powers and duties.**

10 \* \* \* \* \*

11 (b) The Board of Zoning Appeals shall not have the power or duty to:

12 \* \* \* \* \*

13 (34) Grant a variance from any provision of this Subtitle applicable to, required by, or  
14 concerning an Adult Book Store and/or Adult Video Store;

15 \* \* \* \* \*

16 **SUBTITLE 27. ZONING.**

17 **PART 3. ADMINISTRATION.**

18 **DIVISION 6. NONCONFORMING BUILDINGS, STRUCTURES, AND USES.**

19 **Subdivision 2. Additional Requirements for Specific Nonconforming Uses.**

20 **Sec. 27-248. Adult book stores and/or Adult Video Stores.**

21 (a) In order for a certified nonconforming adult book store and/or adult video store to  
22 continue, the requirements of this Section shall be met (in addition to any other applicable  
23 requirements of this Division).

24 (b) The purposes of this Section are:

25 (1) To protect children, who may be attracted to these establishments; and

26 (2) To prevent or control detrimental effects upon neighboring properties, and

27 existing and proposed land uses in the general area.

28 (c) All certified nonconforming adult book stores and/or adult video stores shall meet the  
29 following requirements:

30 (1) All windows, doors, and other apertures shall be blackened or obstructed so as to  
31 prevent anyone outside the establishment from viewing its interior;



**PART 7. INDUSTRIAL ZONES.  
DIVISION 3. USES PERMITTED.**

**Sec. 27-473. Uses permitted.**

\* \* \* \* \*

**(b) TABLE OF USES.**

USE	ZONE				
	I-1 <sup>33</sup>	I-2 <sup>33</sup>	I-3	I-4	U-L-I
<b>(1) COMMERCIAL:</b>					
* * * * *	*	*	*	*	*
<b>(E) Trade (Generally Retail):</b>					
Adult book store <u>and/or</u> Adult video store (CB-53-1996; CB-75-1998; CB-39-2004)	X	P <sup>32</sup>	X	X	X
* * * * *	*	*	*	*	*

- 32** In accordance with the provisions of Part 16. Section 27-248 and Section 27-904 provide for expedited processing of applications for adult book store and/or adult video store use and occupancy permits.  
(CB-53-1996)
- 33** Approval of a Special Exception is required for any use in the I-1 or I-2 Zones if any portion of the lot on which the use is proposed is within the subject area of a pending Transit District Overlay Zoning Map Amendment that has been initiated by resolution of the District Council. This provision does not apply to uses or buildings in existence as of July 1, 1996, or uses set forth in Section 27-473(b)(1)(A)(i),(A)(iv), and (C), and (b)(5).  
(CB-66-1996)



1 (4) There are real and substantial governmental interests promoted by zoning  
2 regulations which control the location of adult book stores and/or adult video stores in that part  
3 of the Maryland-Washington Regional District in Prince George's County.

4 (5) The provisions of the Prince George's County Code and the Prince George's  
5 County Zoning Ordinance have neither the purpose nor effect of imposing a limitation or  
6 restriction on the content of any communicative materials, including adult materials. Similarly,  
7 it is not the intent nor effect of the Prince George's County Code or the Prince George's County  
8 Zoning Ordinance to restrict or deny access by adults to adult materials protected by the First  
9 Amendment or the Maryland Constitution, or to deny access by the distributors and exhibitors of  
10 adult entertainment to their intended market. Neither is it the intent nor effect of the Prince  
11 George's County Code or the Prince George's County Zoning Ordinance to condone or  
12 legitimize the distribution of obscene material.

13 **Sec. 27-902. Definitions.**

14 (a) An **adult book store** and/or adult video store is any commercial establishment which  
15 does not have a use and occupancy permit to operate as a movie theatre [otherwise qualify as a  
16 theater] or nonprofit, free-lending library and which either:

17 (1) Has ten percent (10%) or more of its stock on the retail floor space of the  
18 premises to which the public is admitted, or has ten percent (10%) or more of its stock on display  
19 in the display space, in books, periodicals, photographs, drawings, sculptures, motion pictures,  
20 films, video cassettes, compact discs, digital video discs, digital video recorders or other visual  
21 representations which depict sadomasochistic abuse, sexual conduct, or sexual excitement; or

22 (2) Has on the premises one (1) or more mechanical devices specifically for the  
23 purpose, in whole or in part, of viewing such materials.

24 (b) **Sadomasochistic abuse** means flagellation or torture by or upon a human who is nude,  
25 or clad in undergarments, or in a revealing or bizarre costume, or the condition of one who is  
26 nude or so clothed and is being fettered, bound, or otherwise physically restrained.

27 (c) **Sexual conduct** means human masturbation, sexual intercourse, or any touching of or  
28 contact with the genitals, pubic areas, or buttocks of the human male or female, or the breasts of  
29 the female, whether alone or between members of the same or opposite sex, or between humans  
30 and animals.

1 (d) **Sexual excitement** means the condition of human male or female genitals, or the  
 2 breasts of the female, when in a state of sexual stimulation, or the sensual experiences of humans  
 3 engaging in or witnessing sexual conduct or nudity.

4 (e) **Value** means the full retail price at which the stock is offered for sale on the premises.

5 **Sec. 27-903. Nonconforming adult book stores and/or adult video stores.**

6 (a) A certified nonconforming adult book store and/or adult video store may not continue  
 7 to be operated unless the requirements of this Section are met. These requirements are in  
 8 addition to any other applicable requirements in this Subtitle.

9 (b) All certified nonconforming adult book stores and/or adult video stores shall meet the  
 10 following requirements:

11 (1) All windows, doors, and other apertures shall be blackened or obstructed, to  
 12 prevent anyone outside the establishment from viewing its interior;

13 (2) Advertising shall be limited to one (1) business sign, as provided for in Section  
 14 27-615; and

15 (3) The proprietor, owner, or personnel of the establishment shall prohibit access to  
 16 the premises by any person who is under eighteen (18) years of age.

17 (c) All adult book stores and/or adult video stores have to obtain a use and occupancy  
 18 permit as set forth in Section 27-904. In order to provide for a reasonable standard of  
 19 amortization and to prevent an unreasonable loss, all certified nonconforming adult book stores  
 20 or adult video stores may continue in operation until January 1, [1997] 2011, in accordance with  
 21 the provisions of this Subtitle.

22 A presumption shall exist for the granting of a use and occupancy permit to the applicant in  
 23 favor of the adult book store and/or adult video store for the operation of an adult book store  
 24 and/or adult video store relocating to the I-2 zone.

25 **Sec. 27-904. Additional requirements for Adult Book Stores and/or Adult Video Stores.**

26 (a) (1) The subject structure shall be located at least one thousand (1,000) feet from any  
 27 property in a Residential Zone; property proposed to be used for residential purposes on an  
 28 approved Basic Plan for a Comprehensive Design Zone, an approved Official Plan for an R-P-C  
 29 Zone, or an approved Conceptual or Detailed Site Plan; or property on which a school, library,  
 30 park, playground, recreational facility, day care center for children, or church has been built, and  
 31 at least five hundred (500) feet from another adult book store and/or adult video store.



1           (2) An adult book store and/or adult video store lawfully operating is not rendered a  
2 nonconforming use by the subsequent location of a residence within one thousand (1,000) feet of  
3 the adult book store and/or adult video store or the subsequent location of a school, library, park,  
4 playground, recreational facility, day care center for children, church, within one thousand  
5 (1,000) feet of the adult book store and/or adult video store, or the subsequent location of another  
6 adult book store and/or adult video store within five hundred (500) feet; however, if the adult  
7 book store and/or adult video store ceases operation for a period of one hundred eighty (180)  
8 calendar days or more regardless of any intent to resume operation, it may not recommence  
9 operation in that location.

10           (b) The distance stated in Subsection (a) shall be measured as follows:

11           (1) If the property with the adult book store and/or adult video store adjoins or is in  
12 the vicinity of any property on which a residence, school, library, park, playground, recreational  
13 facility, day care center for children, church, or another adult book store and/or adult video store  
14 has been built, then the distance shall be measured along street or right-of-way lines from the  
15 front door or main entrance of the structure used for adult book store or adult video store  
16 purposes to the front door or main entrance of the residence, school, library, or other use, as just  
17 stated.

18           (2) If the property with the adult book store and/or Adult Book Store adjoins or is in  
19 the vicinity of undeveloped property which is in a Residential Zone or is proposed to be used for  
20 residential purposes on an approved Basic Plan for a Comprehensive Design Zone, an approved  
21 Official Plan for an R-P-C Zone, or an approved Conceptual or Detailed Site Plan, then the  
22 distance shall be measured in a straight line from the front door or main entrance of the structure  
23 used for adult book store and/or adult video store purposes to the nearest point of the boundary  
24 line of the undeveloped property in a Residential Zone or proposed for residential purposes on an  
25 approved Basic Plan, Official Plan, or Conceptual or Detailed Site Plan, as just stated.

26           (c) Outdoor display of merchandise is prohibited.

27           (d) The proprietor, owner, or personnel of the adult book store and/or adult video store  
28 shall prohibit access to the premises by any person who is under eighteen (18) years of age.

29           (e) All windows, doors, and other apertures shall be blackened or obstructed to prevent  
30 anyone outside the establishment from viewing its interior.

31           (f) Advertising shall be limited to one business sign, as provided for in Section 27-615 of

1 this Subtitle.

2 (g) The hours of operation of the adult book store and/or or adult video store shall not  
 3 extend beyond 12:00 A.M. and shall not begin before 9:00 A.M.

4 (h) An application for an adult book store and/ or adult video store use and occupancy  
 5 permit shall be approved or denied by the Department of Environmental Resources within  
 6 fourteen (14) business days of the date that the application is accepted by the Department of  
 7 Environmental Resources.

8 (i) Upon receipt, the Department of Environmental Resources shall refer the application to  
 9 the Maryland-National Capital Park and Planning Commission. The Maryland-National Capital  
 10 Park and Planning Commission shall review the application and shall provide an approval or  
 11 denial regarding zoning compliance as part of the application. Such determination shall be  
 12 transmitted from the Maryland-National Capital Park and Planning Commission to the  
 13 Department of Environmental Resources within five (5) business days from the date of  
 14 Maryland-National Capital Park and Planning Commission’s receipt of the application from the  
 15 Department of Environmental Resources.

16 (j) In the event that the Department of Environmental Resources denies an application, the  
 17 Department of Environmental Resources shall, in writing, state the reasons for the denial, and a  
 18 copy of such decision shall be sent by first class mail to the address provided by the applicant.

19 (k) If the Department of Environmental Resources fails to render a timely decision  
 20 pursuant to the terms of this section, then the Department of Environmental Resources shall be  
 21 deemed to have approved or consented to the approval of the adult book store and/or adult video  
 22 store use and occupancy permit.

23 (l) An applicant may appeal to the Board of Zoning Appeals from a final decision of the  
 24 Building Official for an adult book store and/or adult video store use and occupancy permit  
 25 pursuant to Section 4-121 of the County Code.

26 SECTION 2. BE IT FURTHER ENACTED by the County Council of Prince George's  
 27 County, Maryland, sitting as the District Council for that part of the Maryland-Washington  
 28 Regional District in Prince George's County, Maryland, that Section 27-905 of the Zoning  
 29 Ordinance of Prince George's County, Maryland, being also Subtitle 27 of the Prince George's  
 30 County Code, be and the same is hereby added:

31 **SUBTITLE 27. ZONING.**

**PART 16. ADULT BOOK STORES AND ADULT VIDEO STORES.**

**Sec. 27-905. Termination of use and occupancy permit.**

(a) Where a use and occupancy permit has been issued for a use other than as an adult book store and/or adult video store, as defined in Section 27-107.01 and Section 27-902, and the property is being utilized as an adult book store and/or adult video store, all use and occupancy permits for the property shall be deemed abandoned and shall automatically terminate.

(b) Notice of abandonment and termination shall be mailed to the applicant by first class mail to the address provided by the applicant to the Department of Environmental Resources.

SECTION 3. BE IT FURTHER ENACTED that the provisions of this Act are hereby declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this Act, since the same would have been enacted without the incorporation in this Act of any such invalid or unconstitutional word, phrase, clause, sentence, subparagraph, subsection, or section.

SECTION 4. BE IT FURTHER ENACTED that this Ordinance shall take effect forty-five (45) calendar days after its adoption.

Adopted this 9<sup>th</sup> day of September, 2009

COUNTY COUNCIL OF PRINCE GEORGE’S  
COUNTY, MARYLAND, SITTING AS THE  
DISTRICT COUNCIL FOR THAT PART OF  
THE MARYLAND-WASHINGTON REGIONAL  
DISTRICT IN PRINCE GEORGE’S COUNTY,  
MARYLAND

BY: \_\_\_\_\_  
Marilynn M. Bland  
Chairperson

ATTEST:

\_\_\_\_\_  
Redis C. Floyd  
Clerk of the Council