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COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND

SITTING AS THE DISTRICT COUNCIL

Legislative Session

1992

Bill No. _____ CB-6-

1992

Chapter No.

3

Proposed and Presented by Council Members Castaldi and Mills

Introduced by Council Members Castaldi, Mills, Casula and

Bell

Co-Sponsors

Date of Introduction February 18,

1992

ZONING BILL

AN ORDINANCE concerning

Adult Book Stores

FOR the purpose of adding time limits to the application process for adult bookstore special exceptions, clarifying certain terms used in the ordinance, deleting obsolete

language, and making other technical corrections.

BY repealing and reenacting with amendments:

Sections 27-902,
27-903 and
27-905,

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

being also

SUBTITLE 27. ZONING.

The Prince George's County Code
(1991 Edition).

BY adding:

Section 27-904.1,

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

being also

SUBTITLE 27. ZONING.

The Prince George's County Code
(1987 Edition, 1990 Supplement).

SECTION 1. BE IT ENACTED by the 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, that Sections 27-902, 27-903 and 27-905 of the Zoning Ordinance of Prince George's County, Maryland, being also Subtitle 27 of the Prince George's County Code, be and the same are hereby repealed and reenacted with

the following amendments:

SUBTITLE 27. ZONING.

PART 16. ADULT BOOK STORES.

Sec. 27-902. Definitions.

(a) While Part 16 of Subtitle 27 is in effect, the [term] terms "adult book store", [shall have the meaning stated in this Section. The terms] "sodomasochistic abuse," "sexual conduct," [and] "sexual excitement," and "value" shall have the meanings [given in Section 416A of Article 27 of the Annotated Code of Maryland] stated in this Section.

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

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

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

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

Sec. 27-903. Nonconforming adult book stores.

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(c) In order to provide for a reasonable standard of amortization and to prevent an unreasonable loss, all certified nonconforming adult book stores may continue in operation until [July 1, 1989] January, 1, 1993, in accordance with the provisions of this Subtitle. On or after that date, an adult book store may continue in operation only if a special exception for an adult book store is approved in accordance with Parts 4 and 16 of this Subtitle.

Sec. 27-905. Effective dates.

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[(c) The provisions in this Part 16 are intended to be effective while the final order in 11126 Baltimore Boulevard, Inc., t/a Warwick Books v. Prince George's County, et al., Civil Action No. K 86-1411, is reviewed on appeal. If that order is reversed, vacated, or otherwise modified, it is the Council's intention to rescind some or all of the provisions in this Part 16. If the order is affirmed, then the Council will take further action to repeal or modify the Sections held invalid by the order.]

SECTION 2. BE IT FURTHER ENACTED that a new Section 27-

904.1 be and the same is hereby added to the Zoning Ordinance of Prince George's County, Maryland, being also Subtitle 27 of the Prince George's County Code:

SUBTITLE 27. ZONING.

PART 16. ADULT BOOK STORES.

Sec. 27-904.1. Time Requirements for Special Exception.

(a) An application for a special exception for an adult bookstore shall be delivered to the Technical Staff upon completion.

(b) The Technical Staff shall accept only those applications which are completely and properly filled out, and shall render a decision on whether to accept an application within three (3) working days of receipt of said application.

(c) An accepted application and all corresponding documentation shall be transmitted to the Planning Board for posting. Posting shall take place within fifteen (15) days from the date the application is accepted and shall be done in accordance with Section 27-305.

(d) Within forty-five (45) days from the date an application is accepted, the Technical Staff shall issue a written report regarding the application for special exception for review and consideration by the Zoning Hearing Examiner.

(e) A hearing on the application for special exception shall be scheduled before the Zoning Hearing Examiner and publication of the hearing in accordance with Section 27-304 shall take place within forty-five (45) days from the date the

application is accepted.

(f) Hearings conducted before the Zoning Hearing Examiner shall be conducted in a prompt and efficient manner which allows all parties concerned to present evidence within a reasonable length of time. The Zoning Hearing Examiner shall issue its written decision within ninety (90) days from the date the application is accepted.

(g) The Zoning Hearing Examiner's written decision may be appealed to the District Council. A Notice of Appeal to the District Council shall be filed with the Clerk to the Council within one hundred five (105) days from the date the application is accepted.

(h) Upon receiving a timely Notice of Appeal from the Zoning Hearing Examiner's decision, the District Council shall conduct an oral argument within one hundred thirty-five (135) days from the date the application is accepted.

(i) A decision on appeal shall be rendered by the District Council no later than one hundred fifty (150) days from the date the application for a special exception is accepted. If the District Council fails to render its decision within one hundred fifty (150) days, the application shall be considered to have been denied.

(j) The provisions of this section are to be read in conformity with all other applicable laws and requirements, to the extent possible. In the event they conflict with other applicable provisions, the provisions of this section shall

take precedence.

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 on June 30, 1992.

Adopted this 7th day of June, 1992.

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

BY:

Richard J. Castaldi
Chairman

ATTEST:

Joyce T. Sweeney
Acting Clerk of the Council

KEY:

Underscoring indicates language added to existing law.
[Brackets] indicate language deleted from existing law.
Asterisks *** indicate intervening existing Code provisions
that
 remain unchanged.