



Adult Establishment

Applications



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An adult establishment is any commercial establishment which features the depiction, description, or display of “specified anatomical areas” or “specified sexual activities” to the degree defined in the Zoning Resolution.

Zoning

Regulations governing use and bulk vary according to zoning districts and outline requirements for lot coverage, floor area, open space, density, yards, height, setbacks, and parking. As defined in Section 12-10 of the Zoning Resolution (1995), an adult establishment is a commercial establishment in which a substantial portion—at least 40 percent—of the establishment includes an adult bookstore, adult eating or drinking establishment, adult theater, other adult commercial establishment, or any combination of the above.

When determining whether a substantial portion of a commercial establishment is used for adult purposes, the following factors are to be considered: (1) the amount of floor area and cellar space accessible to customers and allocated to such an establishment, and (2) the percentage of total floor area and cellar space accessible to customers and allocated to such establishment -- (**[“adult” FA accessible to customers + “adult” cellar space accessible to customers] / [total FA accessible to customers]**).

When determining whether a substantial portion of a commercial establishment’s stock-in-trade is devoted to specified materials, the following factors are to be considered: (1) the percentage of total stock accessible to customers that such materials represent -- (**[“adult” stock accessible to customers] / [total stock accessible to customers]**), and (2) the amount of floor area and cellar space accessible to customers containing such materials, and (3) the percentage of total floor area and cellar space accessible to customers containing such materials -- (**[“adult” FA accessible to customers + “adult” cellar space accessible to customers] / [total FA accessible to customers]**).

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This publication is a general overview of the requirements for this type of work. There may be additional, applicable Zoning Resolution, Construction Code, Multiple Dwelling Law, or Energy Code requirements.

FIRST STEPS

- PW1 review for scope
- Zoning District, Site Designations (*special purpose districts, waterfront area or block, flood hazard area, fire district, landmark district, little 'e' DEP designated block, wetlands, 200' within transit authority infrastructure*)
- Street status (ZR 12-10 "street" and GCL 36 frontage on a mapped street). Also street width (wide or narrow) is important for zoning calculations in certain zoning districts
- Lot diagram (*dimensions of lot, building, yards, distance to corner street intersection, street names, zoning use group, building occupancy group, construction classification, number of stories, buildings on adjacent lots, distance to nearest fire hydrant, curb cut application numbers, multiple dwelling classification*)
- Borough commissioner determinations, if applicable

ADMINISTRATIVE

DOB Forms

- [PW1](#) (verify gross floor area, including cellar counted for fees)
- [PW1-A](#) (verify use groups and occupancy classifications)
- [PW1-B](#)
- [TR1](#)
- [TR8](#)
- [ZD1](#)

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Applicant

- Directive 14 of 1975 and the Professional Certification of Application and Plans Process (BB 2016-010) may not be used for any filing related to adult establishments.
- In the PW1 comments section, the applicant shall indicate whether the filing he/she is making is to create, enlarge, or extend an adult establishment or to erect a business sign accessory to an adult establishment.
- The application shall also include a separate area diagram detailing all existing uses and block and lot numbers within a 500 feet of the center line of the door(s) of the principal entrance of the adult establishment or of the center line of the ground floor door(s) giving the most direct street access to the adult establishment.

Adult Establishments, Houses of Worship, and Schools

Pursuant to the Zoning Resolution, adult establishments are not permitted in residence districts and certain commercial districts. In districts where adult establishments are permitted, the Zoning Resolution requires that such establishments be located at least 500 feet from a house of worship, a school (both also referred to as “sensitive receptors”), or another adult establishment that was previously established. A “place of worship”/“church” is defined in PPN # 7/96. A “school” is defined in Section 12-10 of the Zoning Resolution.

Under 1 RCNY § 9000-01, the Department clarifies the criteria for determining the dates of establishment and discontinuance for adult establishments, houses of worship, and schools. The following shall be used to determine the dates of establishment for adult establishments, houses of worship, and schools and to confirm the priority of an existing establishment.

Permitted between August 8, 2001 and July 9, 2010

An adult establishment that obtained a new-building or alteration permit between August 8, 2001, and July 9, 2010, that has not obtained a Temporary Certificate of Occupancy (TCO), or if applicable a Department sign-off, by July 10, 2011, or started operating within six months of TCO or sign-off, will lose priority to operate as an adult establishment if a new adult establishment, house of worship, or school obtains a permit to be located within a 500-foot radius of the adult establishment.

If a house of worship or school obtained a new-building or alteration permit between

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August 8, 2001, and July 9, 2010, but did not obtain a TCO, or if applicable a Department sign-off, by July 10, 2011, or start operating within six months of TCO or sign-off, a permit may be issued for an adult establishment to be located within a 500-foot radius of the permitted house of worship or school.

Permitted on or after July 10, 2010

An adult establishment that obtained a new-building or alteration permit on or after July 10, 2010, that has not obtained a TCO, or if applicable a Department sign-off, within one year from the date of permit issuance or started operating within six months of TCO or sign-off will lose priority to operate as an adult establishment if a new adult establishment, house of worship, or school obtains a permit to be located within a 500-foot radius of the adult establishment.

If a house of worship or school obtained a new-building or alteration permit on or after July 10, 2010, but did not obtain a TCO, or if applicable a Department sign-off, within one year from the date of permit issuance, or start operating within six months of TCO or sign-off, a permit may be issued for an adult establishment to be located within a 500-foot radius of the permitted house of worship or school.

No-Work Permits Issued on or after July 10, 2010

Adult establishments authorized solely by a no-work permit that have not started operating within two months of permit issuance will lose priority to operate as an adult establishment if a new adult establishment, house of worship or school obtains a permit to be located within a 500-foot radius of the adult establishment.

If a house of worship or school authorized solely by a no-work permit issued on or after July 10, 2010 did not start operating within 2 months of permit issuance, a permit may be issued for an adult establishment to be located within a 500-foot radius of the permitted house of worship or school.

Note: Houses of worship, schools, and adult establishments in existence and operating lawfully prior to August 8, 2001, that have not ceased operations for a continuous period of one year or longer—as determined by the Department—are considered established.

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In order to ascertain whether an adult establishment is within 500 feet of a sensitive receptor or another adult establishment, the Department of Buildings shall determine the 500-foot distance radially as set forth below.

Measuring from the Adult Establishment

When measuring from the adult establishment, the 500-foot distance shall be measured from the center line of the door(s) of the principal entrance of the adult establishment or from the centerline of the ground floor door(s) giving the most direct street access to the adult establishment.

Measuring between Two Adult Establishments “A” and “B”

When measuring between two adult establishments, the 500-foot distance shall be measured from the center line of the door(s) of the principal entrance of adult establishment “A” or from the center line of the ground-floor door(s) giving the most direct street access to adult establishment “A” to the center line of the door(s) of the principal entrance of adult establishment “B” or to the centerline of the ground floor door(s) giving the most direct street access to adult establishment “B.”

Measuring from the Adult Establishment to the Sensitive Receptor

With respect to measuring from the adult establishment to the sensitive receptor, the 500-foot distance shall be measured from the center line of the door(s) of the principal entrance of the adult establishment or from the center line of the ground floor door(s) giving the most direct street access to the adult establishment to the outside face of the closest demising wall of the school or place of worship. If there are outdoor spaces directly adjacent to and customarily used by such school or place of worship, such as a school playground, the 500-foot distance shall be measured from the previously described door(s) of the adult establishment to the nearest boundary point of a school playground rather than the boundary of the school building. However, if a school or place of worship shares a zoning lot with an unrelated use such as a commercial office building, the office building portion of the zoning lot shall not be considered part of the sensitive receptor site.

Required Statement

For all applications for adult establishments submitted on or after July 10, 2010, applicants must include the following statement on the plans:

“No school, house of worship, or other adult establishment has been established within 500 feet of the center line of the door(s) of the principal

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entrance of the proposed adult establishment or of the center line of the ground floor of the door(s) giving the most direct street access to the proposed adult establishment.”

BIS Required Items

- Check current Department memos and service notices

ZONING

Provisions of Zoning Resolution Relating to Adult Establishments

Prohibited Locations

Zoning Resolution Sections 11-30, 12-10, 32-00, 32-01, 42-00, 42-01, 42-55, 51-00, 52-00, and 72-00

Adult establishments are not permitted in the following districts or locations:

- on the same zoning lot as another adult establishment
- Residence districts
- C1, C2, C3, C4, C5, C6-1, C6-2, or C6-3 zoning districts
- C6-4, C6-5, C6-6, C6-7, C6-8, C6-9, C7, or C8 zoning districts within 500' of:
 - a house of worship;
 - a school;
 - a residence district;
 - a C1, C2, C3, C4, C5-1, C6-1, C6-2, or C6-3 zoning district,
 - a manufacturing district, other than M1-6M district, in which new residence, 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; or
 - another adult establishment.

EXCEPTION: An adult establishment will not become non-conforming if a church or school locates within 500 feet of an existing adult establishment after April 10, 1995 (ZR §§ 32-01 and 42-01).

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- Manufacturing districts in which residences, joint living-work quarters for artists, or loft dwellings are allowed, under the provisions of the Zoning Resolution, as-of-right or by special permit or authorization
- In all other manufacturing districts within 500' of:
 - a house of worship;
 - a school;
 - a residence district;
 - a C1, C2, C3, C4, C5-1, C6-1, C6-2, or C6-3 zoning district;
 - a manufacturing district, other than M1-6M district, in which new residence, 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; or
 - another adult establishment.

EXCEPTION: An adult establishment will not become non-conforming if a house of worship or school locates within 500 feet of an existing adult establishment after April 10, 1995 (ZR §§ 32-01 and 42-01).

Size Limitations

Under no circumstances may an adult establishment exceed in total 10,000 square feet of floor area or cellar space not used for enclosed storage or mechanical equipment.

Sign Limitations

Accessory business signs for adult establishments are permitted but are subject to the sign regulations otherwise applicable in CI zoning districts except that the provisions of ZR § 32-69 shall not apply.

The maximum surface area of accessory business signs for adult establishments shall not exceed, in the aggregate, three times the street frontage of the zoning lot, but in no event more than 150 square feet per establishment, of which no more than 50 square feet may be illuminated, non-flashing signs.

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In manufacturing districts, accessory business signs for adult establishments are also not permitted on the roof of any building and are not permitted to extend above curb level at height of greater than 25 feet per ZR § 42-57.

Termination of Existing Adult Establishments (ZR § 52-77)

General rule: In all districts, non-conforming adult establishments, including any business signs accessory thereto, shall terminate within one year from October 25, 1995, or from such later date that the adult establishment or sign becomes non-conforming.

Exceptions: Any adult establishment which existed on October 25, 1995, and which conforms to 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 ZR § 32-01 or paragraphs (c), (d), and (e) of ZR § 42-01 shall not be subject to ZR § 52-77 (Amortization provision).

The Board of Standards and Appeals may, pursuant to ZR § 72-40 and ZR § 52-734, extend the time period for amortization of an adult establishment or business sign accessory thereto under specified circumstances.

Non-Conforming Uses (ZR § 52-38)

A lawful non-conforming use may not be changed to an adult establishment, except as provided in Section 32-01 or Section 42-01.

MULTIPLE DWELLING LAW

- N/A

FIRE CODE

- Standpipe Systems- FC 905
- Sprinkler Systems- FC 903

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BUILDING CODE

Egress – BC Chapter 10

- Occupant load – BC §[1004](#)
- Egress: width – BC §[1005](#), doors – BC §[1008](#)
- Illumination – BC §[1006](#)
- Stairways: width, headroom, vertical rise – BC §[1009](#); handrails – §[1012](#)
- Ramps: when used as an egress component – BC §[1010](#); exterior ramps and stairways – BC §[1026](#)
- Guards – BC §[1013](#)
- Exit: exit access – BC §[1014](#); exit and exit access doorways – §[1015](#); exits – §[1020](#); exit access travel distance – BC §[1016](#); number of exits – BC §[1021](#); exit discharge – BC §[1027](#); corridors – BC §[1018](#)
- Exit enclosures – BC §[1022](#)
- Signage – BC §[1030](#)

Fire Protection

- Height and area limitations – BC [Table 503](#)
- Fire separation of separate occupancies and tenancies – BC [Table 508.4](#)
- Construction Classification – BC Table [601](#), [602](#)
- Fire-rated construction details – BC [Chapter 7](#)
- Sprinkler systems – BC §[903](#)
- Standpipe systems – BC §[905](#)
- Fire alarm and detection, emergency alarms and smoke control systems (smoke, alarms, controls and carbon monoxide) – BC §[907](#), §[908](#) and §[909](#)
- Fire protection plan requirements – BC §[28-109.2](#)

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ENERGY CODE

See Code Notes on Energy Code.

APPLICABLE BULLETINS, DIRECTIVES, PPNS, MEMOS

- [OPPN 1/1995](#): Adult Establishment – Moratorium on adult establishments
- [OPPN 8/1996](#): Adult Establishment – Measuring the 500 feet distance requirement
- [OPPN 7/1996](#): Adult Establishment – Places of Worship/Churches
- [OPPN 6/1996](#): Adult Establishment – Applications and Complaint Procedure
- [1 RCNY 9000-1](#): Adult Establishments – Zoning
- Code Notes on Place of Assembly

OTHER AGENCY APPROVALS

- Board of Standards and Appeals: for use variance
- City Planning Commission: certification required for waterfront area or block
- Department of Environmental Protection: hydrant flow test letter for new sprinkler installation; approval for SD1 and 2 or site connection; Notice to Proceed for lot with little 'e' designation
- NYC Fire Department: variance where Fire Code provisions not met
- Landmarks Preservation Commission: approval if landmark or in historic district