



DEPARTMENT OF BUILDINGS  
EXECUTIVE OFFICES  
60 HUDSON STREET, NEW YORK, N.Y. 10013  
JOEL A. MIELE, Sr., P.E., COMMISSIONER

BARRY G. COX  
Assistant Commissioner  
Borough Operations  
(212) 312-8004

ISSUANCE #469

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OPERATIONS  
POLICY AND PROCEDURE NOTICE #1/95

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TO: Distribution  
FROM: Barry G. Cox  
DATE: December 15, 1994 (Revised January 3, 1995)  
SUBJECT: Adult Establishments

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**Reference:** Zoning Resolution Sections 11-113, 12-10, & 11-30 et. seq.

**Purpose:** To establish a procedure to assure the moratorium on the creation, enlargement, or extension of adult establishments is implemented.

**Effective:** Immediately

**Specifics:**

o Borough Plan Examiner:

Any New Building, Alteration application, or amendment to an application filed prior to November 30, 1994, for the creation, extension, or enlargement of a commercial use in Use Groups 6, 8, 10, 12 or 13 (including Directive 14's) shall not be approved unless accompanied by an owner's affidavit (Attachment A) stating the premise will not be used as an adult establishment.

o Borough Complaint Clerk:

- For All Boroughs Except Manhattan:

Any complaint received about an adult establishment shall be data entered onto BIS using complaint category code 75. The complaint will automatically be assigned a 'B' priority. The jurisdiction must state "refer to Operations", category 98.

A work order will not be generated by the Borough office.

The disposition of the complaint by the Night Emergency Squad shall be data entered upon being returned to the Borough office and a written response letter generated to the complainant.

- For Manhattan Only:

Any complaint received about an adult establishment shall be data entered onto BIS using complaint category code 75. The complaint will automatically be assigned a "B" priority. The jurisdiction must state "refer to Office of Midtown Enforcement" category G7.

A work order will not be generated by the Borough office.

A written response letter will be generated and mailed to the complainant indicating the complaint was referred to the Office of Midtown Enforcement, 330 West 42nd Street, 15th Floor, New York, N.Y. 10036.

On a weekly basis, the Borough office shall batch these complaint letters to that office for investigation.

o Borough Commissioner's Office

For premises where a valid work permit for the creation, enlargement, or extension of an adult establishment was issued prior to November 30, 1994, the permit lapsed on that date unless the applicant can demonstrate

- an intent prior to November 30, 1994 to operate an adult establishment

and

- substantial construction and/or substantial expenditures relating to the construction has taken place prior to November 30, 1994.

In those instances, when a complaint about an adult establishment in Use Groups 6, 8, 10, 12 or 13 is received, a signed copy of the enclosed 10 day letter (Attachment C) shall be mailed to the owner and applicant.

o Executive Chief Inspector's Office:

The Executive Chief shall secure a city-wide BIS printout of all category code 75 complaints on a weekly basis, print out the required work orders and route the Emergency Squad inspectors to selected premises.

Complaints about existing premises appearing on the City Planning Report of September 1994 (Appendix B) shall not be inspected unless the complaint alleges such premises has been enlarged or the use extended.

The Executive Chief's office shall request the respective Borough office to provide the following information with respect to each premises to be inspected:

- certificate of occupancy
- sign permits
- any other documentation which may establish the existing legal use of the premises.

o Night Emergency Squad:

Any Department of Buildings notice of violation written for violating Zoning Resolution Section 11-113 must identify the specific type of adult establishment defined in Zoning Resolution Section 12-10 as either:

- An Adult Bookstore,
- Adult Eating or Drinking Establishment, or
- An Adult Theater

The Department of Buildings NOV must state the basis for concluding that such establishment has been created, enlarged or extended subsequent to November 30, 1994.

All violations, backup documentation, and the results of the inspection written on the work order shall be submitted to the Executive Chief who shall review the materials and return to the respective Borough office for data entry.

To the extent possible, the Night Emergency Squad log should include a brief layout of any premises inspected and a description of the activities taking place in the premises.

BGC:yaj