

FOR IMMEDIATE RELEASE

Release #019-01

August 8, 2001

CONTACT: Public Affairs Officer -- (212) 720-3471

THE CITY PLANNING COMMISSION APPROVES AMENDMENTS TO STRENGTHEN ADULT USE ZONING REGULATIONS

The City Planning Commission today approved amendments to the City's 1995 adult use zoning regulations governing "adult establishments". The original zoning regulations were intended to protect the quality of life in City neighborhoods by prohibiting adult businesses from locating within residential and neighborhood retail areas, and within 500 feet of schools, day care centers, houses of worship, or any other adult establishment. The amendments adopted today clarify and strengthen the current regulations by addressing efforts by the operators of adult establishments to circumvent the intent of the zoning and remain in business at prohibited locations.

Joseph B. Rose, Chairman of the City Planning Commission, stated, " From the outset, the City Planning Commission expressed its determination to address efforts to evade the zoning. Today's amendments affirm and reinforce the intent of Mayor Giuliani, the City Planning Commission and the City Council in adopting the original regulations: these rules protect residential neighborhoods from the negative effects of adult establishments while respecting constitutional protections. We are confident that these amendments will fully withstand judicial scrutiny, just as the 1995 regulations were unanimously sustained by 19 judges at every level of the judicial process."

Adult use zoning regulations were adopted in 1995 in response to a Department of City Planning study which concluded that triple-x video and bookstores, adult theaters, and topless or nude bars have negative impacts on the quality of life in local neighborhoods in terms of increased crime, lowering of property values and slowing of economic revitalization. The regulations were carefully crafted to protect areas of the city vulnerable to the effects of adult uses, while respecting constitutional standards.

The adult use zoning regulations restrict the locations of businesses with a predominant, on-going focus on sexually explicit materials or activities.' In the case of topless bars and restaurants, the 1995 regulations defined an "adult eating or drinking establishment" as a restaurant or bar which " regularly features" topless or nude entertainment. A mistaken reading of the regulations has restricted their application to situations where the adult entertainment occupies 40 percent or more of the floor space inside the bar or restaurant, with the result that many of these businesses have remained in locations where they are prohibited under zoning through the maneuver of dividing up their space between so-called adult' and non-adult' sections. In fact, the 60/40' floor area test was never intended to apply eating or drinking establishments with adult entertainment, and there is no basis to suggest that the negative impacts of these establishments disappear simply because nude dancing is taking place in 39%, rather than 40% or more of the floor space. The amendments adopted today eliminate this loophole created by court rulings and restore and clarify the original intent of the City Planning Commission and the City Council in adopting the regulations.

In the case of adult video and book stores, operators have employed various subterfuges in order to claim compliance, without substantively altering the character of the establishments. The courts have repeatedly recognized these efforts as sham', but have pointed to a need to address the subterfuges through legislative amendment. The amendments adopted today do this by recognizing that, in addition to the amount of stock and floor area dedicated to adult material, other factors relating to physical lay-out and method of operation have a bearing on whether a book or video store has a predominant, on-going focus on sexually explicit materials.'

The amendments adopted today by the City Planning Commission will be referred to the City Council for consideration.