

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2010, Legislative Day No. 11

Bill No. 50-10

Councilmembers Olszewski and Moxley

By the County Council, June 7, 2010

AN ACT concerning

Adult Entertainment Businesses

FOR the purpose of amending the definition of an adult entertainment business; regulating the location of adult entertainment businesses; regulating the location of certain other businesses in certain zones; regulating the arrangement of viewing booths; stating certain findings; providing for the application of the Act; and generally relating to adult entertainment businesses.

BY repealing and re-enacting, with amendments

Sections 4B-101 and 4B-102
Baltimore County Zoning Regulations

BY repealing and re-enacting, with amendments

Section 21-2-101 (h) and 21-2-102(b)
Article 21 - Permits, Licenses, and Business Regulation
Title 2 - Adult Entertainment Businesses
Baltimore County Code, 2003

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
~~Strike out~~ indicates matter stricken from bill.
Underlining indicates amendments to bill.

WHEREAS, in 1998, the Baltimore County Council passed Bill No. 29-98, effective March

20, 1998, to regulate the location of adult entertainment businesses, massage establishments, and tattoo or body piercing establishments; and

WHEREAS, at that time, the County Council found that, in order to protect the health, safety and welfare of the county's citizens, it was necessary to allow suitable locations for certain adult entertainment businesses, massage establishments, and tattoo or body piercing establishments while limiting their adverse secondary effects on the community; and

WHEREAS, the County Council further found that adult entertainment businesses, massage establishments and tattoo or body piercing establishments frequently are used for unlawful sexual activities, may facilitate the transmission of diseases, contribute generally to crime; decrease property values, and adversely impact the quality of life in their surrounding areas; and

WHEREAS, many land use studies have documented the adverse secondary effects of certain adult entertainment businesses, massage establishments, and tattoo or body piercing establishments; and

WHEREAS, in order to lessen and control these effects and to limit exposure of these businesses to children, the Council found that it was necessary to place certain restrictions on the location and arrangement of adult entertainment businesses, massage establishments, and tattoo or body piercing establishments; and

WHEREAS, Bill 29-98 has withstood legal challenge; and

WHEREAS, the Council now finds that certain refinements are needed to that portion of the Act relating to adult entertainment businesses in order to more effectively regulate the location of such businesses and prevent the subversion of the Act's purposes; now, therefore

1 SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE
2 COUNTY, MARYLAND that Sections 4B-101 and 4B-102 of the Baltimore County Zoning
3 Regulations be and they are hereby repealed and re-enacted, with amendments, to read as follows:

4 §4B-101. Definitions.

5 A. As used in this article, the following terms have the meanings indicated:

1 ADULT ENTERTAINMENT BUSINESS. An adult store or an adult movie theater.

2 ADULT MOVIE THEATER.

3 1. A business establishment open to the public, or to members, that maintains display
4 devices for viewing on the premises files, videos or other viewable material, if a substantial portion
5 of the stock or trade is characterized by an emphasis on matters depicting, describing or relating to
6 sexual activities.

7 2. “Adult movie theater” does not include a motion-picture theater which has seating
8 for at least 50 persons per screen.

9 ADULT STORE.

10 1. A business establishment open to the public, or to members, that offers for sale
11 or rental any printed, recorded, photographed, filmed or otherwise viewable material, or any sexually
12 oriented paraphernalia or aid, if a substantial portion of the stock or trade is characterized by an
13 emphasis on matters depicting, describing or relating to sexual activities.

14 2. The term does not include a motion-picture theater which has seating for at least
15 50 persons per screen.

16 DISPLAY DEVICE. An electronically or mechanically controlled still or motion-picture
17 machine, film projector, videotape player or other image-producing device that may be activated
18 directly or indirectly by viewers or at the request of viewers for which a fee is charged.

19 MASSAGE. Any method of treating the external parts of the human body, for
20 compensation, by touching, rubbing, kneading, tapping or vibrating with the hand, arm, foot or other
21 part provided by a massage technician.

22 MASSAGE ESTABLISHMENT.

1 1. Any establishment where a massage technician administers a massage to another
2 person for compensation.

3 2. “Massage establishment” does not include a hospital, nursing home, medical clinic
4 or other establishment where massages are administered by individuals identified under §24-442 of
5 the Baltimore County Code, 1988 Edition, as revised.

6 **MASSAGE TECHNICIAN.**

7 1. An individual who administers a massage to another individual for compensation.

8 2. “Massage technician” does not include a medical practitioner as defined by
9 Section 101 of these regulations.

10 **SEXUAL ACTIVITIES.** Includes nudity or partial nudity, as defined in Section 101, and
11 sexual conduct, sexual excitement or sadomasochistic abuse, as defined in [Article 27, §416A,] §11-
12 101 OF THE CRIMINAL LAW ARTICLE of the Annotated Code of Maryland.

13 **SKIN-PENETRATING BODY ADORNMENT PROCEDURE.**

14 1. A process that involves piercing or entering the skin or the mucous membrane of
15 an individual for the purpose of inserting pigmented patterns, jewelry or other forms of body
16 decoration.

17 2. “Skin-penetrating by adornment procedure” includes tattooing and body-piercing.

18 3. “Skin-penetrating body adornment procedure” does not include piercing of an ear
19 using a properly disinfected ear piercing gun and single use studs or clutches.

20 **SUBSTANTIAL PORTION.**

21 1. At least [20%] 15% of the stock in the establishment or on display consists of

1 matters or houses devices depicting, describing or relating to sexual activities; or

2 2. A least [20%] 15% of the usable floor area is used for the display or storage of
3 matters or devices depicting, describing or relating to sexual activities; OR

4 3. A LEAST 15% OF THE ESTABLISHMENT'S GROSS RETAIL SALES OR
5 REVENUES ARE DERIVED FROM THE SALE, LEASE OR RENTAL OF MATTERS OR
6 DEVICES DEPICTING, DESCRIBING OR RELATING TO SEXUAL ACTIVITIES.

7 TATTOO OR BODY PIERCING ESTABLISHMENT. Any establishment where a skin-
8 penetrating adornment procedure is performed.

9 § 4B-102. Location of adult entertainment businesses, massage establishments and tattoo or
10 body-piercing establishments.

11 A. Subject to the requirements of this article, an adult entertainment business, a massage
12 establishment or a tattoo or body-piercing establishment is permitted in an M.H. Zone.

13 B. Proximity to other uses.

14 (1) An adult entertainment business, a massage establishment, or a tattoo or body-piercing
15 establishment may not be located within 1,000 feet of:

16 (a) A house of worship.

17 (b) A public or private school.

18 (c) A public park or public recreational facility.

19 (d) A public library.

20 (e) A child care home, child care institution or family day care home licensed or
21 registered under Maryland law.

22 (f) A lot zoned residentially or devoted primarily to residential use.

1 (2) An adult entertainment business, a massage establishment or a tattoo or body-piercing
2 establishment may not be located within 2,500 feet of another adult entertainment business, a
3 massage establishment or a tattoo or body-piercing establishment.

4 C. (1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, ANY
5 BUSINESS ESTABLISHMENT LOCATED IN A B.L. ZONE THAT MAINTAINS DISPLAY
6 DEVICES FOR VIEWING ON THE PREMISES ANY MATERIAL CHARACTERIZED BY AN
7 EMPHASIS ON MATTERS DEPICTING, DESCRIBING OR RELATING TO SEXUAL
8 ACTIVITIES, OR THAT OFFERS FOR SALE OR RENTAL ANY SEXUALLY ORIENTED
9 PARAPHERNALIA OR AID THAT IS CHARACTERIZED BY AN EMPHASIS ON MATTERS
10 DEPICTING, DESCRIBING OR RELATING TO SEXUAL ACTIVITIES, MAY NOT BE
11 LOCATED WITHIN 500 FEET OF ANY OF THE USES LISTED IN SUBSECTION B.

12 (2) PRINTED OR RECORDED MATERIAL OFFERED FOR RENTAL OR SALE IN A
13 BUSINESS ESTABLISHMENT IN A B.L. ZONE THAT IS CHARACTERIZED BY AN
14 EMPHASIS ON MATTERS DEPICTING, DESCRIBING OR RELATING TO SEXUAL
15 ACTIVITIES SHALL BE ARRANGED SO THAT IT IS NOT EASILY ACCESSIBLE INSIDE
16 THE ESTABLISHMENT AND NOT VISIBLE FROM OUTSIDE THE ESTABLISHMENT.

17 [C.] D. In determining compliance with the siting requirements in [Subsection B] SUBSECTIONS
18 B AND C (1) of this section, measurements shall be made in a straight line, without regard to
19 intervening objects, from the closest point of the structure containing the adult entertainment
20 business, massage establishment or tattoo or body-piercing establishment to the nearest property line
21 of the lot or use listed in [Subsection B] SUBSECTIONS B AND C (1) of this section.

1 SECTION 2. AND BE IT FURTHER ENACTED, that Section 21-2-101 (h) and 21-2-
2 102(b) of Article 21- Permits, Licenses, and Business Regulation, Title 2 - Adult Entertainment
3 Businesses, of the Baltimore County Code 2003, be and they are hereby repealed and re-enacted,
4 with amendments, to read as follows:

5 21-2-101. Definitions.

6 (h) Substantial portion. "Substantial portion" means:

7 1. At least [20%] 15% of the stock in the establishment or on display consists of matters or
8 houses devices depicting, describing, or relating to sexual activities; or

9 2. At least [20%] 15% of the usable floor area is used for the display or storage of matters
10 or houses devices depicting, or relating to sexual activities; OR

11 3. A LEAST 15% OF THE ESTABLISHMENT'S GROSS RETAIL SALES OR
12 REVENUES ARE DERIVED FROM THE SALE, LEASE OR RENTAL OF MATTERS OR
13 DEVICES DEPICTING, DESCRIBING OR RELATING TO SEXUAL ACTIVITIES.

14 21-2-102. Interior arrangement of adult entertainment businesses.

15 (B) Viewing booths. Viewing booths SHALL BE SEPARATED BY SOLID, NON-
16 TRANSPARENT WALLS OR PARTITIONS. BOOTHS may not be equipped with curtains or
17 doors that allow a booth's interior to be completely screened from the view of employees.

18 SECTION 3. AND BE IT FURTHER ENACTED, that this Act does not apply to an adult
19 entertainment business lawfully established prior to the effective date of this Act. An adult
20 entertainment business may continue to operate until one year from the effective date of this Act.
21 On or after that date, all adult entertainment businesses shall conform to the requirements of this
22 Act.

1 SECTION 4. AND BE IT FURTHER ENACTED, that a business establishment that is not
2 in compliance with Section 4B-102(c)(1) may continue to operate until one year from the effective
3 date of this Act. On or after that date, all such business establishments shall comply with Section
4 4B-102(c)(1).

5 SECTION 5. AND BE IT FURTHER ENACTED, that this Act, having been passed by an
6 affirmative vote of five members of the County Council shall take effect on July 19, 2010.

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