Zoning Resolution

THE CITY OF NEW YORK
Zohran K. Mamdani, Mayor

CITY PLANNING COMMISSION
Sideya Sherman, Chair

72-40 - AMORTIZATION OF CERTAIN ADULT ESTABLISHMENTS AND SIGNS FOR ADULT ESTABLISHMENTS

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72-40 - AMORTIZATION OF CERTAIN ADULT ESTABLISHMENTS AND SIGNS FOR ADULT ESTABLISHMENTS

LAST AMENDED
10/31/2001

The Board of Standards and Appeals may permit any #non-conforming# #adult establishment# or any #non-conforming# #sign#, other than #advertising signs#, for an #adult establishment# to continue for a limited period of time beyond that provided for in Sections 52-734 (Non-conforming signs for adult establishments) or 52-77 (Termination of Adult Establishments), provided that:

(a) an application is made by the owner of such establishment to the Board of Standards and Appeals at least 120 days prior to the date on which such establishment or #sign# must terminate;

(b) the Board shall find, in connection with such establishment or #sign#, that:

(1) the applicant had made, prior to the #non-conformity#, substantial financial expenditures related to the #non-conformity#; and

(2) the applicant has not recovered substantially all of the financial expenditures related to the #non-conformity#; and

(3) the period for which such establishment or #sign# may be permitted to continue is the minimum period sufficient for the applicant to recover substantially all of the financial expenditures incurred related to the #non-conformity#.

For the purpose of this Section, "financial expenditures" shall mean the capital outlay made by the applicant to establish the #adult establishment# or #sign#, exclusive of the fair market value of the #building# in which such #use# or #sign# is located and exclusive of any improvements unrelated to the #non-conforming# #adult establishment# or #non-conforming# #accessory# business #sign# for

#adult establishments#.

This Section shall not apply to #commercial# establishments described in Section 72-41 (Continuation of Certain Adult Establishments).

72-41 - Continuation of Certain Adult Establishments

LAST AMENDED
2/2/2011

Any #commercial# establishment in existence as of August 8, 2001 which: (i) subsequent to September 18, 1995, and prior to August 8, 2001, made financial expenditures so as to avoid becoming subject to the provisions of Section 32-01 or 42-01 (Special Provisions for Adult Establishments); and (ii) is defined as an #adult establishment# pursuant to the amendments to the definition of #adult establishment# in Section 12-10 adopted on October 31, 2001, shall terminate as an #adult establishment# within one year from October 31, 2001. Notwithstanding the foregoing, the Board of Standards and Appeals may permit such #adult establishment# to continue for a limited period beyond such one year period, provided that:

(a) an application is made by the owner of such establishment to the Board of Standards and Appeals at least 120 days prior to the date on which such establishment must terminate;

(b) the Board shall find, in connection with such establishment, that:

(1) the applicant had made, subsequent to September 18,1995 and prior to August 8, 2001, substantial financial expenditures so as to avoid becoming subject to the provisions of Section 32-01 or 42-01;

(2) the applicant has not recovered substantially all such financial expenditures; and

(3) the period for which such establishment may be permitted to continue is the minimum period sufficient for the applicant to recover substantially all of such financial expenditures.

For purposes of this Section, "financial expenditures" shall mean the following: (i) any capital outlay for improvements made in connection with the configuration or reconfiguration of the amount of #floor area# and #cellar# space within such establishment accessible to customers either: (a) containing books, magazines, periodicals or other printed matter or photographs, films, motion pictures, video cassettes, slides or other visual matter characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas"; or (b) allocated to one of the activities described in paragraphs (1)(b), (1)(c) or (1)(d) of the definition of #adult establishment# in Section 12-10; and (ii) any purchases of books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides or other visual matter, which are not characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas."

The provisions of Sections 52-77 (Termination of Adult Establishments) and 72-40 (AMORTIZATION OF CERTAIN ESTABLISHMENTS AND SIGNS FOR ADULT ESTABLISHMENTS) shall not apply to #commercial# establishments subject to this Section.