

January 3, 1991

Robert W. Healy
City Manager
City Hall
Cambridge, MA 02139

RE: Awaiting Report Item #1.
Legal Measures Concerning Adult Uses.

Dear Mr. Manager:

There are basically two kinds of laws that control potential sites for adult entertainment establishments and other adult uses: licensing statutes and zoning ordinances. Each is discussed as follows:

I. LICENSING STATUTES

Licensing statutes require any potential entertainment establishment in Cambridge, including a potential adult entertainment establishment here, to obtain a license from the Cambridge License Commission before operating. These statutes are G.L.c.136, s.4 and G.L.c.140, s.181 and s.183A.

Under these statutes, the Cambridge License Commission can deny an entertainment license application only if the Commission finds that the license cannot be exercised so as to:

- (a) protect employees, patrons, and members of the public inside or outside the premises from disruptive conduct, from criminal activity, or from health, safety or fire hazards;
- (b) prevent an unreasonable increase in the level of noise in the area caused by the licensed activity or caused by patrons entering or leaving the premises; or
- (c) prevent an unreasonable increase in the level of pedestrian or vehicular traffic in the area of the premises or an unreasonable increase in the number of vehicles to be parked in the area of the premises.

The Cambridge License Commission can impose conditions on an entertainment license only if these conditions are the least restrictive means to secure the specific goals stated in (a), (b), and (c).

Robert W. Healy
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As most entertainment is also a form of speech protected by the state and federal constitutions, the state legislature correctly allows entertainment licenses to be denied or conditioned only on the very narrow grounds specified in (a), (b), and (c).

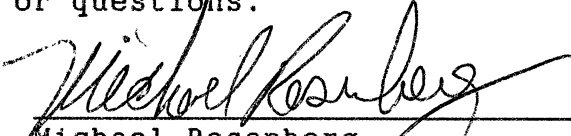
It should be understood that such adult entertainment enterprises as adult film exhibitions and adult dancing exhibitions fall under these licensing statutes. But adult book stores are not considered "entertainment" requiring a license. Licensing statutes, therefore, are not available to regulate adult book stores.

II. ZONING ORDINANCES

Zoning ordinances may establish areas wherein adult uses are not allowed, or zoning ordinances may impose a requirement that an adult use may not be located within 1,000 feet of a school, a church, a hospital, a park, another adult use, or a residential zoning district. Zoning ordinances can regulate not only adult entertainment establishments but also other adult uses, such as book stores.

Currently, Cambridge does not have a zoning ordinance on adult uses. However, the Community Development Department has prepared materials, including maps and other information, to control adult uses; and in 1991 the Community Development Department will work with the License Commission and Law Department to develop an "adult use" zoning amendment for consideration by the Planning Board.

Please advise if there are comments or questions.



Michael Rosenberg
Assistant City Manager
for Community Development



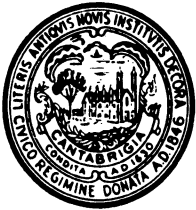
James McDavitt
License Commission Chair



Birge Albright
Assistant City Solicitor

/ETFW

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CITY OF CAMBRIDGE
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EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

RICHARD C. ROSSI
Deputy City Manager

January 14, 1991

To The Honorable, The City Council:

In response to Awaiting Report Item No. 1, regarding adult entertainment establishments, please find attached a report from Michael Rosenberg, Assistant City Manager for Community Development, as well as James McDavitt, License Commission Chair and Birge Albright, Assistant City Solicitor, concerning this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Robert W. Healy", is written over a horizontal line.

Robert W. Healy
City Manager

RWH/mev
attachment

Agenda # 2

S-142

Awaiting Report Item Number 1 regarding adult entertainment establishments.

In City Council,

January 14, 1991

Placed on file