

# SPECIAL ORDER



Subject  
**Prostitution Free Zones**

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<b>06</b>	<b>14</b>

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Related To

## DISTRICT OF COLUMBIA

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### I. BACKGROUND

The Omnibus Public Safety Emergency Amendment Act of 2006, enacted July 19, 2006 (D.C. Act 16-445) provides police officers with an additional tool to protect the public from dangers associated with prostitution. The act provides that “It shall be unlawful for a person to congregate in a group of 2 or more persons on public space or public property within the perimeter of a prostitution free zone . . . and thereafter to fail to disperse after being instructed to disperse by a uniformed officer of the MPD, or non-uniformed officer of the MPD upon display of MPD identification . . . who reasonably believes the person is congregating for the purpose of engaging in prostitution or prostitution-related offenses.” (§ 104(d)(1), Omnibus Public Safety Emergency Amendment Act of 2006).

### II. POLICY

The policy of the Metropolitan Police Department (MPD) is to enforce the provisions of the Omnibus Public Safety Emergency Amendment Act of 2006 relating to Prostitution Free Zones properly and effectively, without violating an individual’s civil rights.

### III. DEFINITIONS

For the purpose of this directive, the following terms shall have the designated meanings:

1. Prostitution Free Zone – “public space or public property in an area not to exceed a square of 1000 feet on each side that is established pursuant to § 104(b)(1) of the Omnibus Public Safety Emergency Amendment Act of 2006.”
2. Disperse – “to depart from the designated prostitution free zone and not to reassemble within the prostitution free zone with anyone from the group ordered to depart for the duration of the zone.” (§ 104(a)(2) of the Omnibus Public Safety Emergency Amendment Act of 2006).

3. Prostitution – means a sexual act or contact with another person in return for giving or receiving a fee. (§ 212 of the Omnibus Public Safety Emergency Amendment Act of 2006).
4. Prostitution-related offenses – include the following D.C. Official Code offenses: Inviting for purposes of prostitution (§ 22-2701); Abducting or enticing child from his or her home for purposes of prostitution; harboring such child (§ 22-2704); Pandering; inducing or compelling an individual to engage in prostitution (§ 22-2705); Compelling an individual to live life of prostitution against his or her will (§ 22-2706); Procuring; receiving money or other valuable thing for arranging assignation (§ 22-2707); Causing spouse to live in prostitution (§ 22-2708); Detaining an individual in disorderly house for debt there contracted (§ 22-2709); Violation of a nuisance abatement injunction granted under D.C. Official Code § 22-2714 (§ 22-2716 (Arrest for violation of injunction re: stay away)); and Keeping bawdy or disorderly houses (§ 22-2722).

#### IV. REGULATIONS

- A. The Omnibus Public Safety Emergency Amendment Act of 2006 provides that the Chief of Police:
  1. May declare any public area a prostitution free zone for a period not to exceed 240 consecutive hours; and
  2. Shall inform his Commanders, the Mayor, and the Council of the District of Columbia of the declaration of a prostitution free zone. (§ 104(b)(1)).
- B. In determining whether to designate a prostitution free zone, the Chief of Police shall consider the following:
  1. The occurrence of disproportionately high arrests for prostitution or prostitution-related offenses, and calls for police service because of prostitution or prostitution-related offenses in the proposed prostitution free zone within the preceding 6-month period;
  2. Objective evidence or verifiable information that shows that a disproportionately high incidence of prostitution or prostitution-related offenses are occurring on public space or public property within the proposed prostitution free zone; and
  3. Any other verifiable information from which the Chief of Police may ascertain whether the public health or safety is endangered by prostitution or prostitution-related offenses in the prostitution free zone. (Omnibus Public Safety Emergency Amendment Act of 2006, § 104(b)(2)).

- C. Upon the designation of a prostitution free zone, the MPD shall mark each block within the prostitution free zone by using barriers, tape, signs or police officers that post or announce the following information in the immediate area of, and borders around, the prostitution free zone (Omnibus Public Safety Emergency Amendment Act of 2006, § 104(c)):
1. A statement that it is unlawful for a person to congregate in a group of 2 or more persons for the purposes of prostitution or prostitution-related offenses within the boundaries of a prostitution free zone, and fail to disperse after being instructed to disperse by a uniformed officer of the MPD, or non-uniformed officer of the MPD upon display of MPD identification, who reasonably believes the person is congregating for the purpose of engaging in prostitution or prostitution-related offenses;
  2. The boundaries of the prostitution free zone;
  3. A statement of the effective dates of the prostitution free zone designation; and
  4. Any other additional information the Chief of Police provides.

## V. PROCEDURAL GUIDELINES

- A. In order to enforce the Prostitution Free Zones, members shall be aware of the following key elements of the act:
1. Provisions of this act are only enforceable in those areas which have been specifically identified as prostitution free zones, and during the declared period of time;
  2. There must be 2 or more persons congregating on public space within the boundaries of the prostitution free zone;
  3. The officer must reasonably believe that a person is congregating for the purpose of engaging in prostitution or prostitution-related offenses; and
  4. When instructed to disperse by a uniformed officer of the MPD, or non-uniformed officer of the MPD upon display of MPD identification, the person(s) so instructed must fail to follow the instruction of the officer or, if the person so instructed disperses, he/she may not reassemble on public property with any other person who was ordered to disperse at the same time in the prostitution free zone for the duration of the prostitution free zone.
- B. In making a determination that a person is congregating in a prostitution free zone for the purpose of engaging in prostitution or prostitution-related offenses, the totality of the circumstances involved shall be considered.

Among the circumstances which may be considered in determining whether such purpose is manifested are:

1. The conduct of a person being observed, including that such person is behaving in a manner raising a reasonable belief that the person is engaging or is about to engage in prostitution or prostitution-related offenses, such as;
  - (a) Repeatedly beckoning to, stopping, attempting to stop, or attempting to engage passers-by in conversation for the purpose of prostitution;
  - (b) Stopping or attempting to stop motor vehicles for the purpose of prostitution; or
  - (c) Repeatedly interfering with the free passage of other persons for the purpose of prostitution.

Note: Prior to ordering any person to disperse, the officer shall have an articulable suspicion (sufficient for a Terry stop) that the person is engaging in prostitution or prostitution-related offenses. Officers shall not rely upon stereotypes or "profiles," but shall look for conduct that might have a relationship to prostitution or prostitution-related offenses and which can be clearly articulated. Hunches or instinct are not adequate.

2. Information from a reliable source indicating that a person being observed routinely engages in or is currently engaging in prostitution or prostitution-related offenses within the prostitution free zone;
3. Physical identification by an officer of the person as a member of a gang or association which engages in prostitution or prostitution-related offenses;
4. Knowledge by an officer that the person is a known participant in prostitution or prostitution-related offenses; and
5. Knowledge by an officer that any vehicle involved in the observed circumstances is registered to a known participant in prostitution or prostitution-related offenses, or a person for whom there is an outstanding arrest warrant for a crime involving prostitution or prostitution-related offenses. (Omnibus Public Safety Emergency Amendment Act of 2006, § 104(d)(2))

Note: The presence of a listed circumstance may or may not be sufficient by itself to give rise to a reasonable belief that a person has congregated for the purpose of participating in prostitution or prostitution-related offenses. What it requires is that the totality of the circumstances create a degree of

suspicion that would be sufficient to justify a Terry stop of two or more members of the group to investigate prostitution or prostitution-related offenses.

- C. Uniformed officers of the MPD, or non-uniformed officer of the MPD upon display of MPD identification approaching persons to enforce the Prostitution Free Zone shall advise those persons that:
1. They are in a prostitution free zone, and explain the boundaries of the zone and its duration;
  2. The officer has reason to believe that the individuals within the group are congregating for the purpose of participating in prostitution or prostitution-related offenses and he/she is instructing those individuals to disperse and depart from the prostitution free zone;
  3. It is illegal for them to continue to congregate on public space in this area after being instructed to disperse;
  4. Failure to obey this instruction will result in their arrest; and
  5. They will be arrested without a second verbal warning if, after being instructed to disperse, they regroup and continue to congregate at any location on public space within the boundaries of the prostitution free zone.
- D. When members are instructing a group of 2 or more to disperse, he/she shall allow the group a reasonable time to comply, but shall clearly specify a definite time in minutes, before making an arrest.
- E. Members should take care to remember the identities (appearance, prior familiarity, identifying characteristics) of those persons they have ordered to disperse. The act forbids a person from reassembling with any other person who was ordered to disperse at the same time. The member must be able to recall or otherwise identify all of the individuals to whom the original order applied:
1. To clearly recognize any later attempt to reassemble within the prostitution free zone; and/or
  2. To notify another member who may return and make an arrest on the information obtained from the previous member.

Note: If the member cannot be sure that two or more people now seen together within the boundaries of the zone were covered by the order to disperse, the member must evaluate the circumstances anew in order to reach a reasonable belief the group is now congregating for prostitution or prostitution-related offense purposes and if so, reissue a warning to disperse.

- F. Members shall record this information on a PD 76 (Stop or Contact Report) which shall be retained by the member to use in preparing his/her legal case when an arrest occurs.

Note: If a person, who was previously part of a group that was instructed to disperse, returns to the prostitution free zone alone or with a different individual who was not part of the original group, the member may not arrest that individual. There must be at least two persons, who return from the original group, to make a lawful arrest.

- G. If the persons refuse or fail to disperse, members shall arrest and charge them with "Violation of a Prostitution Free Zone."

Note: Any person who violates the Act shall, upon conviction, be subject to a fine of not more than \$300, imprisonment for not more than 6 months, or both. (Omnibus Public Safety Emergency Amendment Act of 2006, § 104(e)). The United States Attorney's Office will handle this charge, except in cases involving juveniles, which will be handled by the Office of the Attorney General.

- H. Members should carefully distinguish conduct involving lawful activities performed by groups that would not be subject to this act, such as distributing campaign literature, collecting names on petitions, soliciting community support, discussion of political or religious topics, or other lawful civic or personal associations or individuals on private property. For example:

1. A group of people are assembled around a person who is handing out flyers and speaking in an animated manner about disagreement with certain governmental policies. This speech and assembly is protected by the Constitution and does not come within the intent of the act; or
2. Three males are leaning against a fence, talking among themselves and occasionally making remarks to women passing by. Without some observed behavior and articulable suspicion that would create a reasonable belief that they were engaging in prostitution or prostitution-related offenses, the member would have no basis for invoking the procedures authorized by this act.
3. Five people are standing around in front of a liquor store. The officer sees three of them involved in what appears to be prostitution-related offenses. The other two people exhibit no behavior that indicates they are taking part in prostitution-related offenses but are talking with the three apparent offenders. Without additional facts, the member would have no basis for ordering the two uninvolved people to disperse. If one of the apparent offenders was later seen in the prostitution free zone with one of the uninvolved people, there would be no basis for an arrested based on the failure to abide by the dispersal order.

- I. District Commanders shall:
  1. When requesting to implement a Prostitution Free Zone in their district, use the same considerations as prescribed in section IV, B, of this order.
  2. Prepare a memorandum to the Chief of Police, through the chain of command, detailing:
    - a. The proposed dates and times that an area should be declared a prostitution free zone;
    - b. Which considerations were used in making the determination;
    - c. A complete, objective justification for the determination;
    - d. A plan specifying what resources will be used to mark the area as a prostitution free zone and how manpower will be deployed;
    - e. A statement from the Central Crime Analysis Unit that the boundaries do not exceed the measurement limits of a prostitution free zone, as it is defined in this order and the act; and
    - f. A detailed map outlining the boundaries of the proposed prostitution free zone, created by the Central Crime Analysis Unit.
  3. Adhere to the following procedures upon the declaration of a prostitution free zone within their district by the Chief of Police and prior to enforcement of the act:
    - a. Procure a sufficient quantity of notices with information concerning the prostitution free zone for posting or distribution to occupants of homes and businesses within the prostitution free zone area; (Attachment A)
    - b. Distribute the notices no less than 24 hours prior to the actual effective date of the designation;
    - c. Procure a sufficient quantity of posters entitled "Warning, This Area Has Been Declared A Prostitution Free Zone," which are available from the Reproduction Section, Business Services Division; (Attachment B)
    - d. Ensure posters are properly filled out and secured. They should be located at least around the borders of the zone and at the

border corners and can be secured to available objects (e.g., lamp posts, etc.) or on wooden stakes.

Note: Any member who observes an individual injuring, breaking, or destroying any "prostitution free zone" poster may charge the individual with a misdemeanor Destruction of Property (D.C. Official Code § 22-303). For example, mutilating, ripping, tearing, or spindling the poster would be injuring or destroying it. Simply taking down the sign would not constitute destruction of property.

- e. Mark each block within the designated prostitution free zone by using the most practical and available resources (e.g., barriers, tape, police officers, etc.); and

Note: At the beginning of each tour of duty, it will be prudent for officers to verify that block markings and warning signs are still posted.

- f. Ensure that no side of the designated zone exceeds 1,000 feet, as prescribed in the act.
- 4. Direct manpower and resources to those designated prostitution free zones following the plan recommended to the Chief of Police.
  - 5. Upon the expiration of a prostitution free zone designation, direct members of their command to promptly remove all signs and other identifying documents and equipment from the boundaries and areas within the former zone.
  - 6. Once the designation of a prostitution free zone has expired, prepare a report to the Chief of Police, through the appropriate chain of command, within 10 business days, providing the following information:
    - a. The location of the prostitution free zone, including the exact boundaries;
    - b. Manpower and resources allocated to the designated prostitution free zone;
    - c. The time(s) and date(s) of the:
      - (1) Distribution of notices to homes and businesses within the boundaries of the prostitution free zone;
      - (2) Time period that an area was declared a prostitution free zone;

- (3) Marking of the boundaries with posters;
  - (4) Removal of all posters from the former prostitution free zone upon expiration of the declaration;
- d. The number of locations at which posters were placed;
  - e. The manner in which each block in the prostitution free zone was marked;
  - f. The number and type of crime index offenses which occurred in the prostitution free zone during the declared period of time;
  - g. The total number of arrests for prostitution free zone violations, as well as other arrests occurring in the prostitution free zone;
  - h. The number and type of complaints received as a result of prostitution free zone enforcement activities;
  - i. Any significant events or unusual incidents which occurred in the prostitution free zone during the declared period of time, and
  - j. An evaluation of the prostitution free zone enforcement action.

Note: A copy of the report required by Part V.I.6 of this directive shall also be forwarded to the Commander, Narcotics and Special Investigations Division with copies of all Arrest/Prosecution Reports (PD 163s) related to prostitution free zone arrests.

- 7. When requesting that an area be re-designated as a prostitution free zone, comply with the procedures outlined in section 1, 2 and 3 above.

Note: There is no legal time frame to re-designate a prostitution free zone, however, this shall not be used to circumvent the 240-hour time limit. Specific justification for re-designating an area as a prostitution free zone must be provided in the application.

- 8. When recommending that multiple areas be designated as prostitution free zones, ensure that their organizational elements have the necessary manpower and material resources and logistical capabilities to effectively concentrate law enforcement efforts in these areas.
- 9. Notify the commanding officer of the affected district when a prostitution free zone is declared and the zone abuts the boundary of any other district.
- 10. Establish and maintain a file at their organizational element which shall be referred to as the "Prostitution Free Zone File." The file shall be maintained in the following manner:

- a. Separate folders representing each particular prostitution free zone area shall be established;
- b. Each file folder shall be used to accumulate information relative to the activities within a particular prostitution free zone; and
- c. Specifically, the file should include such documentation as:
  - (1) A copy of the recommendation to the Chief of Police and his declaration;
  - (2) Substantiating documents relative to the Commanding Officer's recommendation;
  - (3) Memoranda for the record indicating:
    - (a) When, how, and by whom notices were distributed;
    - (b) When signs were posted, and the method of posting that was used; and
    - (c) How each block within the prostitution free zone was marked.
  - (4) Enforcement information and crime statistics during the enforcement period;
  - (5) Information about any unusual or significant incidents; and
  - (6) A copy of the final report to the Chief of Police.

J. Central Crime Analysis Unit

Upon receiving a request from a District Commander or his/her designee to verify that the boundaries do not exceed the measurement limits of a prostitution free zone, as defined in this order and the law, shall:

- a. Provide a written statement to the requesting Commander that the proposed area is within the legal limits of a prostitution free zone; or
- b. Notify the requesting Commander that the proposed area is not within the legal limits of a prostitution free zone and provide recommendations to be within the legal limits.
- c. Provide the requesting district with a detailed map, showing the specific boundaries.

- K. Senior Executive Director, Office of Organizational Development (OOD) shall ensure that:
1. A "Declaration Establishing a Prostitution Free Zone" is prepared for each request submitted;
  2. The Declaration has been reviewed and approved by the Office of the General Counsel as to legal form and sufficiency;
  3. The Declaration and all supporting documents are forwarded to the Chief of Police for review and approval; and
  4. A copy of all approved Declarations are forwarded to the Mayor, Chairman of the Council, each Regional Operation Command Assistant Chief and each District Commander.
- L. Office of the General Counsel shall:
1. Review all Declarations for prostitution free zones, provided by OOD, for legal form and sufficiency.
  2. Approve or disapprove (with comments) the Declaration and return to OOD.
- M. Assistant Chiefs, Regional Operation Command
- Shall ensure that all approved request for a prostitution free zone are submitted to the Office of Organizational Development.
- N. Chief of Police
- Will approve or disapprove all requests for prostitution free zone designations submitted by District Commanders.

//SIGNED//  
Charles H. Ramsey  
Chief of Police

CHR:TDR:mtv

