

## COMMISSIONERS' PROCEEDINGS

### Adams County Courthouse, Ritzville

December 14, 1998

The Adams County Commissioners met in regular session at 8:30 a.m. on Monday, December 14, 1998, in Ritzville, with Chairman Schlagel and Commissioners Wills and Logan present.

Vouchers audited and certified by the auditing officer as required by RCW 42.23.080, and those expense reimbursement claims certified as required by RCW 42.24.090, have been recorded on a listing, which has been made available to the board.

Commissioner Logan moved, Wills seconded, to approve for payment those vouchers included in the above list and further described as follows: #001 (986661-986709) for \$7,295.66; #102 (986710-986715) for \$3,215.00; #104 (986716-986725, 986727) for \$2,872.05; #106 (986728-986729) for \$240.56; #107 (986730) for \$75.00; #108 (986731-986742) for \$13,923.04; #109 (986743-986745); #115 for (986745A) for \$216,747.16; #117 (986746-986758) for \$2,981.09; #126 (986759) for \$1.70; #133 (986760) for \$829.83; #166 (986761-986774) for \$3,043.55; for a total of \$251,715.01. Motion carried.

Juvenile Administrator Gowan provided the board with additional statistics related to his request for reclassification of employees in the department.

\*0-159

It being the time of 10:00 a.m. and the place set for the public hearing on the 1999 Adams County budget, Chairman Schlagel opened the hearing.

Comments were heard from Mr. and Mrs. Whitney, representing members of the Washtucna Senior Center, and from Jon Newkirk, WSU Cooperative Extension Chair. Press from the Adams County Journal was present.

Chairman Schlagel recessed the hearing at 10:10 a.m. to continue this same date at 10:20 a.m.

\*159-1427

It being the time of 10:20 a.m. and the place set for the continuance of the public hearing on the 1999 Adams County budget, Chairman Schlagel reconvened the hearing.

Auditor Nancy Crossler responded to questions from the board regarding specific departmental line items.

Hearing no further comments, Chairman Schlagel recessed the hearing at 11:00 a.m. to reconvene on Monday, December 21, 1998, at 10:00 a.m.

\*1427-2115

Commissioner Wills moved, seconded, to approve **RESOLUTION NO. R-92-98 IN THE MATTER OF REIMBURSEMENT OF THE COUNTY ROAD FUND #115 FOR EXPENDITURES WHICH SHOULD HAVE BEEN INCURRED BY THE SOLID WASTE FUND #401.** Motion carried.

Commissioner Wills moved, Logan seconded, to approve **RESOLUTION NO. R-93-98 IN THE MATTER OF REIMBURSEMENT OF THE COUNTY ROAD FUND #115 FOR EXPENDITURES WHICH SHOULD HAVE BEEN INCURRED BY THE INTERGOVERNMENTAL FUND #590.** Motion carried.

Public Works Director Long informed the board that he had filled the recycling coordinator position; reported on road maintenance progress; reported that the janitorial service contractors would be arriving later in the day to clean up from the weekend; that arrangements on the de-icer system are in process for an initial year lease with purchase as warranted in 1999; and, that meetings are scheduled to continue research on a GIS.

The board recessed for lunch at 12:00 noon and reconvened at 1:00 p.m.

Auditor Crossler reviewed proposed amendments to the 1998 budget.

\*2115-2573

It being the time of 2:00 p.m. and the place set for the public hearing on proposed Ordinance No. O-6-98, Chairman Schlagel opened the public hearing.

Comments were heard from Dan and Shirley Lytel, Ritzville. No other members of the public were present.

The memo from the Adams County Planning Commission recommending approval of the ordinance was read into the record.

Hearing no further comments, Chairman Schlagel closed the public hearing at 2:10 p.m.

Commissioner Logan moved, Wills seconded, to approve **ORDINANCE NO. O-6-98 AN ORDINANCE RELATING TO THE REGULATION OF THE LOCATION OF ADULT USE (ADULT ENTERTAINMENT) BUSINESSES AND SETTING FORTH CERTAIN REQUIREMENTS; PRESCRIBING PENALTIES; AND, ADDING A NEW CHAPTER 17.62 TO TITLE 17 OF THE ADAMS COUNTY CODE.** Motion carried.

Correspondence was received from:

Copy of letter to James Martin, Hatton from Undersheriff Weise re: dog situation

Preliminary minutes of December 7 and 9, 1998, were reviewed and approved.

Permanent minutes of November 30, 1998, were signed.

There being no further business to come before the board the meeting adjourned at 4:30 p.m.

BOARD OF COUNTY

COMMISSIONERS

ADAMS COUNTY, WASHINGTON

W. L. Schlagel, Chairman

Bill Wills, Commissioner

Shawn R. Logan, Commissioner

ATTEST:

Linda Reimer, CMC/AE  
Clerk of the Board

**RESOLUTION NO. R-92-98**

**ORDER OF THE BOARD OF COUNTY COMMISSIONERS  
ADAMS COUNTY, WASHINGTON**

**IN THE MATTER OF REIMBURSEMENT OF THE COUNTY ROAD FUND #115 FOR EXPENDITURES  
WHICH SHOULD HAVE BEEN INCURRED BY THE SOLID WASTE FUND #401**

**WHEREAS**, the below expenditures for salaries for November should have been incurred by the Solid Waste Fund #401;

**THEREFORE BE IT RESOLVED** that the following journal entry will stand as the basis for reduction of County Road Fund #115 1998 expenditures and the increase of 1998 expenditures for the Solid Waste Fund #401 and the related cash transfers with the revenue received recorded as BARS 389.90.00.10.

Required: Journal Entry			Effective Date: 12-14-98		
Fund – BARS Code	Budget		Actual		Credit
	Debit	Credit	Debit	Credit	
401-537.10.10			\$853.49		
401-537.10.12			0.00		
401-537.10.20			316.01		
401-537.80.10			947.63		
401-537.80.12			0.00		
401-537.80.20			369.87		
401 – Cash					\$2,487.00
To reimburse County Road #115 for salaries for December, 1998.					
Entry Total	\$ 0.00	\$ 0.00	\$2,487.00		\$2,487.00
115 – Cash			\$2,487.00		
115-542.00.10.01					\$1,801.12
115-542.00.20.01					\$ 685.88

To record a reduction in expenditure as a result of Solid Waste Fund #401 reimbursement.

Entry Total	\$ 0.00	\$ 0.00	\$2,487.00	\$2,487.00
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DATED this 14<sup>th</sup> day of December, 1998.

s/W. L. Schlagel, Chairman  
s/Bill Wills, Commissioner  
s/Shawn R. Logan, Commissioner

ATTEST:  
s/Linda Reimer, CMC/AAE  
Clerk of the Board

**RESOLUTION NO. R-93-98**

**ORDER OF THE BOARD OF COUNTY COMMISSIONERS  
ADAMS COUNTY, WASHINGTON**

**IN THE MATTER OF REIMBURSEMENT OF THE COUNTY ROAD FUND #115 FOR EXPENDITURES  
WHICH SHOULD HAVE BEEN INCURRED BY THE INTERGOVERNMENTAL SERVICE FUND #590**

**WHEREAS**, the below expenditures for salaries for November should have been incurred by the Intergovernmental Service Fund #501;

**THEREFORE BE IT RESOLVED** that the following journal entry will stand as the basis for reduction of County Road Fund #115 1998 expenditures and the increase of 1998 expenditures for the Intergovernmental Service Fund #590 and the related cash transfers with the revenue received recorded as BARS 389.90.00.11

Required: Journal Entry

Effective Date: 12-14-98

Fund – BARS Code	Budget		Actual	
	Debit	Credit	Debit	Credit
590-519.30.00.10			\$ 674.72	
590-519.30.00.20			246.47	
590-548.10.00.10			2,708.14	
590-548.10.00.20			949.20	
590-548.20.00.10			693.92	
590-548.20.00.20			266.17	
590-548.30.00.10			9,075.27	
590-548.30.00.20			3,391.47	
590-548.40.00.10			507.59	
590-548.40.00.20			193.85	
590-548.60.00.10			872.33	
590-548.60.00.20			342.07	
590-Cash				
	\$19,921.20			

To reimburse County Road Fund #115 for salaries for November, 1998.

Entry Total	\$ 0.00	\$ 0.00	\$19,921.20	\$19,921.20
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115 – Cash			\$19,921.20	
115-542.00.10.01				\$14,531.97
115-542.00.20.01				5,389.23

To record a reduction in expenditure as a result of IGS Fund #590 reimbursement.

Entry Total	\$ 0.00	\$ 0.00	\$19,921.20	\$19,921.20
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DATED this 14<sup>th</sup> day of December, 1998.

s/W. L. Schlagel, Chairman  
s/Bill Wills, Commissioner  
s/Shawn R. Logan, Commissioner

ATTEST:  
s/Linda Reimer, CMC/AAE  
Clerk of the Board

## ORDINANCE NO. O-6-98

### **AN ORDINANCE RELATING TO THE REGULATION OF THE LOCATION OF ADULT USE (ADULT ENTERTAINMENT) BUSINESSES AND SETTING FORTH CERTAIN REQUIREMENTS; PRESCRIBING PENALTIES; AND, ADDING A NEW CHAPTER 17.62 TO TITLE 17 OF THE ADAMS COUNTY CODE**

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ADAMS COUNTY, WASHINGTON:**

#### **SECTION 1: PURPOSE**

The purpose of this ordinance is to protect the general public health, safety, and welfare of the citizens of Adams County through the regulation of adult use businesses through zoning and through certain requirements. The regulations set forth herein are intended to prevent crime; protect the County's retail trade; maintain property values; generally protect and preserve the quality of the County's neighborhoods, business, and commercial districts; and, preserve the quality of life.

#### **SECTION 2: DEFINITIONS**

For the purposes of this ordinance, the following definitions shall apply:

- (a) "Adult Arcade" means a retail establishment in which coin-operated, slug-operated, or still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by depicting, describing, or relating to "Specified Sexual Activities" or "Specified Anatomical Areas", as defined herein, for observation by patrons within.
- (b) "Adult Bookstore", "Adult Novelty Store", "Adult Retail Store" or "Adult Video Store" means:
  - (1) A commercial establishment that, as one of its principal purposes offers for sale or rental for any form of consideration one or more of the following:
    - (a) Books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, or video reproductions, slides, or other visual representations

- that are characterized by the depiction or description of specified sexual activities or specified anatomical areas; or,
- (b) Instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities

- (2) A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material, depicting or describing specified sexual activities or specified anatomical areas and still be categorized as:
  - (a) “Adult Bookstore”, “Adult Novelty Store”, or “Adult Video Store”...if the other business purposes do not serve to exempt the commercial establishment from being categorized outdoor theater with a capacity of less than fifty (50) persons where films, motion pictures, cable television, video cassettes, slides, or similar photographic reproductions are *regularly shown* that are distinguished or characterized by an emphasis on matters depicting, describing, or relating to “Specified Sexual Activities” or “Specified Anatomical Areas” as defined herein, for observation by patrons therein.
  - (b) “Adult Motion Picture Theater” means an enclosed building with a capacity of fifty (50) or more persons, a portion of an enclosed building with a capacity of fifty (50) or more persons, where films, motion pictures, cable television, video cassettes, slides, or similar photographic reproductions are regularly shown that are distinguished or characterized by an emphasis on matters depicting, describing, or relating to “Specified Sexual Activities” or “Specified Anatomical Areas”, as defined herein, for observation by patrons therein. Adult mini theater is one that has capacity of less than fifty (50) persons as described above.
  - (c) “Adult Panorama Establishment” means any building or portion of a building containing devices which for payment of a fee, membership fee, or other charge, is used to exhibit or display a picture, view, or other graphic display distinguished or characterized by an emphasis on matters depicting or relating to “Specified Sexual Activities” or “Specified Anatomical Areas”, as defined herein.
  - (d) “Adult Use...” means any “Adult Arcade, Adult Bookstore, Adult Mini Theater, Adult Motion Picture Theater, Adult Panorama Establishment, Adult Retail Store or Live Adult Entertainment Establishment” as defined herein.

- (e) “Adult Use Business” means any “Adult Arcade, Adult Bookstore, Adult Mini Theater, Adult Motion Picture Theater, Adult Panorama Establishment, Adult Retail Store or Live Adult Entertainment Establishment” as defined herein, or any establishment, which provides one or more of the activities, listed herein.
- (f) “Employee” means any and all persons, including managers, entertainers, and independent contractors who work in or at or render any services directly related to the operation of an Adult Use Business.
- (g) “Entertainer” means any person who provides Live Adult Entertainment within an Adult Use Business as herein defined whether or not a fee is charged or accepted for entertainment.
- (h) “Entertainment” means any exhibition or dance of any type, pantomime, modeling, or any other performance which provides for live adult use business as herein defined.
- (i) “Live Adult Entertainment Establishment” means any building or portion of a building which contains any exhibition or dance which is for the benefit of a member or members of the adult public, or advertised for the use or benefit of a member of the adult public, held, conducted, operated, or maintained for profit, direct or indirect.
- (j) “Manager” means any person who manages, directs, administers, or is in charge of the affairs and/or conduct of any portion of any activity involving Adult Entertainment occurring at any adult entertainment premises. This term includes persons acting as assistant managers.
- (k) “Nude Model Studio” means a place where a person appears seminude, nude or who displays “specified anatomical areas” described herein, and the person is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any other form of consideration. “Nude Model Studio” does not include:
  - (1) “State Universities”, “Regional Universities”, “State Colleges”, and “institutions of higher education”, as defined by RCW 28B.10.016;

- (2) A “Degree-granting Institution” as defined by RCW 28B.85.010(3); and,
- (3) A studio located in a building that:
  - (i) has no sign visible from the exterior of the building and no other advertising that indicates a nude or seminude person is available for viewing; and,
  - (ii) where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class.
- (l) “Own or Operate” means a person owns, operates, and/or has a significant operational interest in a sexually oriented business.
- (m) “Person” means any individual, partnership, corporation, trust, incorporated or unincorporated association, marital community, joint venture, governmental entity, or other entity or group of persons however organized.
- (n) “Public Place” means any area generally visible to public view and includes streets, sidewalks, bridges, alleys, plazas, driveways, and parking lots. “Public Place” shall also mean any automobiles whether moving or not, that are in the public view.
- (o) “Sensitive Land Uses” means those land uses which are particularly sensitive to the secondary effects of adult use businesses. Sensitive land uses include the following:
  - (1) churches, or other religious facilities or institutions;
  - (2) multiple family and single family residential zones;
  - (3) three (3) or more residential dwelling units within 1000 feet of the proposed adult use business;
  - (4) playgrounds and public parks;
  - (5) public and private schools, technical schools and training facilities which have twenty-five (25) percent or more of their students under the age of eighteen (18);
  - (6) manufactured home parks;

- (7) nursery school facilities as defined in ACC 17.04.470; and
- (8) nursing home residential care facilities as defined in ACC 17.04.480
- (p) “Sexual Activity” means any conduct described in RCW 9A.44.010(1) and RCW 9A.44.010(2), and any act of masturbation.
- (q) “Specified Anatomical Areas” means:
  - (1) less than completely and opaquely covered human genitals, pubic region, buttock, or female breast below a point immediately above the top of the areola; and
  - (2) human male genitals in a discernibly turgid state even if completely or opaquely covered.
- (r) “Specified Criminal Activity” means an offense for prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution, or display of harmful material to a minor; promotion of sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; sexual assault; molestation of a child; or any similar offenses to those described in this subsection under which the criminal code of other states or countries for which:
  - (1) less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;
  - (2) less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense;
  - (3) less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty-four month period;

- (4) the fact that a conviction is being appealed shall have no effect on the disqualification of the applicant
- (s) "Specified Sexual Activities" means:
  - (1) human genitals in a state of sexual stimulation or arousal; and/or
  - (2) acts of human masturbation, sexual intercourse or sodomy, whether between persons of the same or opposite sex; and/or
  - (3) fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.
- (t) "Stock in Trade" for the purposes of this ordinance means all books, equipment, magazines, periodicals, pictures, posters, printed material, products (including pre-recorded video tapes, discs, or similar material), or other items readily available for purchase, rental, viewing, or use by patrons of the establishment excluding material located in any storeroom or other portion of the premises not open to patrons.

**SECTION 3. PERMITTED LOCATION AND PERMITTED USES.**

- (a) An adult use business, as defined in this ordinance, shall be permitted to locate in the Commercial District (C) only; provided, it meets all of the location requirements set forth in Section 4 of this ordinance.
- (b) Nothing within the location requirements set forth herein and in Section 4 shall preclude an adult use business from conducting more than one adult use activity within a single structure; *provided*, the adult use business complies with the provisions of this ordinance and all other county ordinances.
- (c) In the event an adult use business is legally established in accordance with the requirements of this ordinance, and does not constitute a nonconforming use as defined in Section 5 nor a sensitive land use described in Section 2, and locates within the separation distance required by Section 4, the zoning conformity of the legally established adult use business shall not be affected.

**SECTION 4. PROHIBITIONS**

- (a) Adult use businesses shall be prohibited within one thousand (1,000) feet of any city or unincorporated area of Adams County zoned for residential purposes. Residential zones shall include:

- (1) Residential District (R)
  - (2) Planned Development District (PD)
  - (3) Ag Suburban Zones
  - (4) Any Residential Zone hereafter adopted by the county or adjacent city.
- (b) Adult Use Businesses shall be prohibited within one thousand (1,000) feet of any areas defined as Sensitive Land Uses.
- (c) Adult Use Businesses shall be prohibited within five hundred (500) feet of any other Adult Use Business, as defined in this ordinance.
- (d) The distances provided herein shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the property parcel upon which the adult use business is located or is to be located, to the nearest point of the parcel of property or the zoning district boundary line from which the proposed adult use business is separated or is to be separated.

#### **SECTION 5. NONCONFORMING USES**

- (a) For the purposes of this ordinance, a “nonconforming use” constitutes an adult use business which lawfully existed prior to the enactment of this ordinance and is maintained after the effective date of this ordinance although it does not comply with the adult use business zoning requirements set forth in this ordinance.
- (b) Adult use businesses which are nonconforming uses in the zone in which they are located and which are located within the unincorporated areas of Adams County as of the effective date of this ordinance shall be discontinued within three (3) years of the date this ordinance becomes effective or upon the expiration of the leasehold period in existence as of the date this ordinance is passed, whichever occurs first.
- (c) Adult use businesses that are nonconforming cannot be expanded, enlarged, or intensified. Any building containing a nonconforming adult use business may only be maintained with ordinary repair and cannot be expanded or enlarged. Ordinary repair shall consist of maintaining the current condition of the interior and exterior of the building. Any change in a nonconforming adult use business shall be to a use that is legally permitted within the zone in which it is located.
- (d) All nonconforming adult use businesses which are in existence as of the date this ordinance is passed shall provide the County’s Planning and Building Department with copies of their current leasehold documents which set forth their existing leasehold time period; or, in the case of a non-leasehold interest, the County’s Planning and Building Department shall be provided other documents which show record of ownership.

## **SECTION 6. SIGNS**

All adult use businesses shall comply with the following standards for exterior advertising:

- (a) exterior advertising shall be limited to one, two-square foot non-illuminated double-faced sign, text only, or its equivalent;
- (b) all signs shall meet all other regulations for such signs as set forth in the zoning requirements for the applicable zone.

## **SECTION 7. ADULT USE BUSINESS PERMIT REQUIRED**

No adult use business shall be permitted until an Adult Use Business Permit has been approved by the Planning and Building Department upon compliance with this section. The following procedures shall apply:

### (a) Application

No Adult Use Business shall be permitted until an Adult Use Business Permit has been approved by the Building and Planning Department upon compliance with this section. Any person seeking a permit for an Adult Use Business shall submit to the Building and Planning Department the following:

- (1) A completed application supplied by the Adams County Building and Planning Department which includes a site plan accurately drawn at a scale of one (1) inch=one hundred (100) feet or larger, showing the following:
  - (i) the boundaries and dimensions of the site;
  - (ii) existing streets, roads, and highways bordering or crossing the site;
  - (iii) interior private roads;
  - (iv) location and uses of existing and proposed structures;
  - (v) location of parking facilities including access points;
  - (vi) scale and north arrow;
  - (vii) vicinity map showing adjacent properties;
  - (viii) location of drainage facilities;
  - (ix) location of utility easements; and,
  - (x) size and location of all existing and proposed signs;
- (2) A non-refundable application fee as established by resolution of the Board of County Commissioners;
- (3) Additional information as required by the Building and Planning Director.

If an application is determined to be incomplete the applicant shall submit the additional information requested. Within

fourteen (14) days of receipt of the additional information from the applicant, the County shall issue a written determination of completeness or identify what remaining information is required. If the applicant either refuses in writing to submit additional information or does not submit the required information within ninety (90) days, the application shall lapse.

(b) Review by Building and Planning Director

The Planning and Building Director shall refer the matter to appropriate agencies for their comments and shall determine the following:

- (1) the proposed use conforms with all applicable ordinances and regulations of Adams County which also apply to other permitted uses in the applicable zoning district;
- (2) the proposed use complies with the density requirements of the Adams County Comprehensive Plan;
- (3) the building size meets the total square footage and setback requirements of ACC 17.36 for the proposed use and all accessory structures;
- (4) the proposed use complies with all applicable requirements of the Adams County Health District and any municipality providing water or sewer;
- (5) exterior advertising shall be limited to one, two-square foot, non-illuminated double-faced sign or its equivalent;
- (6) the filing of an adult use business permit application with the Adams County Building and Planning Director;
- (7) off-street parking areas shall be provided as to allow one space for every employee. The adult use business permit application shall also provide for adequate patron parking;
- (8) the exterior of any building housing an adult use business shall not permit any public display of performances by nude or semi-nude entertainers of the adult use business;
- (9) the site for the proposed use shall be landscaped in such a manner to be compatible with surrounding uses;
- (10) the applicant shall conform to Uniform Fire Code (UFC), state, and local fire standards for fire prevention;
- (11) the applicant must comply with Uniform Building Code (UBC) requirements for the proposed use.

(c) Notification

If the Building and Planning Director determines all the above are satisfied, written notification of the proposed use shall be placed in the legal section of the County's official newspaper and shall be sent by First Class U.S. Mail to owners of real property, as shown in the records of the Adams County Assessor, located within five hundred (500) feet of any portion of the boundary of the proposed use; provided, if the owner of the property for which the proposed use is requested owns another parcel or parcels adjacent to the property, notification shall be mailed to owners of real property located within five hundred (500) feet of any portion of the boundaries such adjacent parcels. The notification shall contain a statement that the proposed use shall be approved without holding a public hearing if no objection is submitted to the Building and Planning Director within fourteen (14) calendar days following date of mailing of notification.

Failure to send notice to a person specified in this section or failure to receive notice shall not invalidate any proceedings or decision in connection with the proposed use.

(d) Approval by Building and Planning Director

If no objection is received by the Building and Planning Director within fourteen (14) days following mailing of the notification, the proposed use shall be approved or conditionally approved. If conditional approval is given, the applicant shall have six (6) months to satisfy the conditions. The Building and Planning Director shall endeavor to issue a decision on the proposed use within twenty-five (25) working days from the date of submittal of a complete application.

(e) Referral to the Board of Adjustment

If, after notification by the Building and Planning Director, any objection to the proposed use is received within fourteen (14) days following the mailing thereof, the Building and Planning Director shall refer the request to the Board of Adjustment. The Board of Adjustment shall act upon the request as if it were a request for conditional use permit pursuant to ACC 17.68.

(f) Grounds for Denial of Permit

It shall be grounds for denial of a permit if the applicant has been convicted within the past two years of a misdemeanor or gross misdemeanor involving a "specified criminal activity", within the past five years of a felony offense involving a "specified criminal activity", or within the past five years of two or more misdemeanor or gross misdemeanor offenses or combinations of misdemeanor and gross misdemeanor offenses involving "specified criminal activities" as defined herein.

(g) Denial

If, after reviewing the application, the Building and Planning Director determines that the proposal does not meet the requirements of Subsection (b) above, he/she shall deny the request and inform the applicant in writing the reasons for the denial.

(h) Appeal

(1) anyone aggrieved by the Building and Planning Director's decision shall have ten (10) days from the date of decision to appeal to the Board of Adjustment. The Board shall hear the appeal pursuant to ACC 17.84.060;

(2) an appeal of the Board of Adjustment's decision shall be filed with Superior Court no later than fourteen (14) days from the date of the Board of Adjustment's decision;

(3) a prompt judicial review shall be held no more than thirty (30) days from the date of the final administrative decision.

(i) Continuation of Business Pending Appeal of Permit Suspension or Revocation

Whenever a request for appeal of a permit suspension or evocation is timely filed pursuant to Subsection (h) a permittee may continue to operate the adult use business for which the permit was required pending the decision from the Adams County Building and Planning Department, the Board of County Commissioners, or the Court.

**SECTION 8. GENERAL REQUIREMENTS**

All adult use businesses located within the unincorporated parts of Adams County shall comply with the following general requirements:

(a) at no time shall material or performances that display specified sexual activities or exhibit specified anatomical areas as described herein be visible from outside the establishment;

(b) all state and local licenses required by law shall be posted and maintained in a conspicuous location on site.

**SECTION 9. LIGHTING REQUIREMENTS**

All adult use businesses located within the unincorporated parts of Adams County shall comply with the following lighting requirements:

(a) the premises of an adult use business shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which

patrons are permitted access at an illumination of not less than 30 x 30 foot candles as measured at the floor level;

- (b) It shall be the duty of the owners and manager and of any employee(s) present in the premises to ensure that the required illumination is maintained at all times while any patron is present in or on the premises;
- (c) an adult mini-theater and an adult motion picture theater shall be subject to the lighting requirements set forth in the section relating to such theaters.

**SECTION 10. RESPONSIBILITIES OF THE MANAGER, OWNER, OPERATOR**

- (a) A manager shall have a station located within the adult use business from which all areas of the business are open to view without visual barriers at all times when the adult use business is "open for business" and shall comply with the following standards:
  - (1) ensure that all entertainers, employees, and patrons abide by and comply with the standards of conduct and the standards of operation set forth in this ordinance;
  - (2) verify that all persons who offer or provide live adult entertainment within the premises possess a current and valid entertainer's license issued by the County for that specific premise;
  - (3) ensure that no patron is admitted onto the premises or is served or entertained therein if such patron is obviously under the influence of alcohol or drugs;
  - (4) upon the request of any law enforcement officers or the Adams County Code Enforcement Officer for purposes of ensuring compliance with the law, make available for inspection:
    - (i) the premises;
    - (ii) all materials offered for display, exhibit, rent, or sale;
    - (iii) all licenses required to be on the premises.
  - (5) ensure that no sexual conduct is allowed on the premises of an adult use business at any time.
- (c) An owner and also an operator shall be responsible for the provisions of Subsections (a)(1), (a)(3) and (a)(5) of this Section.

**SECTION 11. LIVE ADULT ENTERTAINMENT ESTABLISHMENTS**

Any establishment or place offering live adult entertainment shall:

- (a) comply with the lighting requirements, general requirements, and the requirements set forth in the section relating to the responsibilities of manager, owner, and operator;
- (b) ensure that all live adult entertainment is performed on a stage and that the stage is at least eighteen (18) inches above the immediate floor level and be at least six (6) feet away from the nearest patron with a continuous railing on all sides located at floor level;
- (c) be physically arranged in such a manner that the stage on which live adult entertainment is provided shall be visible from the common areas of the premises. Visibility shall not be blocked or obscured by doors, curtains, drapes, or any other obstruction whatsoever;
- (d) ensure that live adult entertainment occurring on the premises is not visible at any time from any public place.

**SECTION 12. LIVE ADULT ENTERTAINMENT - MANAGER OR ENTERTAINER - LICENSE REQUIRED**

No person shall work as a manager or entertainer at any adult use business without having first obtained a license from the Adams County Building and Planning Department. No person shall be employed as a manager and an entertainer in an adult use business.

(a) Application.

An application for a license may be obtained from the Adams County Building and Planning Department. The application for a license shall require the following information:

- (1) the applicant's name, home address, home telephone number, date and place of birth, and any other name, including "stage" names or aliases, used by the applicant;
- (2) the name and address of each business at which the applicant intends to work as a manager or entertainer.

(b) Documentation of Age.

The applicant shall present documentation that applicant has attained the age of eighteen (18) years. Any of the following shall be accepted as documentation of age:

- (1) a motor vehicle operator's license issued by any state bearing the applicant's photograph and date of birth;

- (2) a state-issued identification card bearing the applicant's photograph and date of birth;
- (3) an official passport issued by the United States of America;
- (4) an immigration card issued by the United States of America;
- (5) any other picture identification issued by a government entity.

(c) Photograph Required

The applicant shall provide two "two inch by two inch" black and white photographs of the applicant, taken within six (6) months of the date of the application, showing only the full face of the applicant. The photographs shall be provided at the applicant's expense. When issued, the license shall have affixed to it such photograph of the applicant.

(d) Certification

The application shall be completed, signed by the applicant, and notarized or certified as true under penalty of perjury.

(e) Annual Fee

An annual fee for the license shall be established by resolution of the Board of Adams County Commissioners. The annual license will expire on December 31 of each year. The license must be renewed by January 1.

(f) License Nontransferable

A manager or entertainer licensed by the Adams County Building and Planning Department shall not transfer the license to another, nor shall a license holder alter the license in any way.

(g) Incomplete Application

Failure to provide any information required by this section constitutes an incomplete application. If an application is determined to be incomplete the applicant shall submit the additional necessary information requested. Within fourteen (14) days of receipt of the additional information from the applicant, the County shall issue a written determination of the completeness or identify what remaining information is required. If the applicant either refuses in writing to submit additional information within ninety (90) days, the application shall lapse.

(h) Investigation

The Adams County Building and Planning Department, upon presentation of an application and before acting upon the same, shall

refer such application to the Adams County Sheriff's Office. The Sheriff's Office shall make a full investigation as to the truth of the statement contained therein and provide that information to the Adams County Building and Planning Department.

(i) Change of Identity

If the identity of the manager or entertainer licensed by the Adams County Building and Planning Department changes, notices shall be provided in writing to the department within fourteen (14) days of said change of identity.

(j) License Inspection

A manager or entertainer licensed by the Adams County Building and Planning Department shall make the license available for inspection upon the request of law enforcement officers or the Adams County Code Enforcement Officer for the purposes of ensuring compliance with the law.

(k) Grounds for Denial of License

It shall be grounds for denial of a license if the applicant has been convicted within the past two years of a misdemeanor or gross misdemeanor involving a "specified criminal activity"; within the past five years of a felony offense involving a "specified criminal activity"; or within the past five years of two or more misdemeanor or gross misdemeanor offenses or combination of misdemeanor and gross misdemeanor offenses involving "specified criminal activities" as defined herein.

(l) Appeal

Denial of license under this ordinance is subject to appeal as follows:

(1) Anyone aggrieved by an action, order, or decision of the Adams County Building and Planning Department as to a denial of an application for the issuance of or renewal of a manager or entertainer license, or as to a revocation, suspension or modification of such a license shall have fourteen (14) days from the date of the written decision to appeal to the Board of County Commissioners.

(2) A prompt judicial review of no sooner than thirty (30) days shall elapse from the final administrative decision to a court review before the Adams County Building and Planning Department revokes, modifies, or suspends the license of a manager or entertainer.

(m) Continuation of Employment Pending Appeal

Whenever a request for appeal of a denial to renew a license, license suspension, or license revocation is timely filed pursuant to subsection (1), a licensee may engage in the activity for which the license was required pending the decision from the Adams County Building and Planning Department, the Board of County Commissioners, or the court. An applicant not licensed when the current application was made may not engage in the activity for which the license is required pending decision by the Adams County Building and Planning Department, Board of County Commissioners, or the court.

### **SECTION 13. PERMITS AND LICENSES - SUSPENSION OR REVOCATION**

The Adams County Building and Planning Department has the authority to suspend or revoke an Adult Use Business permit or an employee's license.

- (a) The Adams County Building and Planning Department shall suspend a business permit, a manager's license, or an entertainer's license for a period not to exceed thirty (30) days if it determines that an owner of or an employee of an Adult Use Business:
  - (1) refuses to allow an inspection of the Adult Use Business premises as authorized by this ordinance;
  - (2) has a currently suspended Adult Use Business premises as authorized by this ordinance;
  - (3) has been found to be in violation of permit or license requirements contained herein in a manner that would be grounds for denial of a permit or license.
  
- (b) The Adams County Building and Planning Department shall revoke a business permit, a manager's license, or an entertainer's license if it determines that an Adult Use Business or an employee of an Adult Use Business:
  - (1) gave false or misleading information in the application or during the application process;
  - (2) knowingly operated an adult use business during a time when the individual's license was suspended;
  - (3) knowingly managed an adult use business or entertained in an adult use business during a time when the individual's license was suspended;
  - (4) has had more than one permit or license suspension within the preceding twelve (12) months; or,
  - (5) knowingly allowed any act defined herein as "specified sexual activity" to occur in or on the adult use business premises.

**SECTION 14. THEATERS, MINI THEATERS AND MOTION PICTURE THEATERS**

Every mini-theater and motion picture theater offering Adult Entertainment shall meet the following standards:

- (a) All adult mini-theaters and motion picture theaters shall utilize seating arrangements equipped with immovable armrests between the seats. No bench-type seating allowing for more than one (1) person in a seat will be permitted.
- (b) A manager or other employee must walk through the theater portion of the building at ten (10) minute intervals during the time period in which the film is showing and the lighting is down. It shall be the duty of this employee, as well as the manager or owner, to ensure that no sexual activity is allowed in the theater, either by patrons or employees or both.
- (c) Full house lights must meet the requirements of subsection (a) of the lighting requirements and must come on for at least ten (10) minutes at the end of each feature.

**SECTION 15 THEATERS - ADULT PANORAMA THEATERS**

Every Adult Panorama Theater shall meet the following requirements:

- (a) A designated manager's station shall be located in the common areas of the premises.
- (b) The interior of the premises shall be configured so that there is only one common area and no winding corridors. Warning devices shall be prohibited. Holes in walls shall be repaired immediately. Restrooms may not contain video reproduction equipment.
- (c) For premises having two (2) or more designated manager's stations, the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose for at least one (1) of the manager's stations. The view must be in direct line of sight from the manager's stations.
- (d) It shall be the duty of the owners and manager, and it shall also be the duty of any employee present in the premises, to ensure
  - (1) that such view remains unobstructed by any doors, walls, merchandise, display racks, or other materials at all times; and,

- (2) that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.
- (e) No viewing room may be occupied by more than one (1) person at any time.

## **SECTION 16 STANDARDS OF CONDUCT**

Every Adult Use Business shall comply with the following standards of conduct. The standards of conduct must be adhered to by employees and entertainers of any Adult Use Business.

- (a) No employee or entertainer shall:
  - (1) appear nude, semi-nude, or expose "specified anatomical areas" or depict "specified sexual activities" as defined herein, *unless* the employee or entertainer is upon a stage at least eighteen (18) inches above the immediate floor level and removed at least six (6) feet from the nearest patron;
  - (2) wear or use any device or covering exposed to view which stimulates "specified anatomical areas" as defined herein, *unless* the employee or entertainer is upon a stage at least eighteen (18) inches above the immediate floor level and removed at least six (6) feet from the nearest patron;
  - (3) touch, fondle, or caress any patron for the purpose of arousing or exciting the patron's sexual desires, sit on a patron's lap or separate a patron's legs;
  - (4) allow a patron to touch an employee or entertainer on the breast, in the pubic area, buttocks or anal area. No patron shall touch, fondle, or caress an employee or entertainer for the purpose of arousing or exciting the sexual desires of either party; allow sexual conduct between an employee or entertainer and a patron.
  - (5) use artificial devices or inanimate objects to depict any of the prohibited activities described;
  - (6) solicit, demand or receive any payment or gratuity from any patron for any act prohibited by this chapter; or
  - (7) demand or collect any payment or gratuity from any patron for entertainment before its completion.
- (b) No entertainer of any Adult Use Business shall be visible from any public place during the hours of employment or apparent hours of employment while on the premises and engaged in Live Adult Entertainment.

## **SECTION 17   STANDARDS OF OPERATION**

Every Adult Use Business shall comply with the following standards of operation. The standards of operation must be adhered to by employees and entertainers of any Adult Use Business.

- (a) A list of any and all entertainment provided on the premises and indicating the specific fee or charge in dollar amount for each entertainment listed shall be posted and conspicuously displayed in the common areas of each place offering Live Adult Entertainment.
- (b) No merchandise, films, videos, posters, books or other material that relates to "Specified Sexual Activities" or "Specified Anatomical Areas" as defined shall be visible from any public place at any time.
- (c) A sign, no less than twelve (12) inches by twelve (12) inches, with lettering no smaller than one-half (1/2) inch by one-half (1/2) inch, shall be conspicuously displayed in the common areas of the premises, and shall read as follows:

**THIS ADULT ENTERTAINMENT ESTABLISHMENT IS REGULATED  
BY  
ADAMS COUNTY UNDER ADAMS COUNTY CODE  
ENTERTAINERS ARE:**

Not permitted to engage in any type of sexual conduct.

Not permitted to be unclothed or in such less than opaque and complete attire, costume attire, costume or clothing so as to expose to view any portion of the breasts below the top of the areola, any portion of the pubic region, buttocks, genitals or vulva and/or anus except upon a stage of at least eighteen (18) inches from the immediate floor level and removed at least six (6) feet from the nearest patron.

Not permitted to demand or collect any payment or gratuity from any patron for entertainment before its completion.

- (d) No Adult Use Business shall employ any person under the age of eighteen (18) years as an entertainer or employee or allow an entertainer on its premises for the purpose of providing Live Adult Entertainment if that person is under eighteen (18).
- (e) No person under the age of eighteen (18) years shall be:

- (1) admitted onto the premises of an Adult Use Business for any purpose;
  - (2) employed as a manager or entertainer for an Adult Use Business.
- (f) No alcohol shall be sold to, served to, or consumed by employees, entertainers, or managers, as defined herein, on the premises of any Adult Use Business.
- (g) No patron who is obviously intoxicated by alcohol or drugs shall be allowed entry onto the premises of an Adult Use Business.
- (h) No sexual activity shall be allowed on the premises of an Adult Use Business during hours or after hours, either by employees, entertainers, or patrons.

#### **SECTION 18 VIOLATIONS - PENALTIES**

Any person convicted of a violation of any provision of this ordinance shall be punished by a fine of not more than five thousand dollars (\$5,000) or by imprisonment for not more than one (1) year, or by both such fine and imprisonment. For any violation of a continuing nature, each day's violation shall be considered a separate offense and shall subject the offender to the above penalties for each offense.

In addition to the enforcement provisions of this section, any violation of any of the provisions of this ordinance is declared to be a public nuisance, per se, which shall be abated by the Prosecuting Attorney by way of civil abatement procedures.

#### **SECTION 19 PROHIBITED ACTIONS**

Nothing in this ordinance is intended to authorize, legalize, or permit the establishment, operation, or maintenance of any business building, or use which violates any Adams County ordinance or any statute of the State of Washington regarding public nuisances, sexual conduct, lewdness, or obscene or harmful matter, or the exhibition or public display thereof.

#### **SECTION 20 SEVERABILITY**

If any provision of this chapter is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the chapter and the applicability thereof to other persons and circumstances shall not be affected thereby.

#### **SECTION 21 EFFECTIVE DATE**

This ordinance shall take effect and be in full force upon passage and adoption.

**ADOPTED AND PASSED** this 14<sup>th</sup> day of December, 1998.

BOARD OF COUNTY COMMISSIONERS  
ADAMS COUNTY, WASHINGTON  
s/W. L. Schlagel, Chairman  
s/Bill Wills, Commissioner  
s/Shawn R. Logan, Commissioner

ATTEST:  
s/Linda Reimer, CMC/AE  
Clerk of the Board

APPROVED AS TO FORM:  
s/L.R. "Rusty" McGuire  
Special Counsel