

CHAPTER 4.02
ADULT USE (ENTERTAINMENT) BUSINESSES

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4.02.010 PURPOSE. The purpose of this chapter is to protect the general public health, safety, and welfare of the citizens of Benton 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 the quality of life.
[Ord. 297 (1996) 1]

4.02.020 DEFINITIONS. For the purposes of this chapter, 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:

- (i) 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
- (ii) 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 "adult bookstore," "adult novelty store," or "adult video store." The other business purposes do not serve to exempt the commercial establishment from being categorized as an "adult bookstore," "adult novelty store," or "adult video store" so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials that are characterized by the depiction or description of specified sexual activities or specified

anatomical areas or as long as this business purpose constitutes the primary or a major attraction to the premises.

(c) "Adult Mini Theater" means an enclosed building with a capacity of less than fifty (50) persons, a portion of an enclosed building with a capacity of less than fifty (50) persons, or an 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 matter depicting, describing, or relating to "Specified Sexual Activities" or "Specified Anatomical Areas," as defined herein, for observation by patrons therein.

(d) "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, or an outdoor theater 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 matter depicting, describing, or relating to "Specified Sexual Activities" or "Specified Anatomical Areas," as defined herein, for observation by patrons therein.

(e) "Adult Panoram 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 matter depicting, describing, or relating to "Specified Sexual Activities" or "Specified Anatomical Areas," as defined herein.

(f) "Adult Use" means any "Adult Arcade, Adult Bookstore, Adult Mini Theater, Adult Motion Picture Theater, Adult Panoram Establishment, Adult Retail Store or Live Adult Entertainment Establishment," as defined herein.

(g) "Adult Use Business" means any "Adult Arcade, Adult Bookstore, Adult Mini Theater, Adult Motion Picture Theater, Adult Panoram 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.

(h) "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.

(i) "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.

(j) "Entertainment" means any exhibition or dance of any type, pantomime, modeling, or any other performance.

(k) "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.

(l) "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.

(m) "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:

(i) that 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.

(n) "Own or operate" means a person owns, operates, and/or has a significant operational interest in a sexually oriented business.

(o) "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.

(p) "Planning Director/Administrator" means the Director of the Benton County Planning Department or appointed designee.

(q) "Public Place" means any area generally visible to public view and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, and automobiles, whether moving or not.

(r) "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) playgrounds and public parks;
- (4) 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);
- (5) manufactured home parks;
- (6) day care facilities as defined in BCC 11.04.020; and
- (7) residential care facilities as defined in BCC 11.04.020.

(s) "Sexual Activity" means any conduct described in RCW 9A.44.010(1) and RCW 9A.44.010(2), and any act of masturbation.

(t) "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.

[NOTE: This section is continued on the following page.]

(u) "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.

(v) "Stock in Trade" for the purposes of this chapter, means all books, equipment, magazines, periodicals, pictures, posters, printed material, products (including prerecorded 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.

[Ord. 297 (1996) 2; Ord. 402 (2004) § 1; Ord. 504 (2011) § 1]

4.02.030 PERMITTED LOCATION AND PERMITTED USES. (a) An Adult Use Business, as defined in this chapter, shall be permitted to locate in the General Commercial District (GC) only; **provided**, it meets all of the location requirements set forth in BCC 4.02.040.

(b) Nothing within the location requirements set forth herein and in BCC 4.02.040 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 chapter and all other County ordinances.

(c) In the event an adult use business is legally established in accordance with the requirements of this chapter, does not constitute a nonconforming use as defined in BCC 4.02.050 nor a sensitive land use described in BCC 4.02.020, and locates within the separation distance required by BCC 4.02.040, the zoning conformity of the legally established adult use shall not be affected.

[Ord. 297 (1996) 3; Ord. 504 (2011) § 2]

4.02.040 WHERE PROHIBITED. (a) Adult Use Businesses shall be prohibited within one thousand (1,000) feet of any city or unincorporated area of the following districts within unincorporated Benton County:

- (1) Community Center Residential District (CCR);
- (2) Urban Growth Area Residential District (UGAR);
- (3) Planned Development District (PD); and
- (4) Rural Lands One Acre District (RL-1).

(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 chapter.

(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.

[Ord. 297 (1996) 4; Ord. 504 (2011) § 3]

4.02.050 NONCONFORMING USES. (a) For the purposes of this chapter, a "nonconforming use" constitutes an adult use business which lawfully existed prior to the enactment of this chapter and is maintained after the effective date of this chapter although it does not comply with the adult use business zoning requirements set forth in this chapter.

(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 Benton County as of the effective date of this chapter shall be discontinued within three (3) years of the date this chapter becomes effective or upon the expiration of the

leasehold period in existence as of the date this chapter is passed, whichever occurs first.

(c) Adult use businesses which are nonconforming cannot be expanded, enlarged, or intensified. Any building containing a nonconforming adult use business may only be maintained with ordinary repair; it cannot be expanded or enlarged. Any change in a nonconforming adult use business shall be to a use which 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 chapter is passed shall provide the County's Planning and Building Director 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 Director shall be provided other documents which show record of ownership. These documents shall be provided to the County's Planning and Building Director within six (6) months of the effective date of this chapter.

[Ord. 297 (1996) 5]

4.02.060 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 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.

[Ord. 297 (1996) 6]

4.02.070 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 Director 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 Planning Director upon compliance with this section. Any person seeking a

permit for an Adult Use Business shall submit to the Planning Department the following:

(1) A completed application supplied by the Benton County 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) The 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 Planning Director.

If an application is determined to be incomplete, the applicant shall be notified in writing of the additional information that is required within ten (10) business days of receipt of the application. If the applicant either refuses in writing to submit additional information or does not submit the required additional information within thirty (30) days, the application shall lapse.

(b) Review by Planning and Building Director. The Planning and Building Director shall issue the permit if the applicant meets the following conditions:

[NOTE: This section is continued on the following page.]

- (1) The proposed use conforms with all applicable ordinances and regulations of Benton County which also apply to other permitted uses in the applicable zoning district.
- (2) The proposed use complies with the density requirements of the Benton County Comprehensive Plan.
- (3) The building size meets the total square footage and setback requirements of Chapter 11.52 BCC for the proposed use and all accessory structures.
- (4) The proposed use complies with all applicable requirements of the Benton-Franklin District Health Department, Department of Social and Health Services, 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) Off-street parking areas shall be provided as to allow one space for every employee.
- (7) 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.
- (8) The permit is conditioned upon the site for the proposed use being landscaped in such a manner to be compatible with surrounding uses.
- (9) The applicant must comply with the requirements of Chapter 3.16 BCC and Chapter 3.18 BCC for the proposed use.
- (10) The applicant must comply with the requirements of Chapter 3.04 BCC, Chapter 3.08 BCC, and Chapter 3.12 BCC for the proposed use.

[NOTE: This section is continued on the following page.]

(11) No grounds for revocation of a permit under BCC 4.02.130(b) exist.

(12) The proposed use is permitted on the proposed site pursuant to BCC 4.02.030 and BCC 4.02.040.

(c) Decision. If the Planning Director determines all the above are satisfied, he or she shall issue the permit. If one or more of the above are not satisfied, he or she shall deny the permit in writing and state the basis for such denial. Such decision shall be made within fifteen (15) business days of receipt of a complete application.

(d) Conditional Approval. If the proposed use is conditionally approved to satisfy the requirements of BCC 4.02.070(b), the applicant shall have six (6) months to satisfy the conditions.

(e) Appeal.

(1) Anyone aggrieved by the Planning Director's decision shall have fourteen (14) days from the date of decision to submit an appeal to the Board of County Commissioners. All appeals shall be in writing accompanied by a non-refundable fee as established by resolution of the Board of County Commissioners (Board) and shall be filed with the Benton County Planning Department. Said appeal is considered filed upon receipt.

(2) The Board shall conduct a public hearing to consider the appeal.

(3) Any appeal of the Board of Commissioners decision must be made in accordance with applicable state and local laws.

(f) Temporary Permit Upon Denial. Whenever an application for an adult use business permit is denied, upon request a temporary permit shall be issued if the business will be located in the Commercial District (C) as required by BCC 4.02.030(a). Such temporary permit shall terminate fourteen (14) days from the date of the Planning Directors decision to deny the application. Provided, if a timely appeal is filed in accordance with BCC 4.02.070(e), a temporary permit shall be issued that shall be valid until the administrative appeal and any timely judicial appeal is concluded.

(g) Continuation of Business Pending Appeal of Permit Suspension or Revocation. Whenever a request for appeal of a permit suspension or revocation is timely filed pursuant to BCC 4.02.070(e), a permittee may continue to operate the adult use business for which the permit was issued, pending the decision of the Benton County Planning and Building Department, or, if appealed, the Board of County Commissioners or a court of competent jurisdiction.

(h) Annual Fee. An annual fee for the Adult Use Business permit shall be established by resolution of the Board of Benton County Commissioners. The annual license will expire on December 31 of each year. The license must be renewed by January 1.
[Ord. 297 (1996) § 7; Ord. 356 (2000) § 1; Ord. 402 (2004) § 2; Ord. 504 (2011) § 4]

4.02.080 GENERAL REQUIREMENTS. All Adult Use Businesses located within the unincorporated parts of Benton 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.

[NOTE: This section is continued on the following page.]

(b) All state and local licenses required by law shall be posted and maintained in a conspicuous location on site.
[Ord. 297 (1996) 8]

4.02.090 LIGHTING REQUIREMENTS. All Adult Use Businesses located within the unincorporated parts of Benton 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 lux/3 footcandles 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 BCC 4.02.140.
[Ord. 297 (1996) 9]

4.02.100 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 chapter;

(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 premises;

(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 Benton 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, and
- (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.

(b) An owner and also an operator shall be responsible for the provisions of BCC 4.02.100(a)(1), BCC 4.02.100(a)(3), and BCC 4.02.100(a)(5).
[Ord. 297 (1996) 10]

4.02.110 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 BCC 4.02.100.

(b) ensure that all Live Adult Entertainment is performed on a stage. The stage must be at least eighteen (18) inches above the immediate floor level and be at least six (6) feet away from the nearest patron, and have 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.
[Ord. 297 (1996) 11]

**4.02.120 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 Benton County Planning and Building 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 Benton County Planning and Building 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; or

(5) any other picture identification issued by a governmental 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 Benton 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 Benton County Planning Department shall not transfer the license to another, nor shall a license holder alter the license in any way.

(g) Incomplete Application. If an application is determined to be incomplete, the applicant shall be notified in writing within ten (10) business days of receipt of the application of the additional information that is required for a complete submittal. If the applicant either refuses in writing to submit additional information or does not submit the required additional information within thirty (30) days, the application shall lapse.

(h) Temporary License. Upon receipt of a complete application and fee, the applicant shall be issued a temporary license that will expire upon the earlier of (1) fifteen (15) business days from receipt of a complete application; or (2) the decision on the license by the Benton County Planning Director.

(i) Investigation. The Benton County Planning Department, upon presentation of an application and before acting upon the same, shall refer such application to the Benton County Sheriff's Office. The Sheriff's office shall make a full investigation as to the truth of the statements contained therein and provide a written report to the Benton County Planning Department.

(j) Change of Identity. If the legal name of the manager or entertainer licensed by the Benton County Planning Department changes, or if they intend to perform under any stage name or alias not disclosed in their application, notice shall be provided in writing to the department within fourteen (14) days of said change of name.

(k) License Inspection. A manager or entertainer licensed by the Benton County Planning Department shall make the license available for inspection upon the request of law enforcement officers or the Benton County Code Enforcement Officer for the purposes of ensuring compliance with the law.

(l) Decision on License. It shall be grounds for denial of a license if any of the grounds for revocation exist under BCC 4.02.130(b). If no such grounds exist, a license shall be issued within fifteen (15) business days of receipt of a complete application. The license shall expire on December 31 of that year and must be renewed by January 1.

(m) Appeal. Decisions regarding licensing under this chapter are subject to appeal as follows:

(1) Anyone aggrieved by the Planning Director's decision shall have fourteen (14) days from the date of decision to submit an appeal to the Board of County Commissioners (Board). All appeals shall be in writing accompanied by a non-refundable fee as established by resolution of the Board and shall be filed with the Benton County Planning Department. Said appeal is considered filed upon receipt.

[NOTE: This section is continued on the following page.]

(2) The Board shall conduct a public hearing to consider the appeal.

(3) Any appeal of the Board's decision must be made in accordance with applicable state and local laws.

(n) Continuation of Employment Pending Appeal. Whenever a request for appeal of a denial to issue or renew a license, a license suspension, or a license revocation is timely filed pursuant to BCC 4.02.120(m), an applicant shall be issued a temporary license for the activity for which the license is required pending the appeal.
[Ord. 297 (1996) 12; Ord. 356 (2000) § 2; Ord. 402 (2004) § 3; Ord. 504 (2011) § 5]

4.02.130 PERMITS AND LICENSES--SUSPENSION OR REVOCATION. The Benton County Planning Department has the authority to suspend or revoke an Adult Use Business permit or an employee's license.

(a) The Benton County Planning and Building Department shall suspend a business permit, a manager's license, or an entertainer's license for a period of thirty (30) days if it determines that an owner of or an employee of an Adult Use Business:

(1) refused to allow an inspection of the Adult Use Business premises as authorized by this chapter;

(2) has a currently suspended Adult Use Business permit or license in any jurisdiction within the State of Washington; or

(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 Benton County 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 permit 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;

(5) knowingly allowed any act defined herein as "specified sexual activity" to occur in or on the adult use business premises; or

(6) is operating under any circumstances that would be sufficient to warrant denial of the business permit under BCC 4.02.070(b).

[Ord. 297 (1996) 13; Ord. 356 (2000) § 3; Ord. 504 (2011) § 6]

4.02.140 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 be allowed in the theater, either by patrons or employees or both.

(c) Full house lights must meet the requirements of BCC 4.02.090(a) and must come on for at least ten (10) minutes at the end of each feature.

[Ord. 297 (1996) 14]

4.02.150 THEATERS--ADULT PANORAM THEATERS. Every Adult Panoram 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.

[NOTE: This section is continued on the following page.]

(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 from at least one (1) of the manager's stations. The view must be in direct line of sight from the manager's station.

(d) It shall be the duty of the owners and manager, and it shall also be the duty of any employees 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.

[Ord. 297 (1996) 15]

4.02.160 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 simulates "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.

[Ord. 297 (1996) 16]

4.02.170 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 BENTON COUNTY
BCC _____

ENTERTAINERS ARE:

1. not permitted to engage in any type of sexual conduct;
2. not permitted to be unclothed or in such less than opaque and complete attire, costume or clothing so as to expose to view any portion of the breast below the top of the areola, any portion of the pubic region, buttocks, genitals or vulva and/or anus except upon a stage at least eighteen (18) inches from the immediate floor level and removed at least six (6) feet from the nearest patron; and
3. 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 business hours or after hours, either by employees, entertainers, or patrons.
[Ord. 297 (1996) 17]

4.02.180 VIOLATIONS - PENALTIES. Any person convicted of a violation of any provision of this chapter 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 chapter is declared to be a public nuisance, per se, which shall be abated by the Prosecuting Attorney by way of civil abatement procedures.
[Ord. 297 (1996) 18]

4.02.190 PROHIBITED ACTIONS. Nothing in this chapter is intended to authorize, legalize, or permit the establishment, operation, or maintenance of any business, building, or use which violates any Benton 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.
[Ord. 297 (1996) 19]

4.02.200 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.
[Ord. 297 (1996) 20]

4.02.210 EFFECTIVE DATE. This chapter shall take effect and be in full force upon its passage and adoption.
[Ord. 297 (1996) 21]

4.02.220 EFFECTIVE DATE. Ordinance 504 shall take effect and be in full force on September 1, 2011.
[Ord. 504 (2011) § 8]