

ORDINANCE NO. 1062 AN AMENDMENT TO ORDINANCE NO. 943
AN ORDINANCE CONCERNING BUSINESS LICENSE REGULATIONS
ADDING ADULT ENTERTAINMENT REGULATIONS

SECTION 11. Specific Requirements.

Amendment adding:

(8) ADULT ENTERTAINMENT

Purpose

It is recognized that the presence of certain “adult businesses” within the community of Rainier Oregon may result in adverse social and economic impacts, increased crime incidents, and physical deterioration in the general areas of such businesses. It is evident that regulations applicable to adult businesses are necessary to preserve the integrity of existing commercial areas of the city, and to protect the character, safety and stability of residential areas that are in close proximity to such commercial areas. The purpose of this section is to establish regulations applicable to adult businesses, as defined in the Oregon Revised Statutes and in *Definitions Section* of this chapter.

Definitions

For the purposes of this chapter:

- (a) “Adult arcade” means a place to which the public is permitted or invited in which coin-operated, slug-operated, or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.
- (b) “Adult bookstore” means an establishment having a substantial or significant portion of its stock-in-trade in books, magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or related to specified sexual activities or specified anatomical areas.
- (c) “Adult mini-motion picture theater” means an enclosed building with a capacity for less than fifty persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or related to specified sexual activities or specified anatomical areas for observation by patrons therein.
- (d) “Adult motel” means a hotel, motel, or similar commercial establishment that (1) offers accommodations to the public for any form of consideration and provides patrons with closed-circuit

television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas, and has a sign visible from a public right-of-way that advertises the availability of this adult type of photographic reproduction; (2) offers a sleeping room for rent for a period of time that is less than ten hours; or (3) allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten hours.

(e) "Adult motion picture theater" means an enclosed building with a capacity of fifty or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

(f) "Adult novelty store" means an establishment having a substantial or significant portion of its stock-in-trade in books, magazines, periodicals and/or video tapes which are distinguished or characterized by their emphasis on matter depicting, describing or related to specified sexual activities, or specified anatomical areas and/or products and novelties which are distinguished or characterized by their emphasis on sexual arousal and/or aids to sexual stimulation.

(g) "Auditor" means the Columbia County auditor.

(h) "Cabaret" means an adult club, restaurant, theater, hall or similar place which features topless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators or similar entertainers exhibiting specified anatomical areas or performing specified sexual activities.

(i) "Department" means the City of Rainier.

(j) "Escort agency" means a person or business association that furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

(k) "Health District" means the Columbia County health district.

(l) "Sexual encounter center" means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration: (1) physical contact in the form of wrestling or tumbling between persons of the opposite sex; or (2) activities between male and female persons or persons of the same sex when one or more of the persons is in a state of nudity or seminude.

(m) "Specified anatomical areas" means:

(1) Less than completely and opaquely covered:

(A) Human genitals, pubic region;

(B) Buttocks; and

(C) Female breasts below a point immediately above the top of the areola; and

(2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(n) "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; 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 the criminal or penal 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; or

(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 has no effect on the disqualification of the applicant.

(o) "Specified sexual activities" means:

(1) Human genitals in a state of sexual stimulation or arousal;

(2) Acts of human masturbation, sexual intercourse or sodomy; and

(3) Fondling or other erotic touching of human genitals, pubic region, buttocks or female breasts.

Designation of adult entertainment uses

The following uses are designated as adult entertainment uses:

(a) Adult arcade;

(b) Adult bookstore;

(c) Adult mini-motion picture theater;

- (d) Adult motel;
- (e) Adult motion picture theater;
- (f) Adult novelty store;
- (g) Cabaret;
- (h) Escort agency; and
- (i) Sexual encounter center.

Regulations and Restrictions on adult entertainment uses

In addition to complying with the other sections of the Zoning Ordinance, adult entertainment uses shall only be permitted in the regional commercial (RC), urban commercial (UC) and highway/tourist commercial (HTC) zones within the city and shall not be permitted:

- (a) Within one thousand feet of any other existing adult entertainment use; and/or
- (b) Within one thousand feet of any rural or residential zone, or any of the following residentially related uses:
 - (1) Churches, monasteries, chapels, synagogues, convents, rectories or church-operated camps;
 - (2) Schools, up to and including the twelfth grade and their adjunct play areas;
 - (3) Public playgrounds, public swimming pools, public parks and public libraries;
 - (4) Licensed day care centers;
 - (5) Any other public facility or private business whose principal function is providing services, programs, activities or materials for minors.
- (c) For the purposes of this section, spacing distances shall be measured as follows:
 - (1) From all property lines of any adult entertainment use;
 - (2) From the outward boundary line of all noncommercial zoning districts;
 - (3) From all property lines of any residentially related use in subsections (b)(1) through (b)(3) of this section.
- (d) The planning commission may, at its discretion, conduct a poll or survey of residents and property owners in the vicinity of a proposed adult business if such poll or survey is determined to be necessary to adequately assess the social, economic or other impacts of the proposed adult business.

Signage for adult entertainment uses

(a) In addition to other provisions relating to signage in the Zoning Ordinance, it is unlawful for the owner or operator of any adult entertainment use establishment or any other person to erect, construct or maintain any sign for the adult entertainment use establishment other than one primary sign and one secondary sign, as provided in this section.

(b) Primary signs shall have no more than two display surfaces. Each such display surface shall:

- (1) Be a flat plane, rectangular in shape;
- (2) Not exceed seventy-five square feet in area; and
- (3) Not exceed ten feet in height or ten feet in length.

(c) Primary signs shall contain no photographs, silhouettes, drawings or pictorial representations of any manner, and may contain only:

- (1) The name of the regulated establishment; and/or
- (2) One or more of the following phrases:

- (a) "Adult bookstore,"
- (b) "Adult movie theater,"
- (c) "Adult cabaret,"
- (d) "Adult novelties,"
- (e) "Adult entertainment."

(3) Primary signs for adult movie theaters may contain the additional phrase, "Movie Titles Posted on Premises."

(d) Each letter forming a word on a primary sign shall be of a solid color, and each such letter shall be the same print-type, size and color. The background behind such lettering on the display surface of a primary sign shall be of a uniform and solid color.

(e) Secondary signs shall have only one display surface. Such display surface shall:

- (1) Be a flat plane, rectangular in shape;
- (2) Not exceed twenty square feet in area;
- (3) Not exceed five feet in height and four feet in width; and

(4) Be affixed or attached to any wall or door of the establishment.

(f) The provisions of subsections (c) and (d) of this section shall also apply to secondary signs.

Adult entertainment business license

No person, firm, partnership, corporation or other entity shall operate, conduct or finance an adult entertainment business without a valid adult entertainment business license issued by the department.

Adult entertainment business license – Application, issuance

(a) Application for adult entertainment business licenses shall be made to the City.

(b) An application for adult entertainment business license shall be verified and shall contain or set forth the following information:

(1) The name, address, telephone number, and age of the applicant;

(2) The business name, business address, and business telephone number of the establishment or proposed establishment;

(3) Whether the business or proposed business is the undertaking of a sole proprietorship, partnership, limited liability corporation or other corporation. If a sole proprietorship, the application shall set forth the name, address, telephone number, and age of the sole proprietor. If a partnership, the application shall set forth the names, address, telephone numbers, and respective ownership shares of each partner, whether general, limited, or silent. If a corporation, the application shall set forth its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of Washington state, the names and capacity of all officers, directors, and principal stockholders, and the name of the registered corporate agent and the address of the registered office for service of process;

(4) The names, addresses, and telephone number of every person, partnership, or corporation having any interest in the real or personal property utilized or to be utilized by the business or proposed business;

(5) Whether the applicant or anyone having an interest in the business or proposed business, or anyone having an interest in the real or personal property utilized or to be utilized by the business or proposed business has ever been convicted of any specified criminal activity as defined in this chapter, and, if so, the application shall state the person involved, the charge, date, court and disposition of the charge.

(c) Applications shall be accompanied by a nonrefundable **fee \$100.00** dollars.

(d) Within five days of receipt of an application for adult entertainment business license, the Department shall transmit copies of such application to the Police department.

- (e) Within twenty days of receipt of a copy of such license application the following shall occur:
- (1) The Police Chief shall conduct an investigation to determine whether the information contained in the application regarding convictions for specified criminal activity is true and accurate. The Police Chief shall thereafter report such findings to the department;
 - (2) The department shall visit the premises and shall determine if the use or proposed use of the premises is in conformity with the City of Rainier Zoning Ordinance and if the buildings upon the premises meet the requirements of the building, fire, mechanical, and plumbing codes;
 - (3) The department shall request that the health district visit the premises and determine if the premises and buildings thereon meet the requirements of all laws regarding potable water and the disposal of sewage and solid waste and report its findings to the department.
- (f) Once the department has received the reports mentioned in subsections (e)(1), (e)(2), and (e)(3) of Section [10.52.060](#), the department shall determine the following:
- (1) Whether the applicant or anyone having an interest in the business or proposed business, or anyone having an interest in the real or personal property utilized or to be utilized by the business or proposed business has been convicted of any specified criminal activity as defined in this chapter;
 - (2) Whether the use or proposed use of the premises is in conformity with the Kitsap County Zoning Ordinance and the buildings upon the premises meet the requirements of the building, fire, plumbing, and mechanical codes;
 - (3) Whether the premises and buildings thereon meet the requirements of all laws regarding potable water and the disposal of sewage and solid waste.
- (g) If the department determines that: (1) Neither the applicant nor anyone having an interest in the business or any real or personal property utilized or to be utilized by the proposed business has been convicted of any specified criminal activity as defined in this chapter; (2) that the proposed use of the premises conforms with the Columbia County Zoning Ordinance and the buildings thereon meet the requirements of the building, fire, plumbing, and mechanical codes; and (3) that the premises and buildings thereon meet the requirements of all laws regarding potable water and the disposal of sewage and solid waste, then the department shall issue an adult entertainment business license which shall be valid, unless sooner revoked, for a period of one year.
- (h) All decisions of the department shall be final unless review is sought by filing an action in a court of competent jurisdiction within ten days of the department's decision or as otherwise provided by the laws of this state.

Adult entertainment business license – Renewal, revocation

(a) An adult entertainment business license may be renewed by following the application procedure set forth in the *Adult entertainment business license – Application, issuance Section* , provided, a renewal application shall specifically state whether those persons mentioned in the *Adult entertainment business license – Application, issuance Section* (b) and whether any persons presently employed by the licensee or who have been employed by the licensee at any time since a date ten days after the effective date of the ordinance codified in this chapter have been convicted of any specified criminal activity as defined in this chapter; and; provided further, the department shall not renew an adult entertainment business license if those persons mentioned in *Adult entertainment business license – Application, issuance Section* (b) or any persons presently or previously employed have been convicted of any specified criminal activity as defined in this chapter.

(b) Any person may file with the department a petition to revoke an adult entertainment business license. Such petition shall state the grounds for which revocation is sought. Upon receipt of such a petition, the department shall conduct a departmental investigation to determine the merits of the petition. The department shall give the adult entertainment business licensee written notice of such investigation by mailing such notice to the licensee's address as contained in the most recent application. Such notice shall be given no less than five days prior to the formal review.

(c) The department shall revoke an adult entertainment business license if it finds any of the following:

(1) That one or more of the conditions specified in the *Adult entertainment business license – Application, issuance Section* (g) is not now being met;

(2) That one or more of those persons mentioned in the *Adult entertainment business license – Application, issuance Section* (b)(5) or persons presently employed by the licensee or who have been employed by the licensee at any time since a date ten days after the effective date of the ordinance codified in this chapter have been convicted of any specified criminal activity as defined in this chapter;

(3) That the licensee gave false or misleading information in the material submitted during the application process.

(d) All decisions of the department shall be final unless review is sought by filing an action in a court of competent jurisdiction within ten days of the department's decision or as otherwise provided by the laws of this state.

(e) Whenever a timely request for appeal of a denial to renew a license, license suspension, or license revocation is filed with a court of competent jurisdiction, a licensee may engage in the activity for which the license was required, pending a decision from 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 court.

Adult entertainment business regulations

- (a) No person, firm, partnership, corporation, or other entity shall advertise, or cause to be advertised, an adult entertainment business without a valid adult entertainment business license issued pursuant to this chapter.
- (b) No later than the first day of March of each year an adult entertainment business licensee shall file a verified report with the City showing the licensee's gross receipts for the preceding calendar year.
- (c) An adult entertainment business licensee shall maintain and retain for a period of at least two years the names, addresses, and ages of all persons employed by the licensee.
- (d) No adult entertainment business licensee shall employ a person under the age of eighteen years.
- (e) No adult entertainment business licensee shall allow any person under the age of eighteen years to enter the licensee's premises.
- (f) An adult entertainment business licensee shall be closed between 10:00 p.m. and 8:00 a.m.
- (g) No adult entertainment business licensee shall serve, sell, distribute, or suffer the consumption or possession of any intoxicating liquor or controlled substance upon the premises of the licensee.
- (h) No adult entertainment business licensee shall utilize or have any scheme or device whereby any employee or customer is or can be warned or advised that an inspection by law enforcement officials is occurring or is about to occur.
- (i) An adult entertainment business licensee shall conspicuously display all licenses required by this chapter.

Nuisance declared.

Any activity, act, or conduct contrary to the provisions of this chapter is hereby declared to be unlawful and a public nuisance and such activity, act, or conduct may be enjoined by an action brought by the prosecuting attorney or any other interested person.

10.52.100 Inspections

- (a) All books and records required to be kept pursuant to this chapter by an adult entertainment business shall be open to inspection by the sheriff, prosecuting attorney, or agents thereof during the hours when the adult entertainment business is open for business upon two days' written notice to the adult entertainment business licensee. The purpose of such inspection shall be to determine if the books and records meet the requirements of this chapter.
- (b) The premises and facilities upon which an adult entertainment business is conducted shall be open to inspection by the sheriff, prosecuting attorney, or agents thereof during the hours when the adult entertainment business is open for business. The purpose of such inspection shall be to determine if the adult entertainment business is operated in accordance with the requirements of this chapter. It is expressly declared that unannounced inspections are necessary to ensure compliance with this chapter.

(c) The premises and facilities upon which an adult entertainment business is conducted shall be open to inspection by agents, employees, or representatives of the health district when the adult entertainment business is open for business. The purpose of such inspection shall be to determine if the adult entertainment business is operated in accordance with *Adult entertainment business license – Application, issuance Section, Adult entertainment business license – Renewal, revocation Section and Adult entertainment business regulations Section of this chapter*. It is expressly declared that unannounced inspections are necessary to ensure compliance with the aforementioned sections of this chapter.

(d) For the purposes of this section, no visit to an adult entertainment business by any undercover operative of Police Department or prosecuting attorney shall be deemed to be an inspection.

10.52.110 Penalty

Any person, firm, or corporation violating any provision of this chapter shall be guilty of a misdemeanor and each such person, firm, or corporation shall be deemed guilty of a separate offense for each and every day during which any violation is committed, continued, or permitted and upon conviction of any such violation such person, firm, or corporation shall be punished by a fine of not more than two hundred fifty dollars or by imprisonment for not more than ninety days, or by both such fine and imprisonment; provided, no person shall be deemed guilty of any violation of this chapter if acting in an investigative capacity pursuant to the request or order of the sheriff or prosecuting attorney or duly appointed agent thereof.