

Notice of Saunders County Zoning Amendments Adopted:

At the November 3, 2015 Saunders County Board of Supervisors Meeting, the following resolution was adopted:

**Resolution #30-2015
A RESOLUTION AMENDING PROVISIONS OF THE ZONING REGULATIONS OF
SAUNDERS COUNTY, NEBRASKA REGULATING ADULT ESTABLISHMENTS.**

WHEREAS, adult establishments require special supervision from the public safety agencies of the County in order to protect and preserve the health, safety, and welfare of the patrons of such businesses as well as the citizens of the County; and

WHEREAS, the Board of Supervisors finds that adult establishments, as a category of establishments, are frequently used for unlawful sexual activities, including prostitution and sexual liaisons of a casual nature; and

WHEREAS, there is convincing documented evidence that adult establishments, as a category of establishments, have deleterious secondary effects and are often associated with crime and adverse effects on surrounding properties; and

WHEREAS, the Board of Supervisors desires to minimize and control these adverse effects and thereby protect the health, safety, and welfare of the citizenry; protect the citizens from crime; preserve the quality of life; preserve the character of surrounding areas and deter the spread of blight; and

WHEREAS, the County recognizes its constitutional duty to interpret and construe its laws to comply with constitutional requirements as they are announced; and

WHEREAS, with the passage of any resolution, the County and the Board of Supervisors accept as binding the applicability of general principles of criminal and civil law and procedure and the rights and obligations under the United States and Nebraska Constitutions, Nebraska Statutes, and the Nebraska Rules of Civil and Criminal Procedure; and

WHEREAS, it is not the intent of this resolution to suppress any speech activities protected by the U.S. Constitution or the Nebraska Constitution, but to enact legislation to further the content-neutral governmental interests of the County, to wit, the controlling of secondary effects of adult establishments; and

WHEREAS, the proposed amendments are consistent with the Saunders County Comprehensive Development Plan, and

WHEREAS, the Public Notice setting forth the Notice of Public Hearing by the Saunders County Planning Commission on the amendments incorporated herein, was published in the Wahoo Newspaper on Thursday September 24, 2015, and

WHEREAS, the Planning Commission held a public hearing on the amendments incorporated herein on October 5, 2015, and upon motion at such meeting after the public hearing, voted 5 in favor, 0 against, and 2 absent to recommend that the County Board adopt the proposed amendments, and

WHEREAS, at the regular meeting of the Saunders County Board of Supervisors held on October 13, 2015, the written Report and Recommendation of the Planning Commission regarding this matter was submitted to and received by the County Board, and the County Board agrees with and adopts the same findings as outlined in such Report, and

WHEREAS, the Public Notice setting forth a Notice of Public Hearing to be held before the Saunders County Board of Supervisors on November 3, 2015, regarding the amendments incorporated herein, was published in the Wahoo Newspaper and the Ashland Gazette on October 22, 2015, and

WHEREAS, the Saunders County Board of Supervisors held a public hearing on the amendments incorporated herein on November 3, 2015, opening at 9:48 a.m. and closing at 9:58 a.m., and

WHEREAS, the amendments are as set forth specifically below and incorporated herewith by reference. The amendments relate primarily to adult establishments, including opening of the TA-1 district to adult establishments, and making adult establishments a permitted land use in certain districts, subject to a new section of regulations, and definitional section changes. The amendments affect the following articles and sections of the regulations: Section 1.03, specifically subsections 1.03.05 through 1.03.13 (definitional sections relating to adult establishments), 1.03.131 (definition of Specified Anatomical Areas), and 1.03.131 (definition of Specified Sexual Activities); Sections 6.02.01 and 6.02.02 (TA-1 Transitional Agricultural District); Section 6.09 (I-1 Light Industrial District), specifically subsections 6.09.01, 6.09.02, and 6.09.03 (paragraph 27); Section 6.10 (I-2 General Industrial District), specifically subsections 6.10.01, 6.10.02, and 6.10.03 (paragraph 38); Section 9.03 (Schedule of Minimum Off-Street Parking and Loading Requirements, Uses); Article 13 (Severability); and Sections 4.05.04 and 6.12 (relating to penalties); add a new Section 9.13 on Adult Establishment Regulations; correct section number 12.01 to 11.01, and change the notice provision in the second paragraph of section 11.01 to be more specific.

WHEREAS, at the public hearing held before the County Board on November 3, 2015:

- No one appeared to oppose said amendments
- Individuals appeared to oppose said amendments
- No one appeared to support said amendments
- Individuals appeared to support said amendments
- Individuals appeared without commitment of said amendments,

NOW, THEREFORE, BE IT RESOLVED AND ORDAINED by the Saunders County Board of Supervisors that the Saunders County Nebraska Zoning Resolution No. 13-2015, be amended as follows:

Item 1:

That Section 1.03 Definitions of Terms be amended by repealing the definitions in subsections 103.05 through 1.03.13, 1.03.131(Specified Anatomical Areas), and 1.03.131(Specified Sexual Activities); that the following new definitions be adopted; and that the subsections of Section 1.03 be renumbered accordingly:

ADULT ARCADE shall mean a commercial establishment to which the public is permitted or invited that maintains booths or rooms smaller than 100 square feet, wherein image-producing devices are regularly maintained, where a fee is charged to access the booths or rooms, and where minors are excluded from the booths or rooms by reason of age.

ADULT BOOKSTORE shall mean a commercial establishment which, as one of its principal business activities, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other

visual representations which are characterized by their emphasis upon the display of “specified sexual activities” or “specified anatomical areas.” A “principal business activity” exists where the commercial establishment meets any one or more of the following criteria:

1. At least 35% of the establishment’s displayed merchandise consists of said items, or
2. At least 35% of the establishment’s revenues derive from the sale or rental, for any form of consideration, of said items, or
3. The establishment maintains at least 35% of its floor area for the display, sale, and/or rental of said items; or
4. The establishment maintains at least seven hundred fifty square feet (750 sq. ft.) of its floor area for the display, sale, and/or rental of said items.

ADULT ESTABLISHMENT shall mean an “adult arcade,” an “adult bookstore,” an “adult motion picture theater,” a “semi-nude lounge,” or a “sex paraphernalia store.”

ADULT MOTION PICTURE THEATER shall mean a commercial establishment to which the public is permitted or invited that maintains viewing rooms that are 100 square feet or larger wherein films or videos characterized by their emphasis upon “specified sexual activities” or “specified anatomical areas” are regularly shown.

CHARACTERIZED BY shall mean describing the essential character or quality of an item. As applied to adult establishments, no business shall be classified as an adult establishment by virtue of showing, selling, or renting materials rated NC-17 or R by the Motion Picture Association of America.

EMPLOYEE OF AN ADULT ESTABLISHMENT shall mean any person who works on the premises of an adult establishment, on a full time, part time, or contract basis, regardless of whether the person is denominated an employee, independent contractor, agent, lessee, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

NUDITY OR NUDE CONDUCT shall mean the showing of the human male or female genitals, pubic area, vulva, or anus with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.

OPERATOR OF ADULT ESTABLISHMENT shall mean any person on the premises of an adult establishment who manages, supervises, or controls the business or a portion thereof. A person may be found to be an operator regardless of whether such person is an owner or part owner, of the business.

SEMI-NUDE OR SEMI-NUDITY shall mean the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition shall include the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.

SEMI-NUDE LOUNGE shall mean a nightclub, juice bar, restaurant, bottle club, or similar commercial establishment that regularly offers live semi-nude conduct. No establishment shall avoid classification as a semi-nude lounge by offering nude conduct.

SEXUAL DEVICE shall mean any three (3) dimensional object designed for stimulation of the male or female human genitals, anus, buttocks, female breast, or for sadomasochistic use or abuse of oneself or others and shall include devices commonly known as dildos, vibrators, penis pumps, cock rings, anal beads, butt plugs, nipple clamps, and physical representations of the human genital organs. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

SEX PARAPHERNALIA STORE shall mean a commercial establishment that regularly offers 100 or more sexual devices for sale. This definition shall not be construed to include any establishment located within an enclosed regional shopping mall or any establishment primarily dedicated to providing medical products.

SPECIFIED ANATOMICAL AREAS shall mean less than completely and opaquely covered human genitals, pubic region, buttock, and/or female breast below a point immediately above the top of the areola.

SPECIFIED SEXUAL ACTIVITIES shall mean intercourse, oral copulation, masturbation or sodomy.

VIEWING ROOM shall mean the room or booth where a patron of an adult establishment would ordinarily be positioned while watching a film, videocassette, digital video disc, or other video on an image-producing device.

Item 2:

That Article 9: Supplemental Regulations, be amended to add a new subsection 9.13 as follows:

Section 9.13 Adult Establishment Regulations

Section 9.13.01 Purpose; Findings and Rationale

1. *Purpose.* It is the purpose of this resolution to regulate adult establishments in order to promote the health, safety, and general welfare of the citizens of the County, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of adult establishments within the County. The provisions of this resolution have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this resolution to restrict or

deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this resolution to condone or legitimize the distribution of obscene material.

2. *Findings and Rationale.* Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the Board of Supervisors, and on findings, interpretations, and narrowing constructions incorporated in the cases of *City of Littleton v. Z.J. Gifts D-4, L.L.C.*, 541 U.S. 774 (2004); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *City of Erie v. Pap's A.M.*, 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 427 U.S. 50 (1976); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); *N.Y. State Liquor Authority v. Bellanca*, 452 U.S. 714 (1981); *Sewell v. Georgia*, 435 U.S. 982 (1978); *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215 (1990); *City of Dallas v. Stanglin*, 490 U.S. 19 (1989); and

Farkas v. Miller, 151 F.3d 900 (8th Cir. 1998); *Jakes, Ltd. v. City of Coates*, 284 F.3d 884 (8th Cir. 2002); *BZAPS, Inc. v. City of Mankato*, 268 F.3d 603 (8th Cir. 2001); *SOB, Inc. v. County of Benton*, 317 F.3d 856 (8th Cir. 2003); *Scope Pictures v. City of Kansas City*, 140 F.3d 1201 (8th Cir. 1998); *ILQ Invs. v. City of Rochester*, 25 F.3d 1413 (8th Cir. 1994); *City of Lincoln v. ABC Books, Inc.*, 470 N.W.2d 760 (Neb. 1991); *Xiong v. City of Moorhead*, 2009 WL 322217 (D. Minn. Feb. 2, 2009); *Entm't Prods., Inc. v. Shelby County*, 721 F.3d 729 (6th Cir. 2013); *Lund v. City of Fall River*, 714 F.3d 65 (1st Cir. 2013); *Imaginary Images, Inc. v. Evans*, 612 F.3d 736 (4th Cir. 2010); *LLEH, Inc. v. Wichita County*, 289 F.3d 358 (5th Cir. 2002); *Ocello v. Koster*, 354 S.W.3d 187 (Mo. 2011); *84 Video/Newsstand, Inc. v. Sartini*, 2011 WL 3904097 (6th Cir. Sept. 7, 2011); *Plaza Group Properties, LLC v. Spencer County Plan Commission*, 877 N.E.2d 877 (Ind. Ct. App. 2007); *Flanigan's Enters., Inc. v. Fulton County*, 596 F.3d 1265 (11th Cir. 2010); *East Brooks Books, Inc. v. Shelby County*, 588 F.3d 360 (6th Cir. 2009); *Entm't Prods., Inc. v. Shelby County*, 588 F.3d 372 (6th Cir. 2009); *Sensations, Inc. v. City of Grand Rapids*, 526 F.3d 291 (6th Cir. 2008); *World Wide Video of Washington, Inc. v. City of Spokane*, 368 F.3d 1186 (9th Cir. 2004); *Ben's Bar, Inc. v. Village of Somerset*, 316 F.3d 702 (7th Cir. 2003); *Peek-a-Boo Lounge v. Manatee County*, 630 F.3d 1346 (11th Cir. 2011); *Daytona Grand, Inc. v. City of Daytona Beach*, 490 F.3d 860 (11th Cir. 2007); *Heideman v. South Salt Lake City*, 348 F.3d 1182 (10th Cir. 2003); *Williams v. Morgan*, 478 F.3d 1316 (11th Cir. 2007); *Jacksonville Property Rights Ass'n, Inc. v. City of Jacksonville*, 635 F.3d 1266 (11th Cir. 2011); *H&A Land Corp. v. City of Kennedale*, 480 F.3d 336 (5th Cir. 2007); *Hang On, Inc. v. City of Arlington*, 65 F.3d 1248 (5th Cir. 1995); *Fantasy Ranch, Inc. v. City of Arlington*, 459 F.3d 546 (5th Cir. 2006); *Illinois One News, Inc. v. City of Marshall*, 477 F.3d 461 (7th Cir. 2007); *G.M. Enterprises, Inc. v. Town of St. Joseph*, 350 F.3d 631 (7th Cir. 2003); *Richland Bookmart, Inc. v. Knox County*, 555 F.3d 512 (6th Cir. 2009); *Bigg Wolf Discount Video Movie Sales, Inc. v. Montgomery County*, 256 F. Supp. 2d 385 (D. Md. 2003); *Richland Bookmart, Inc. v. Nichols*, 137 F.3d 435 (6th Cir. 1998); *Spokane Arcade, Inc. v. City of Spokane*, 75 F.3d 663 (9th Cir. 1996); *DCR, Inc. v. Pierce County*, 964 P.2d 380 (Wash. Ct. App. 1998); *City of New York v. Hommes*, 724 N.E.2d 368 (N.Y. 1999); *Taylor v. State*, No. 01-01-00505-CR, 2002 WL 1722154 (Tex. App. July 25, 2002); *Fantasyland Video, Inc. v. County of San Diego*, 505 F.3d 996 (9th Cir. 2007); *Gammoh v. City of La Habra*, 395 F.3d 1114 (9th Cir. 2005); *Z.J. Gifts D-4, L.L.C. v. City of Littleton*, Civil Action No. 99-N-1696, Memorandum Decision and Order (D. Colo. March 31, 2001); *People ex rel. Deters v. The Lion's Den, Inc.*, Case No. 04-CH-26, Modified Permanent Injunction Order (Ill. Fourth Judicial Circuit, Effingham County, July 13, 2005); *Reliable Consultants, Inc. v. City of Kennedale*, No. 4:05-CV-166-A, Findings of Fact and Conclusions of Law (N.D. Tex. Dec. 26, 2005); *Major Liquors, Inc. v. City of Omaha*, 188 Neb. 628 (1972); *DLH Inc. v. Nebraska Liquor Control Commission*, 266 Neb. 361 (2003); *Village of Winslow v. Sheets*, 261 Neb. 203 (2001), and based upon reports concerning secondary effects occurring in and around adult establishments, including, but not limited to, "Correlates of Current Transactional Sex among a Sample of Female Exotic Dancers in Baltimore, MD," *Journal of Urban Health* (2011); "Does the Presence of Sexually Oriented Businesses Relate to Increased Levels of Crime? An Examination Using Spatial Analysis," *Crime & Delinquency* (2012) (Louisville, KY); *Metropolis, Illinois – 2011-12*; *Manatee County, Florida – 2007*; *Hillsborough County, Florida – 2006*; *Clarksville, Indiana – 2009*; *El Paso, Texas – 2008*; *Memphis, Tennessee – 2006*; *New Albany, Indiana – 2009*; *Louisville, Kentucky – 2004*; *Fulton County, GA – 2001*; *Chattanooga, Tennessee – 1999-2003*; *Jackson County, Missouri – 2008*; *Ft. Worth, Texas – 2004*; *Kennedale, Texas – 2005*; *Greensboro, North Carolina – 2003*; *Dallas, Texas – 1997*; *Houston, Texas – 1997, 1983*; *Phoenix, Arizona – 1995-98, 1979*; *Tucson, Arizona – 1990*; *Spokane, Washington – 2001*; *St. Cloud, Minnesota – 1994*; *Austin, Texas – 1986*; *Indianapolis, Indiana – 1984*; *Garden Grove, California – 1991*; *Los Angeles, California – 1977*; *Whittier, California – 1978*; *Oklahoma City, Oklahoma – 1986*; *New York, New York Times Square – 1994*; the Report of the Attorney General's Working Group On The Regulation Of Adult establishments, (June 6, 1989, State of Minnesota); *Dallas, Texas – 2007*; "Rural Hotspots: The Case of Adult Businesses," 19 *Criminal Justice Policy Review* 153 (2008); "Stripclubs According to Strippers: Exposing Workplace Sexual Violence," by Kelly Holsopple, Program Director, Freedom and Justice Center for Prostitution Resources, Minneapolis, Minnesota; "Adult establishments: An Insider's View," by David Sherman, presented to the Michigan House Committee on Ethics and Constitutional Law, Jan. 12, 2000; *Sex Store Statistics and Articles*; and *Law Enforcement and Private Investigator Affidavits (Adult Cabarets in Forest Park, GA and Sandy Springs, GA)*, McLeary and Weinstein; *Do "Off-Site Adult Businesses Have Secondary Effects? Legal Doctrine, Social Theory and Empirical Evidence, Law and Policy, Vol. 31, No. 2 (April 2009), Adult Business Study: Town and Village of Ellicottville, Cattaraugus County, New York (January 1998)*, the Board of Supervisors finds:

- a. Adult establishments, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation. Alcohol consumption impairs judgment and lowers inhibitions, thereby increasing the risk of adverse secondary effects.
- b. Adult establishments should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other adult establishments, to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of adult establishments in one area.
- c. Each of the foregoing negative secondary effects constitutes a harm which the County has a substantial government interest in preventing and/or abating. Additionally, the County's interest in regulating adult establishments extends to preventing future secondary effects of either current or future adult establishments that may locate in the County. The County finds that the cases and documentation relied on in this resolution are reasonably believed to be relevant to said secondary effects.

The Board hereby adopts and incorporates herein its stated findings and legislative record related to the adverse secondary effects of adult establishments, including the judicial opinions and reports related to such secondary effects.

Section 9.13.02 Regulations

1. No person shall establish, operate, or cause to be operated an adult establishment in Saunders County within:
 - a. 1,000 feet of another adult establishment;
 - b. 500 feet of a business licensed to sell alcohol at the premises; or
 - c. 1,000 feet of a residential district, residential use, residence, church, educational institution, park, or recreational facility.
 - d. For the purpose of this section, measurements shall be made in a straight line in all directions without regard to intervening structures or objects, from the closest part of the structure containing the adult establishment to the closest point on a property boundary of another adult establishment, a business licensed to sell alcohol at the premises, a residential district, a residential use, a residence, a church, an educational institution, park, or a recreational facility.
2. No adult establishment shall be or remain open for business between 12:00 midnight and 6:00 a.m. on any day.
3. No patron, employee of an adult establishment, or any other person shall knowingly or intentionally, in an adult establishment, appear in a state of nudity or engage in a specified sexual activity.
4. No person shall knowingly or intentionally, in an adult establishment, appear in a semi-nude condition unless the person is an employee of an adult establishment who, while semi-nude, remains at least six (6) feet from all patrons and on a stage at least eighteen (18) inches from the floor in a room of at least six hundred (600) square feet.
5. No employee of an adult establishment who appears semi-nude in an adult establishment shall knowingly or intentionally touch a customer or the clothing of a customer on the premises of an adult establishment. No customer shall knowingly or intentionally touch such an employee of an adult establishment or the clothing of such an employee of an adult establishment on the premises of an adult establishment.
6. No person shall possess alcoholic beverages on the premises of an adult establishment.
7. No person shall knowingly or recklessly allow a person under the age of eighteen (18) years to be or remain on the premises of an adult establishment.
8. No operator of an adult establishment shall knowingly or recklessly allow a room in the adult establishment to be simultaneously occupied by any patron and any employee of an adult establishment who is semi-nude or who appears semi-nude on the premises of the adult establishment, unless an operator of the adult establishment is present in the same room.
9. A person who operates or causes to be operated an adult establishment which exhibits in a booth or viewing room on the premises, through any mechanical or electronic image-producing device, a film, video cassette, digital video disc, or other video reproduction characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following requirements:
 - a. The operator of the adult establishment shall, within one week of opening the adult establishment for business, submit to the County Zoning Administrator a diagram of the premises showing the location of all operator's stations, booths or viewing rooms, overhead lighting fixtures, and restrooms, and shall designate all portions of the premises in which patrons will not be permitted. Restrooms shall not contain equipment for displaying films, video cassettes, digital video discs, or other video reproductions. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches.
 - b. It shall be the duty of the operator of the adult establishment, and of any employees of the adult establishment present on the premises, to ensure 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.
 - c. The interior premises 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 five (5.0) foot candles as measured at the floor level. It shall be the duty of the operator of an adult establishment, and of any employees of an adult establishment present on the premises, to ensure that the illumination described above is maintained at all times that the premises is occupied by patrons or open for business.
 - d. It shall be the duty of the operator of an adult establishment, and of any employees of an adult establishment present on the premises, to ensure that no specified sexual activity occurs in or on the premises.
 - e. It shall be the duty of the operator of an adult establishment to post conspicuous signs in well-lighted entry areas of the business stating all of the following:
 - i. That the occupancy of viewing rooms less than 100 square feet is limited to one person.
 - ii. That specified sexual activity on the premises is prohibited.
 - iii. That the making of openings between viewing rooms is prohibited.
 - iv. That violators will be required to leave the premises.
 - v. That violations of these regulations are unlawful.
 - f. It shall be the duty of the operator of an adult establishment to enforce the regulations articulated in e.i. through e.v. above.
 - g. The interior of the premises shall be configured in such a manner that there is an unobstructed view from an operator of the adult establishment's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose. An operator's station shall not exceed thirty-two (32) square feet of floor area. If the premises has two (2) or more operator's stations designated, then 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, excluding restrooms, from at least one of the operator's stations. The view required in this paragraph must be by direct line of sight from the operator's station. It is the duty of the operator of an adult establishment to ensure that at least one employee of an adult establishment is on duty and situated in each operator's station at all times that any patron is on the premises. It shall be the duty of the operator of an adult establishment, and it shall also be the duty of any employees of an adult establishment present on the premises, to ensure that the view area specified in this paragraph remains unobstructed by any doors, curtains, walls, merchandise, display racks or other materials or enclosures at all times that any patron is present on the premises.
 - h. It shall be the duty of the operator of an adult establishment to ensure that no porous materials are used for any wall, floor, or seat in any booth or viewing room.
 - i. It shall be unlawful for a person having a duty under subsections 11.a. through 11.h above to knowingly or recklessly fail to fulfill that duty.
 - j. No patron shall knowingly or recklessly enter or remain in a viewing room less than 100 square feet in area that is occupied by any other patron.

- k. No patron shall knowingly or recklessly be or remain within one foot of any other patron while in a viewing room that is 100 square feet or larger in area.
- l. No person shall knowingly or recklessly make any hole or opening between viewing rooms.
- 10. It shall be the duty of the operator of an adult establishment to ensure that the interior premises shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than five (5.0) foot candles as measured at the floor level and the illumination must be maintained at all times that any customer is present in or on the premises.
- 11. Unless a culpable mental state is otherwise specified herein, a showing of a reckless mental state shall be sufficient to establish a violation of a provision of this section 9.13.02.

Item 3:

That Section 6.02 TA-1 Transitional Agricultural District be amended as follows:

6.02.01 Intent

The intent of this district is to provide a transition from land used for agriculture to a low-density residential use and other urban development. Developments with common sewer and water may be developed more intensely. This district permits farm and non-farm dwellings, agricultural uses, and other permitted uses.

Adult Establishments are permitted uses in this Zoning District, but are regulated to control the negative secondary effects of these uses, as set forth in Article 9, Section 9.13.02.

6.02.02 Permitted Principal Uses and Structures

~~Uses within this section of the Resolution are permitted and allowed to exist upon the approval of a zoning permit from the County.~~

- 1. Farm, agriculture, and horticultural uses.
- 2. Single family dwelling, provided that:...

...

8. Adult Establishments.

Item 4:

That Section 6.09 I-1 Light Industrial District be amended as follows:

6.09.01 Intent

The intent of this district is to provide for industrial and certain commercial uses, which are capable of meeting specifications of relatively nuisance free performance.

~~Adult Businesses Establishments are regulated in order to control the Secondary effects associated with such uses and is not intended to prohibit these uses from exercising their rights under the U.S Constitution~~ are permitted uses in this Zoning District, but are regulated to control the negative secondary effects of these uses, as set forth in Article 9, Section 9.13.02.

6.09.02 Permitted Principal Uses and Structures

~~Uses within this section of the Resolution are permitted and allowed to exist upon the approval of a zoning permit from the County.~~

- 1. Farms for agricultural and horticultural projects.
- 2. Adult Establishments.

Item 5:

That Section 6.10 I-2 General Industrial District be amended as follows:

6.10.01 Intent

The intent of this district is to provide heavy industrial and commercial activities within the county with protection principally against effects harmful or incompatible with other districts.

~~Adult Businesses Establishments are regulated in order to control the Secondary effects associated with such uses and is not intended to prohibit these uses from exercising their rights under the U.S Constitution~~ are permitted uses in this Zoning District, but are regulated to control the negative secondary effects of these uses, as set forth in Article 9, Section 9.13.02.

6.10.02 Permitted Principal Uses and Structures

~~Uses within this section of the Resolution are permitted and allowed to exist upon the approval of a zoning permit from the County.~~

- 1. Farms for agricultural and horticultural projects.
- 2. Adult Establishments.

Item 6:

That Section 6.09.03 Conditional Uses, paragraph 27, including subsections (a) through (l) be repealed, and that the paragraphs under Section 6.09.03 be renumbered accordingly.

That Section 6.10.03 Conditional Uses, paragraph 38, including subsections (a) through (l) be repealed, and that the paragraphs under Section 6.10.03 be renumbered accordingly.

That Section 9.03 Schedule of Minimum Off-street Parking and Loading Requirements, Uses column, be amended so that the term "Adult entertainment establishments" is changed to the term "Adult Establishments."

Item 7:

That Article 13. Validity be repealed and replaced with the following new section:

Article 13. Severability

Each section and provision herein is hereby declared to be independent and, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision herein, or the application thereof to any person or circumstance is held to be invalid, the remaining sections or provisions, and the application of such sections and provisions to any person or circumstances other than those to which it is held invalid, shall not be affected thereby, and it is hereby declared that such sections and provisions would have been passed independently of such section or provision or application so known to be invalid.

Item 8:

That Article 4, Section 4.05.04 be repealed.

That Article 6, Section 6.12 F-1 Flood Plain District, paragraph I. Penalties for Violation, be repealed.

Item 9:

That the “Table of Contents” of the existing zoning regulations be renumbered and revised accordingly for consistency with all amendments contained herein.

Item 10:

That the section number 12.01 under Article 11 be corrected to 11.01.

That the second paragraph of Article 11, Section 11.01 be amended as follows:

When said amendment involves and proposes the rezoning of a parcel(s) of land, the County staff should send notice, by first-class mail, of the time and place of the Planning Commission’s public hearing, at least ~~fourteen (14)~~ ten (10) days before the public hearing, to the addresses in the County’s property tax files for all property owners and occupants within one (1) mile of the any parcel(s) specified in the proposed amendment. ~~shall be notified by mail of the impending action. The County will make every effort to notify all parties having an interest in the decision~~