

**MEETING NOTICE**

**TOWN OF LA CONNER PLANNING COMMISSION**

**Tuesday, April 4th, 2023 6:00 p.m.**

Location

Lower Maple Center

104 Commercial Street, La Conner, WA

And by Zoom

Information below and on the Town website (Zoom TBD)

Agenda

1. CONVENE
2. PUBLIC COMMENT (Topics not otherwise on the Agenda) – Time Limit 3 Minutes
3. MINUTES
  - Approve minutes from the March 21<sup>st</sup>, 2023 meeting
4. OLD BUSINESS
  - Status Report: 306 Center Street
  - Status Report: Public Participation Program
5. NEW BUSINESS
  - Development Code Updates: Adult Businesses
6. CLOSING COMMENTS

Zoom Information will be added at a later date due to technical difficulties.

# PLANNING COMMISSION MEETING

March 21st, 2023

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The meeting of the La Conner Planning Commission was called to order at 6:01 p.m. Commissioners present: Carol Hedlin, Bruce Bradburn, Marna Hanneman and John Leaver, Liz Theaker

Staff Present: Planner Michael Davolio, Assistant Planner Ajah Eills.

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## **PUBLIC COMMENTS:**

Debbie Aldrich urged people to go back and look at the videos from the Hearing Examiner cases in 306 Center Street. She said that they will tell you a lot and let you know what was said by everyone. She said that all citizens should watch the videos and think about what they see. She thought it had all gone wrong and that the evidence is there.

Linda Talman stated she met today with Eills, Davolio, and Kathy Shiner. She said that they talked about the project and asked about soil testing, what would happen, and when and how they would find out. Talman stated that she would share the information with her citizen group. She thanked the staff for putting together a list of conditions on the project. Stated the meeting was a good time for all.

Marna Hanneman said that as more homes turn over in the La Conner Historic Preservation District, realtors aren't telling the people buying the homes that they are in the Historic District. She asked if we could put together an informational notice to send to realtors to make sure they let the buyers of the houses know.

Davolio stated that we do have realtors call the office sometimes, and if they are inquiring about a property that is in the Historic Preservation District, then the staff informs them of this.

Hanneman stated that a notice would still be nice to have to send out.

Talman agreed, and stated that information about tree management should also be passed around to those in the Historic District. Trees need to be replaced, and those taken out at a nearby intersection have not be replaced. She said that she has watched the Parks Commission minutes and they have not reflected the tree issue.

Davolio stated that the town is working on replacing trees that were illegally taken down and is currently in the process of getting an estimate on the replacement.

Leslie Smith agreed that information should be sent out, and added that it is much nicer to be pro-active and not re-active about these regulations.

William Smith stated that the streets are being gradually elevated through successive paving, and that this issue had been previously brought up. He asked if the commission had any thoughts around this issue.

Hedlin stated that she does not think the commission had any thoughts, and asked Davolio for his thoughts.

Davolio said that it was more the domain of the Town Council.

Hedlin agreed, and said that sounded accurate.

W. Smith said that he just wanted to keep advocating for the issue and wanted to make sure it did not get lost.

Hedlin stated that they should do something if there is a solution.

Gary Nelson mentioned that he had brought this up previously, and the reason he brought it up was that his shop is now roughly 12 inches below the street. He would like to rise his shop but it is non-conforming to setback requirements and he would like to do it without encumbrances. If forced to conform to setback requirement he would lose about 3.5 feet of his shop. He asked if 306 Maple is going to build sidewalks on both sides of the street and expressed concern that the runoff would negatively affect his property.

Davolio invited Nelson to come in for a pre-application meeting.

Nelson stated that he was familiar with the process.

**Minutes from the February 21st, 2023 Planning Commission Meeting:**

**Commissioner Leaver moved to accept the minutes of the February 21st, 2023 meeting as amended. Motion seconded by Commissioner Bradburn. Motion carried 5/0.** The following corrections were offered to the minutes:

Page two: "sperate" → "separate"

"Government keep" → "Government would keep"

"considerations were" → "considerations that were"

"applicate" → "applicant"

“applicate” → “applicant”  
Page three: “and will” → “and fees will”  
“development” → “building”  
“application” → “applications”  
Page four: “Leave” → “Leaver”

“Harald” → “Herald”

**OLD BUSINESS:**

306 Center Street:

The Hearing Examiner returned a decision allowing the 306 Center Street project to continue. The appeal period expired March 1<sup>st</sup> and no appeal was filed. The applicant has been made aware of the conditions of approval to continue. More soil testing has been done in the area of the mobile home. The Town has not received this report yet. The Town cannot proceed until the report has been received from the applicant. The Town will review the report(s) as they come in.

Staff introduced an action plan for Community Outreach and asked the council for formal approval.

Commissioner Hanneman asked to include Channel Cove and the Swinomish Tribe.

Eills responded that the report on Sea Level Rise was sent to the Swinomish Tribe, and that the Town could include Channel Cove in outreach.

Davolio brought up developmental regulations on Adult Businesses and alerted the Planning Commission that regulations on Adult Businesses would be put before them soon.

William Smith asked if there was a history of applications for adult businesses.

Davolio responded that in the last few weeks the Town did receive one inquiry about a potential Adult Business in La Conner, but has not heard anything since.

Commissioner Hedlin stated that she has not heard anything about this in Town.

Commissioner Bradburn mentioned that impact fees may be a deterrent for the business.

Commissioner Theaker moved to approve the community outreach plan.

Commissioner Bradburn moved to second.

Commissioner Theaker questioned the ability of staff to hang doorknob notices given limited staff capacity.

Commissioner Hanneman mentioned that this had come up in the last Town Council meeting, and at that time both the Town Council and the Planning Commission indicated their willingness to help hang the notices. The community outreach plan was approved unanimously.

**NEW BUSINESS:**

**Staff Report: Limedock Building Apartment Development**

Staff presented on the application submitted by the owners of the Limedock building and their architect. Although there is currently a plaque on the building that claims historical status, further research by staff indicated that the building has been mislabeled and is not historic. The Planning Commission was asked to review the application as a conditional use permit to convert second floor office space into apartments, as the Historic Design Review process no longer applies. Previously, a caretaker's apartment was approved with an accompanying variance for parking requirements. The applicant indicated that two dwelling units are currently on the property, but town records only show one permitted dwelling unit. When staff spoke with the current tenants at the Limedock building, they indicated that there were three residences in the building, with one person perhaps living out of an office. There was also mention of short-term rentals being run in the property. The main concern that Town staff had are that fire improvements requested in 1985 have not been completed yet, and must be done ASAP by the new owners. The applicant also included a small coffee stand jutting out from the building on the plan submitted with their application, but staff determined that the addition would reduce landscaping, and would not be allowed because the area allowed for building on the lot had been maxed out already. The department did not make a recommendation on the application.

Peter Anderson, the applicant's architect, spoke and confirmed the existence of two stand-alone residences, a series of offices on the second floor, and that the first floor of the building is all retail space. He explained that the building is built around a central atrium, and that he has been in the building to measure many times. When the owners purchased the building, they felt as though the office space was underutilized, and that residential space would be better. Anderson stated that he is aware that fire sprinklers will be required and the owners are prepared to install the sprinklers. The owners felt the businesses don't get a lot a draw, so the coffee shop walk-up was conceived of in order to establish a presence on the street. There was also a desire to replace the gated entrance with a closed glass door in order to have more security. Anderson proposed three exterior changes in all: the coffee shop, the addition of dormers, and the glass door.

Davolio noted that other residents said someone was living on the offices on the second floor.

Anderson stated he is unaware of that.

Davolio asked for addition clarification around the residences in of the building.

Anderson stated that he is asking for two addition residences in addition to the two that are there now.

Commissioner Hanneman asked if the building would be able to handle the load of two new residences.

Anderson said that it should as the conversion from office to residential is a reduction of the structural load on the building. He said that a marine engineer would have to be involved, as well as the DNR when they look at addressing the pier and DNR lease.

Commissioner Hanneman said that there is often a notable sewer smell at the building, which prompted her question.

Anderson said that a civil engineer would be needed for the project, and that they would be looking into next steps.

Commissioner Theaker asked if ingress/egress will only be on the west side.

Anderson replied that yes, they would be potentially removing the east stair.

Commissioner Bradburn inquired about the availability of bathrooms in the dwelling units.

Anderson replied that each will have bathrooms.

Commissioner Theaker asked how the current residents feel.

Anderson said that they seemed fine with it, as far as he knew.

Commissioner Hanneman said that she was nervous about the parking situation, particularly off-street parking.

Davolio explained the parking conversion ended up covering the parking requirement.

Commissioner Hanneman asked if the residences were currently occupied.

Anderson replied that they were.

Commissioner Hanneman said that she understood the parking was technically covered, but is still concerned for the spring, summer, and fall.

Davolio stated that the applicant must revise the application to account for the unpermitted residence and that that would trigger the parking requirement again.

Anderson said that because he had formal plans of the building with both residences included, he had assumed they were permitted residences.

Commissioner Leaver asked if the current parking spots were in the parking lot north of the building with the rest on the street.

Anderson replied that there was no onsite parking at all.

Davolio reexplained the parking conversion.

Anderson said that he would check where the residents are currently parking.

Commissioner Bradburn felt that this was too preliminary for the commission to act on. There are too many unanswered questions. Both the residential uses and the parking should be clarified. The Commission is not ready to act in his opinion.

Commissioner Hedlin agreed with Commissioner Bradburn. She asked if there would be four residences on the second floor of the building.

Anderson replied yes.

Gary Nelson said that the third floor has been used as a residence.

Anderson clarified the floor plan of the building.

Nelson stated that him and his wife run two businesses out of the building that would be displaced. He is dumbfounded that the Town would allow commercial uses to be converted to residential uses in a commercial zone. The building must be rebuilt because the alterations are so expensive. He stated that the building was historic, and did not care what the historical registers say. He thought the marine engineer would be a good idea. He believed that we are slowly chipping away at this town. He did not think we need more residences. He thought that we need more businesses, and an influx of jobs to build the tax base. He stated that during storms the building moves a good four inches, and said he really believed that we do not need more people living above the water.

Commissioner Leaver inquired about Nelson's businesses.

Nelson explained that it is a construction office and he thought that given the time table required for the alterations, the businesses on the first floor will go out of business or leave and then the first floor will be left empty.

William Smith asked about the pier and town requirements for stewardship, and stated that he has also witnessed the building moving.

Linda Talman said that the building is historic regardless of the plaque, and said that she has watched cars pull into and circle the area with no place to park. She is very concerned about the short-term rentals and said they were not allowed.

Davolio clarified that short-term rentals are permitted by right in the commercial district.

William Smith asked for clarification from Davolio.

Davolio explained the zoning and use rights around town.

Commissioner Hedlin suggested that the Planning Commission would have to come back to this.

Davolio said that he believed so.

Commissioner Leaver asked if sprinkling would solve the fire concerns.

Davolio responded that yes, meeting today's fire code requirements would also meet the 1985 ones. If it takes too much time, we may need to expedite it.

William Smith mentioned that there was an automatic procedure to evaluate the load on the building.

Davolio clarified that it was not automatic and would have to be initiated.

Nelson expressed concern over the load placed on the water system by the fire sprinklers.

Davolio said that he would look into it.



Nelson said that the sprinklers at Center Street would impact this, and questioned what would happen if they go off at the same time. This seemed to be a lot of impact on the water adding up in a small area of town.

Davolio stated that the town would review all systems in conjunction with the fire department and public works.

Debbie Aldrich asked if the plans were available on the website.

Eills responded yes, in the Planning Commission packet for this meeting.

Commissioner Hanneman motioned to continue the review for an additional 30 days. Commissioner Bradburn seconded the motion.

Commissioner Leaver asked what would happen in that time.

Davolio said that the town would talk with the applicant about the concerns and gather more information from public works.

Davolio also clarified that the first meeting of the month of the Planning Commission would be primarily related to the comprehensive plan update, and the second would be typical business.

Commissioner Hanneman asked if thirty days would be enough time.

Davolio stated that he did not want to push it off any further.

Anderson said that he thought thirty days would be good, but that in the course of answering questions some items may require a longer review time.

The motion to extended review for thirty days passed unanimously.

Eills presented data from the Sea Level Rise and Impact on La Conner staff report. She emphasized that the information and projections contained within the report assumed no mitigation strategies would be used by the town.

Commissioner Hanneman mentioned the 2017 climate charrette which contained many creative solutions to look into.

Commissioner Theaker mentioned that adaptation pathways could work.

William Smith asked for examples of mitigation work around the country.

Eills further explained potential strategies contained within the report, and also mentioned that communities around the United States use measures which include diking, sea walls, elevating structures, and sometimes abandonment.

Commissioner Hedlin thanked the Planning Department for creating the report.

Commissioner Bradburn mentioned that one of the reasons the December 27<sup>th</sup> flood was so bad was because of the extremely and historically low water pressure, which caused about an additional foot of flooding.

W. Smith asked if anyone was prepared to abandon town. He said that some cities in Europe are building docks and floating cities.

Bill Reynolds stated that the 2017 charrette included that option, but it was very expensive.

Commissioner Hedlin stated that dikes are difficult to figure out and manage.

W. Smith agreed and said that he had spoken with farmers dealing with this issue. Commissioner Bradburn mentioned that the combination of saltwater and freshwater that we have in La Conner is a problem, especially for the farmland.

Commissioner Hedlin remembered a very long time ago the dikes burst and you could kayak through La Conner. She said that it is a tricky subject, especially when discussing funding.

Leslie Smith said that this begs the question about the town's responsibility in allowing projects to move forward when we know this information.

There was overlapping conversations on the tape.

Commissioner Hedlin called for any closing comments. There were none.

Commissioner Bradburn made a motion to adjourn. Commissioner Hanneman seconded. The meeting adjourned at 7:28 pm.

**Chair**

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**Date**

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# *Town of La Conner*

## **Memorandum**

Date: March 29th, 2023  
To: Planning Commission  
From: Michael Davolio, ACIP, Planning Director  
Ajah Eills, Assistant Planner  
Re: Adult Business Regulations in La Conner

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### **Background**

The State of Washington has determined that municipalities can regulate Adult Businesses in order to maintain the health, safety, and character of local communities. To that end, the Planning Department has developed a preliminary report which outlines relevant background information about the regulation of Adult Businesses, as well as proposed changes to the La Conner Municipal Code.

## Adult Business: Regulations in La Conner

Adult Businesses can either be fully regulated or not regulated at all. Let's first take a look at how some of the surrounding communities and Skagit County regulates them. The State provides [guidance through Municipal Research and Services Center \(MRSC\)](#).

A note about verbiage: Most municipalities, as well as the State of Washington, use phrases with "adult" in front of them, i.e. "adult" cabarets, "adult" entertainment to indicate the relationship with sexual or leud materials. This has led to some municipalities issuing clarifying statements around the use of "adult" in the context of alcohol.

Examples of adult business regulations studied in preparation of this report were sourced from materials recommended by the State of Washington or Federal government. Use of the term "municipalities" refers to those municipalities considered by the State of Washington to be good examples of this type of MC.

Recently, the State of Washington required those working in adult businesses to undergo training, and required adult business where live performances are held to include panic buttons.

[RCW: Entertainers and adult entertainment establishments: training, panic buttons, accusations](#)

Much of the case law surrounding these regulations was developed in the 80s and 90s, and has remained largely unchanged in the past 30 years.

Regulation of adult business occurs at the city level in two main ways: business licensing and zoning regulations. Currently, the Town of La Conner provides no such regulations.

### Business License Regulations:

As used by other municipalities, business license regulations are used to regulate interior design elements (floor plan, illumination, seating requirements, records requirements, ect) as well as behavior and suitability of employees for compliance under RCWs.

Municipalities will often separate out different types of adult businesses by the services offered. For example, adult "cabaret" or "dance" halls, with live entertainers or performers, and adult "video" or "booth" stores. Municipalities will also call out specific types of adult businesses (Mount Vernon specifically defines "nude house cleaning businesses") or leave the general definition of "Adult Business" slightly broader with a classification based on a threshold percentage of its stock relating to adult entertainment. A bookstore may be classified as an "adult bookstore" for example, if stock related to sexual or leud content makes up more than 25% of its stock in trade.

Each of these business types will then be subject to different regulations. In LCMC, while business licenses and cabaret licenses are provided for separately, it may make the most sense to amend LCCM Chapter 5 to address Adult Businesses as a whole in a new section. This would allow La Conner to broadly regulate adult businesses while also providing additional regulations for matters relating to the safety and security of live performers.

In addition to a business license, most example municipalities also require manager and entertainer licenses to be obtained by the employees of adult businesses. One required operator licenses as well. This provides the municipalities with an extra level of assurance that all employees of adult business are over 18 years of age and are in good standing with the municipalities. Overall, the issuing of both a business license and a manager or entertainers license affords an extra level of control over the adult business within the municipalities, helping ensure that all applicable regulations are being followed. If La Conner chose to require this, it may make sense to place these regulations in LCMC Chapter 5.

### Zoning Regulations:

Zoning regulation are used to determine where adult businesses can be located. This is typically done to prevent adverse secondary effects from spilling over to sensitive populations or locations, such as schools and public parks or areas of worship, while allowing for “reasonable access” for adult businesses. It is important to note that if a site is currently built on and/or supporting another business it still qualifies and counts towards reasonable access.

There are two main ways that planners will zone for adult businesses: concentrated and dispersed. There are pros and cons to both methods. Courts have upheld both strategies, although decisions are quite clear that dispersed zoning cannot be used to claim that there is no appropriate location for adult businesses. Overall, courts have favored the municipalities when legislative zoning laws for adult businesses are argued, as long as the municipalities can prove that there is an acceptable and appropriate location for adult businesses, and the zoning laws are not placing undue hardship and restriction on free speech.

### Concentrated Zoning:

This method of zoning outlines a zone where adult businesses are allowed to be located. This allows for a lot of control over where adult businesses are located so municipalities can strictly prevent them opening near sensitive populations and avoid adverse effects. However, this method can result many adult businesses clustered together, which has been shown to increase crime and police activity in an area. It may also create the perception of a watered down “red-light” district, which may result in moral objections down the line. Although these objections would not be based in any legal argument, it is still something the Town should attempt to avoid. Seattle uses a concentrated method of zone control for adult businesses. If the town chooses to develop using this method and the standard of 1000 ft buffer from residential zones, school districts, and public use results in only a very small swath of land in La Conner that could be used for Adult Business. Please see it shaded in purple. It is likely that designing zoning with such limitations on locations for Adult Business will not be favored if challenged in court, therefore this method of zoning with the standard 1000ft buffer is not recommended.

As La Conner is a very small town, a 500ft buffer was also explored. In towns with low surface area, reduced buffers are often used to maintain clear zoning and prevent adverse effects for sensitive populations. Placing a 500 ft buffer around the school district, residential zone, and public defined area will still prevent adverse effects while expanding the available locations for adult businesses. Please see the attached map, with areas that would be zoned for adult businesses highlighted in green using this method. This method of zoning, as shown in the map, would essentially only allow Adult Businesses in

the north Industrial Zone in La Conner. Although using a 500ft buffer would expand the node in which Adult Business is allowed, there would still only be one node in town where an Adult Business could be located. This may not be favored if challenged in court.

There is precedent for use of the industrial zone for Adult Businesses. The City of Lacey is an example of a city that limits Adult Business to industrial zones. The City of Lacey, however, has a substantial amount of space that has been zoned for industrial use. La Conner has only two nodes zoned industrial, one in the north end of town, and one in the south end of town. The north industrial zone, as mentioned above, is included using a 500 ft buffer method, but the south industrial zone is not included due to its proximity to Pioneer Park. If La Conner chose to use this zoning method (pink outline), it would likely have to include both the North and South industrial zones in order to meet the constitutional test.

The City of Olympia used variable buffers in order to guarantee the protection of sensitive areas, with increased buffers around schools and decreased buffers around residential zones, as school districts are more sensitive than residential zones to adverse impacts of adult businesses. The use of variable buffers allowed Olympia to successfully protect its sensitive populations while providing adequate opportunities for Adult Businesses to operate. The City of Olympia uses a 330 ft (a typical city block in Olympia) as the lowest buffer between Adult Business and other zoning business. As Olympia is larger than La Conner, a comparable buffer would be 300 ft. The use of the 300ft buffer for residential zones and public spaces while maintaining a 500 ft or 1,000 ft buffer for the school district would help protect the residential zones and extra sensitive school population while allowing adequate zoned space for Adult Business (outlined in blue).

Some municipalities consider points of ingress and egress for public trails as “sensitive” areas to the impacts of Adult Businesses. A La Conner has a public trail along the waterfront for the majority of Town, this could also be used to justify a reduction in available space for Adult Businesses.

Dispersed: This method of zoning incorporates aspects from concentrated zoning, but with an additional restriction that requires minimum distances between adult businesses. Theoretically, this dispersion limits cumulative adverse impacts of adult businesses, such as declining property values and urban blight. However, this approach also spreads out the potential adverse impacts of adult business over a wider area. La Conner must be especially careful when drafting this policy because the net effect of minimum distance requirements may eliminate suitable adult use sites due to the small size of the town, which is not a result favored by the courts. 1000ft is a commonly used standard, but given the relative size of La Conner, this may not be a feasible standard for use in our town, as mentioned above. This zoning policy would likely be too restrictive to be favored in courts if challenged.

When drafting regulations for Adult Businesses, it is important to develop a concept of what the regulations are hoping to accomplish, and then build them to support those goals. For example, La Conner’s goals may include:

1. Protect sensitive minor populations from adverse effects from Adult Business
2. Ensure all workers at Adult Business are properly licensed and conducting work in a safe environment
3. Preserve the essential character of the Town of La Conner, including in the HPD

#### 4. Protect residential zones from adverse effects from Adult Businesses

As we move forward in this process, it may be beneficial for the Town Council to have an in-depth discussion about the exact goals and priorities La Conner has when zoning of Adult Businesses. The four goals above are an amalgamation of the most common priorities of other municipalities.

The proposed language found at the end of this report first prioritizes protecting minor populations from adverse effects, with the other listed priorities following.

Proposed changes to LCMC:

### **Chapter 5.25 Adult Business**

#### **5.25.010 Provisions.**

The provisions of this chapter shall be deemed an exercise of the police power of the town of La Conner, Washington, for the protection of the public, economic and social welfare, health, peace and morals, and all of its provisions shall be liberally construed for the accomplishment of that purpose.

#### **5.25.020 Definitions.**

In construing this chapter, except when otherwise plainly declared or clearly apparent from context, the following definitions shall be applied:

(1) "Adult entertainment" means any exhibition, performance, or dance of any type conducted in a premises where such exhibition, performance, or dance involves an entertainer who:

(i) Is unclothed or in such attire, costume, or clothing as to expose to view any portion of the breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva, or genitals; or

(ii) Touches, caresses, or fondles the breasts, buttocks, anus, genitals, or pubic region of another person, or permits the touching, caressing, or fondling of the entertainer's own breasts, buttocks, anus, genitals, or pubic region by another person, with the intent to sexually arouse or excite another person.<sup>1</sup>

(2) "Adult business" means any business to which the public, patrons, or members are invited or admitted where an entertainer provides adult entertainment to a member of the public, a patron, or a member.

(4) "Manager" means any person who manages, directs, or administers the affairs or conduct of a portion of the activity within an adult business, including assistant managers working with or under the direction of a manager to carry out such purposes.

(5) "Entertainer" means any person who provides live adult entertainment in an adult business, whether or not the person is an employee of the adult business, and whether or not a fee is charged or accepted for such entertainment.

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<sup>1</sup> As in RCW 49.17.470 (7)(a)

(6) All definitions as applied in 5.05.020 LCMC shall be applied to this chapter.

#### **5.25.030 Adult Business License required**

(1) No public place of adult business shall be operated or maintained in the city, unless the owner or lessee thereof has obtained a license from the city clerk as hereinafter set forth; provided, that it is unlawful for any entertainer, employee or operator to knowingly work in or about, or to knowingly perform any service directly related to the operation of an unlicensed adult business.

(2) It is unlawful for any person to work as a manager in an adult business unless that person is the holder of a valid manager's license issued by the city clerk under this chapter.

(3) It is unlawful for any person to work or perform as an entertainer in an adult business unless that person is the holder of a valid entertainer's license issued by the city clerk under this chapter.

(4) It is unlawful for any manager or entertainer to knowingly work in or about, or to knowingly perform any service or entertainment directly related to the operation of an adult business which is not licensed under this chapter.

#### **5.25.040 Adult Business License – Application – Requirements**

(1) Applications for an adult business shall be submitted in the name of the person or entity proposing to conduct such activity on the business premises and shall be signed by such person or their agent and notarized or certified as true under penalty of perjury, all applications shall be submitted on a form supplied by the city clerk, which shall require the following information:

- a. If the applicant is an individual:
  - a. The date of the application
  - b. Name of the applicant
  - c. Phone number of the applicant
  - d. Mailing address of the applicant
  - e. Date and place of birth of the applicant
  - f. Social security number of the applicant
  - g. Proof that the applicant has completed training as required by [RCW 49.17.470](#)
  - h. Documentation that the applicant has attained the age of 18 years. Any of the following shall be accepted as documentation of age:
    - i. A valid driver's license issued by any state bearing the applicant's photograph and date of birth;
    - ii. A valid identification card issued by any state bearing the applicant's photograph and date of birth;
    - iii. An official passport issued by the United States of America;
    - iv. An immigration card issued by the United States of America; or
    - v. Any other form of identification that the city clerk determines to be acceptable.
  - i. The proposed location of the adult business, including a street address, tax parcel number, and a legal description of the property
  - j. A diagram showing the configuration of the interior of the adult business, including the amount of total floor space to be occupied by the adult business. The diagram shall be drawn to a designated scale to an accuracy of plus or minus six inches.



- k. A description of the principal activities and services to be offered by the proposed adult business, including a summary of the types of adult entertainment and sexually-oriented materials to be offered for sale or rent by the proposed adult business.
      - l. Authorization for the city, its agents, and employees to seek information to confirm any statements or other information set forth in the application.
    - b. If the applicant is an entity or business than the following must be provided for partners, corporate officers or shareholders who collectively own fifty-one percent or more of the business:
      - a. Name
      - b. Home address
      - c. Phone number
      - d. Mailing address
      - e. Social security number
      - f. Date and place of birth
      - g. Date of the application
      - h. Proof that training as required by [RCW 49.17.470](#) has been completed
      - i. Documentation that the partner, corporate officer, or shareholders have attained the age of 18 years. Any of the following shall be accepted as documentation of age:
        - i. A valid driver's license issued by any state bearing the applicant's photograph and date of birth;
        - ii. A valid identification card issued by any state bearing the applicant's photograph and date of birth;
        - iii. An official passport issued by the United States of America;
        - iv. An immigration card issued by the United States of America; or
        - v. Any other form of identification that the city clerk determines to be acceptable.
    - c. The proposed location of the adult business, including a street address, tax parcel number, and a legal description of the property
    - d. A diagram showing the configuration of the interior of the adult business, including the amount of total floor space to be occupied by the adult business. The diagram shall be drawn to a designated scale to an accuracy of plus or minus six inches.
    - e. A description of the principal activities and services to be offered by the proposed adult business, including a summary of the types of adult entertainment and sexually-oriented materials to be offered for sale or rent by the proposed adult business.
    - f. Authorization for the city, its agents, and employees to seek information to confirm any statements or other information set forth in the application.

(2) Each person qualifying as an owner or operator of the proposed adult entertainment facility shall submit a separate application. Each applicant shall be separately qualified under this chapter.

(3) If any person or entity acquires, subsequent to the issuance of an adult business license, a significant interest in the licensed adult business, notice of such acquisition shall be provided in writing to the city clerk within 21 calendar days following such acquisition and the person acquiring the interest shall submit a complete application to the city clerk pursuant to this section within 45 calendar days of acquiring such interest.

(4) An application shall be deemed complete upon receipt of all the information and documents requested by this section. Where necessary to determine compliance with this chapter, the city clerk may request information or clarification in addition to that provided in a complete application.

(5) Each adult business license shall be accompanied by a non-refundable fee set by Town Council.

(6) No person or entity granted an adult business license pursuant to this chapter shall operate the adult business under a name not specified on the license, nor shall any person operate an adult business under any designation or at any location not specified on the license.

#### **5.25.050 Adult Business Manager or Entertainer – License Application – Requirements**

(1) No person shall work or perform work as a manager or entertainer at an adult business without a valid manager's or entertainer's license. All applications for a manager's or entertainer's license shall be signed by the applicant and notarized or certified to be true under penalty of perjury. At the time of application, a picture shall be taken of the applicant by the city clerk. All applications shall be submitted on a form supplied by the city clerk, which shall require the following information:

- a. The date of the application
- b. The name of the applicant
- c. The home address of the applicant
- d. Phone number of the applicant
- e. Mailing address of the applicant
- f. Date and place of birth
- g. Stage name or nicknames used in entertainment, if applicable
- h. Social security number of the applicant
- i. Documentation that the applicant has attained the age of 18 years. Any of the following shall be accepted as documentation of age:
  - a. A valid driver's license issued by any state bearing the applicant's photograph and date of birth;
  - b. A valid identification card issued by any state bearing the applicant's photograph and date of birth;
  - c. An official passport issued by the United States of America;
  - d. An immigration card issued by the United States of America; or
  - e. Any other form of identification that the city clerk determines to be acceptable.
- j. Proof that the applicant has completed training as required by [RCW 49.17.470](#)
- k. Authorization for the city, its agents, and employees to seek information to confirm any statements or other information set forth in the application.

(2) A person shall be permitted to hold both an Adult Business manager's license and an Adult Business entertainer's license, provided they are only working in one capacity per work shift.

(3) The clerk shall deny the application to:

- a. Any applicant under eighteen years of age
- b. Any applicant who is overdue on his/her payment to the city of taxes, fees, fines, or penalties assessed against him/her or imposed upon him/her in relation to an adult entertainment business.

- c. Any applicant whose place of business is conducted by an agent, unless such agent possesses the same qualifications required of the licensee, or in the case of a manager of an adult entertainment business, the manager has obtained a manager's license.
- d. A partnership, unless all the members thereof are qualified to obtain a license as provided in this chapter. Such license shall be issued to the agent of said partnership.
- e. A corporation, unless all the officers and directors thereof are qualified to obtain a license as provided herein. Such license shall be issued to the agent of said corporation.
- f. Any applicant who has failed to provide information required on a license application for the issuance of the license or has made, with the intent to mislead, a materially false representation in the application for a license under this chapter which the applicant knows to be false.
- g. Any applicant who has failed to comply with any provision or requirement of this chapter.

#### **5.25.060 Manager on Premise**

(1) A licensed manager shall be on the premises of an adult business at all times that adult entertainment is being provided. The licensed manager shall not permit any violations of this chapter to occur.

#### **5.25.070 Moral Nuisance**

(1) Any adult entertainment facility operated, conducted, or maintained contrary to the provisions of Chapter [7.48A](#) RCW shall be deemed a moral nuisance, and all remedies given by law for the prevention and abatement of moral nuisances shall apply regardless of any other remedy.

#### **5.25.080 Activities not restricted**

(1) This chapter shall not be construed to restrict or prohibit the following activities or products: (a) plays, operas, musicals or other dramatic works that are not obscene; (b) classes, seminars, or lectures which are held for a serious scientific or educational purpose and that are not obscene; and (c) exhibitions, performances, expressions or dances that are not obscene.

(2) The provisions of this chapter are not intended to and do not prohibit the simulation of sexual acts which are part of non-obscene expression.

(3) Whether or not activity is obscene shall be judged by consideration of the following factors:

- a. Whether the average person, applying contemporary community standards, would find that the activity taken as a whole appeals to the prurient interest in sex; and
- b. Whether the activity depicts or describes sexual conduct in a patently offensive way, as measured against community standards, and as described in RCW [7.48A.010\(2\)\(b\)](#); and
- c. Whether the activity taken as a whole lacks serious literary, artistic, political or scientific value.