

ORDINANCE NO. 94-1
THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF BOULDER, COLORADO
AN ORDINANCE LIMITING THE OPERATION OF
ADULT ENTERTAINMENT ESTABLISHMENTS

WHEREAS, there are a significant number of commercial establishments in the unincorporated portion of Boulder County in which persons may appear in a state of nudity for the purpose of entertaining the patrons of such establishments; and,

WHEREAS, commercial establishments of this nature are not currently subject to any comprehensive regulations imposed on nude entertainment; and,

WHEREAS, commercial establishments of this nature would adversely impact the adjacent residential neighborhoods in which they are located and other nearby land uses, including churches and schools; and,

WHEREAS, these adverse impacts include attraction of transients, parking and traffic problems, increased crime and noise, decreased property values, increased safety hazards to neighborhood children, and overall deterioration of neighborhood quality; and

WHEREAS, it is the intent of the Board of County Commissioners to serve a substantial government interest by attempting to preserve the quality and vitality of residential neighborhoods and areas around schools and churches in Boulder County; and

WHEREAS, alternative avenues of communication are not unreasonably limited for "speech" of this nature; and,

WHEREAS, the Colorado State Legislature has enacted Section 30-15-401(1)(I)(I), C.R.S.; and,

WHEREAS, Section 30-15-401(1)(I)(I), C.R.S., authorizes the Board of County Commissioners to adopt by ordinance those regulations necessary for the operation of establishments open to the public in which persons appear in a state of nudity for the purpose of entertaining such establishment's patrons.

NOW, THEREFORE BE IT ORDAINED by the Board of County Commissioners of Boulder County, State of Colorado, that operation of establishments open to the public in which persons appear in a state of nudity for the purpose of entertaining the patrons of such establishments shall be subject to the following regulations:

(1) These regulations shall apply to any establishment open to the public in which persons appear in a state of nudity for the purpose of entertaining the patrons of such establishments, irrespective of

whether such establishments are licensed to serve alcohol or fermented malt beverages. Such establishments are hereinafter referred to as "Adult Entertainment Establishments." These regulations shall not apply to any establishment otherwise exempted under 30-15-401(1)(I)(III), C.R.S., as it currently exists or may be amended in the future.

(2) A person appears in a "state of nudity" when such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals.

(3) No one under 21 years of age shall be admitted to any Adult Entertainment Establishment. This minimum age limitation also applies to any employees, agents, servants or independent contractors working on the premises during hours when nude entertainment is being presented.

(4) Nude entertainment shall only be available at Adult Entertainment Establishments from the hours of 4:00 p.m. to 12:00 midnight, Monday through Saturday of each week.

(5) No person shall operate or maintain an Adult Entertainment Establishment within 1000 feet of any church, school, daycare center or preschool, or residence. For the purposes of this ordinance, the 1000 foot distance shall be measured from any point of access to the structure housing the Adult Entertainment Establishment to the closest property line of the property containing the church, school, daycare center or preschool, or residence.

(6) No person shall appear in a state of nudity except within the fully enclosed portions of the structure housing the Adult Entertainment Establishment.

(7) Any Adult Entertainment Establishment operating at the effective date of this ordinance in violation of Section (5) above shall be allowed to continue operating without compliance herewith for an amortization period of six (6) months. Six months after this ordinance becomes effective, all Adult Entertainment Establishments must fully comply with this ordinance, including Section (5) above or be subject to the penalty provisions set forth herein.

(8) No landowner or lessee shall knowingly permit an Adult Entertainment Establishment to be operated or maintained upon their property in violation of Section (5) above.

(9) Except for the amortization period set forth in Section (7) above, each day of operation in violation of any provision of this ordinance shall constitute a separate violation.

(10) Any person who violates any provision of these regulations commits a class 2 petty offense and upon conviction thereof shall be punishable by a fine of \$300 for each separate violation.

(11) The Zoning Administrator, Chief Building Official, Zoning Inspectors, Building Inspectors, other agents or employees of the county land use department, or any law enforcement officer may follow the

penalty assessment procedure provided in Section 16-2-201, C.R.S., for any violation of this ordinance, or may enforce the provisions of this ordinance by filing and service of a summons and complaint in accordance with County Court procedures.

(12) Any Adult Entertainment Establishment which engages in repeated or continuing violations of these regulations shall constitute a public nuisance. For purposes of these regulations "repeated violations" shall mean three or more violations of any provision set out herein within a one (1) year period dating from the time of any violation, and a "continuing violation" shall mean a violation of any provision set out herein lasting for three or more consecutive days.

(13) The County Attorney, acting pursuant to Section 16-13-302, C.R.S., may bring an action in the District Court for Boulder County for an injunction against the operation of such establishments in a manner which violates any of the provisions set out herein.

(14) This ordinance is necessary to the immediate preservation of the public health and safety, due to the immediate impact upon surrounding residences, churches and schools from the attraction of transients, parking and traffic problems, increased crime and noise, increased safety hazards to neighborhood children, and overall deterioration of neighborhood quality, and therefore shall become effective immediately upon adoption.

(15) If any provision of this ordinance is held invalid or unconstitutional by a court of competent jurisdiction, such decision shall not invalidate this ordinance in its entirety, and to this end the provisions of this ordinance are declared to be severable.

(16) Any Adult Entertainment Establishment operating before the effective date of this ordinance shall comply with every provision of this ordinance on the effective date except as set forth in Section 7 above.

INTRODUCED, READ AND ADOPTED ON THE FIRST READING ON October 18, 1994 and ordered published in the LONGMONT TIMES CALL.

THE BOARD OF COUNTY COMMISSIONERS OF BOULDER COUNTY
Ronald K. Stewart, Chairman

ADOPTED ON SECOND AND FINAL READING ON November 1, 1994.

THE BOARD OF COUNTY COMMISSIONERS OF BOULDER COUNTY
Ronald K. Stewart, Chairman