



**UPDATE ON REGULATION OF  
SEXUALLY ORIENTED BUSINESSES**

**Handout 2 of 2  
Sample Ordinance**

**CHAPMAN AND CUTLER LLP  
PRESENTED BY H. CRAIG HALL**

**UTAH LEAGUE OF CITIES AND TOWNS  
ANNUAL CONVENTION 2006**

**SEPTEMBER 13, 2006**

**2:10 P.M. - 3:00 P.M.**

CHICAGO  
111 West Monroe Street  
Chicago, IL 60603-4080  
(312) 845-3000

SAN FRANCISCO  
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San Francisco, CA 94105-2839  
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201 South Main Street  
Salt Lake City, UT 84111-2266  
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**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING CHAPTER \_\_\_\_\_ OF THE  
\_\_\_\_\_ MUNICIPAL CODE PERTAINING TO  
SEXUALLY-ORIENTED BUSINESSES AND MAKING  
TECHNICAL CHANGES THEREIN.**

WHEREAS, sexually-oriented businesses require special supervision from the public safety agencies of the City in order to protect and preserve the health, safety, morals and welfare of the patrons of such businesses as well as the citizens of the City; and

WHEREAS, the City Council finds that sexually-oriented businesses are frequently used for unlawful sexual activities, including prostitution and sexual liaison of a casual nature; and

WHEREAS, the concern over sexually-transmitted diseases is a legitimate health concern of the City which demands reasonable regulation of sexually-oriented businesses in order to protect the health and well-being of the citizens; and

WHEREAS, licensing is a legitimate and reasonable means of accountability to ensure that operators of sexually-oriented businesses comply with reasonable regulations and to ensure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation or the pandering of obscenity; and

WHEREAS, there is convincing documented evidence that sexually-oriented businesses, because of their very nature, have a deleterious effect on both the existing businesses around them and residential areas of the City adjacent to them, causing increased crime and the downgrading of property values; and



WHEREAS, it is recognized that sexually-oriented businesses, due to their nature, have serious objectionable operational characteristics, particularly when they are located in close proximity to each other, thereby contributing to urban blight and downgrading the quality of life in the adjacent area; and

WHEREAS, the City Council desires to minimize and control these adverse effects and thereby protect the health, safety, and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of neighborhoods and deter the spread of urban blight; and

WHEREAS, the City Council has determined that location criteria alone do not adequately protect the health, safety, and general welfare of the people of this City; and

WHEREAS, it is not the intent of this ordinance to suppress any speech activities protected by the First Amendment, but to enact a content neutral ordinance which addresses the secondary effects of sexually-oriented businesses; and

WHEREAS, it is not the intent of the City Council to condone or legitimize the distribution of obscene material, and the Council recognizes that state and federal law prohibits the distribution of obscene materials and expects and encourages state law enforcement officials to enforce state obscenity statutes against any such illegal activities in the City.

Pursuant to the authority granted by the Constitution and the legislature of the State of Utah, BE IT ENACTED BY THE CITY COUNCIL of the City of \_\_\_\_\_, Utah, as follows:

**SECTION I. PURPOSE AND FINDINGS**

(A) *Purpose.* It is the purpose of this ordinance to regulate sexually-oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of the



City, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually-oriented businesses within the City. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually-oriented materials. Similarly, it is not the intent nor effect of this ordinance 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 ordinance to condone or legitimize the distribution of obscene material.

(B) *Findings.* Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the Council, and on findings incorporated in the cases of *Pap's A.M. v. City of Erie*, 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); *O'Connor v. City and County of Denver*, 894 F.2d 1210 (10<sup>th</sup> Cir. 1990); *Z.J. Gifts D-2, L.L.C. v. City of Aurora*, 136 F.3d 683 (10<sup>th</sup> Cir. 1998); *Dodger's Bar & Grill, Inc. v. Johnson County*, 98 F.3d 1262 (10<sup>th</sup> Cir. 1996); *Dodger's Bar & Grill, Inc. v. Johnson County*, 32 F.3d 1436 (10<sup>th</sup> Cir. 1994); *American Target Advertising, Inc. v. Giani*, 199 F.3d 1241; *MS News Co. v. Casado*, 721 F.2d 1281 (10<sup>th</sup> Cir. 1983); *Cortese v. Black*, No. 95-1429, 1996 U.S. App. LEXIS 15311 (10<sup>th</sup> Cir., June 25, 1996); *Salt Lake City v. Wood*, 1999 Utah App. 323, 991 P.2d 595 (Utah Ct. App. 1999); *Salt Lake City v. Roberts*, 7 P.3d 789 (Utah App. 2000); *United States v. Freedberg*, 724 F.Supp. 851 (D. Utah 1989); and other cases; and reports of the South Salt Lake Police Department; and documents concerning the secondary effects occurring in and around sexually-



oriented businesses, including, but not limited to, Phoenix, Arizona – 1984; Minneapolis, Minnesota - 1980; Houston, Texas - 1997; Indianapolis, Indiana – 1984; Amarillo, Texas; Garden Grove, California - 1991; Los Angeles, California - 1977; Whittier, California - 1978; Austin, Texas - 1986; Seattle, Washington - 1989; Oklahoma City, Oklahoma - 1986; Cleveland, Ohio - ; and Dallas, Texas - 1997; St. Croix County, Wisconsin - 1993; Bellevue, Washington, - 1998; Newport News, Virginia - 1996; New York Times Square study – 1994; Phoenix, Arizona – 1995-98; and also on findings from the paper entitled “Stripclubs According to Strippers: Exposing Workplace Sexual Violence,” by Kelly Holsopple, Program Director, Freedom and Justice Center for Prostitution Resources, Minneapolis, Minnesota, and from “sexually-oriented Businesses: An Insider’s View,” by David Sherman, presented to the Michigan House Committee on Ethics and Constitutional Law, Jan. 12, 2000, crime statistics of the City of \_\_\_\_\_ for the past \_\_\_\_\_ ( ) years; and the Report of the Attorney General's Working Group On The Regulation Of Sexually-Oriented Businesses, (June 6, 1989, State of Minnesota), the Council finds:

(1) Sexually-oriented businesses lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the operators of the establishments. Further, there is presently no mechanism to make the owners of these establishments responsible for the activities that occur on their premises.

(2) Certain employees of sexually-oriented businesses defined in this ordinance as adult theaters and cabarets engage in higher incidents of certain types of illicit sexual behavior than employees of other establishments.



(3) Sexual acts, including masturbation, and oral and anal sex, occur at sexually-oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows.

(4) Offering and providing such space encourages such activities, which creates unhealthy conditions.

(5) Persons frequent certain adult theaters, adult arcades, and other sexually-oriented businesses for the purpose of engaging in sex within the premises of such sexually-oriented businesses.

(6) Numerous communicable diseases may be spread by activities occurring in sexually-oriented businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis salmonella, campylobacter and Shigella infections, chlamydia, mycoplasma and ureoplasmal infections, trichomoniasis and chancroid.

(7) According to research from the Kaiser Family Foundation, an estimated 650,000 to 900,000 Americans are infected with HIV. The number of new HIV infections occurring each year is now about 41,000. Men and Women of all races are most likely to be infected by sexual contact.

(8) A total of 1,672 AIDS cases had been reported in Utah as of January 1, 1999. Utah has required HIV case reporting since 1989, and shows 1,550 people living with HIV (762) or AIDS (788) in the state.

(9) The Center for Disease Control and Prevention estimates that as many as 1 in 3 people with HIV do not know they are infected.



(10) The number of cases of early (less than one year) syphilis in the United States reported annually has risen, with 33,613 cases reported in 1982 and 45,200 through November of 1990.

(11) The number of cases of gonorrhea in the United States reported annually remains at a high level, with over one-half million cases being reported in 1990.

(12) The Surgeon General of the United States in his report of October 22, 1986, has advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug abuse, exposure to infected blood and blood components, and from an infected mother to the newborn.

(13) According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.

(14) Sanitary conditions in some sexually-oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.

(15) Numerous studies and reports have determined that semen is found in the areas of sexually-oriented businesses where persons view "adult" oriented films.

(16) The findings noted in paragraphs number 1 through 15 raise substantial governmental concerns.

(17) Sexually-oriented businesses have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.



(18) A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and the operators of the sexually-oriented businesses. Further, such licensing procedure will place a heretofore nonexistent incentive on the operators to see that the sexually-oriented business is run in a manner consistent with the health, safety and welfare of its patrons and employees, as well as the citizens of the City. It is appropriate to require reasonable assurances that the licensee is the actual operator of the sexually-oriented business, fully in possession and control of the premises and activities occurring therein.

(19) Removal of doors on adult booths and requiring sufficient lighting on premises with adult booths advances a substantial governmental interest in curbing the illegal and unsanitary activity occurring in sexually-oriented businesses.

(20) Requiring licensees of sexually-oriented businesses to keep information regarding current employees and certain past employees will help reduce the incidence of certain types of criminal behavior by facilitating the identification of potential witnesses or suspects and by preventing minors from working in such establishments.

(21) The disclosure of certain information by those persons ultimately responsible for the day-to-day operation and maintenance of the sexually-oriented business, where such information is substantially related to the significant governmental interest in the operation of such uses, will aid in preventing the spread of sexually transmitted diseases.

(22) It is desirable in the prevention of the spread of communicable diseases to obtain a limited amount of information regarding certain employees who may engage in the conduct which this ordinance is designed to prevent or who are likely to be witnesses to such activity.



(23) The fact that an applicant for an adult use license has been convicted of a sexually related crime leads to the rational assumption that the applicant may engage in that conduct in contravention of this ordinance.

(24) The barring of such individuals from the management of adult businesses for a period of years serves as a deterrent to and prevents conduct which leads to the transmission of sexually transmitted diseases.

(25) The general welfare, health, morals and safety of the citizens of the City will be promoted by the enactment of this ordinance.

**CHAPTER \_\_\_\_\_ SEXUALLY-ORIENTED BUSINESSES**

**SECTION I**

Sections \_\_\_\_\_ to \_\_\_\_\_ of the municipal code of the City of \_\_\_\_\_ are deleted in their entirety.

**SECTION II**

Section \_\_\_\_\_ to \_\_\_\_\_ are enacted to read as follows:

**GENERAL PROVISIONS, PURPOSES**

**\_\_\_\_\_.010 TITLE.**

The ordinance codified in this chapter shall be known and may be referred to as the "Sexually-Oriented Business and Employee Licensing Ordinance."

**\_\_\_\_\_.020 PURPOSE.**

It is the objective of this chapter that the City Establish reasonable and uniform regulations governing the operation of sexually-oriented businesses and their employees in the City. This



chapter shall be construed by the City to protect the governmental interests recognized by this chapter in a manner consistent with constitutional protection provided by the United States and Utah Constitutions.

\_\_\_\_\_.030 **GENERAL APPLICABILITY.**

This chapter imposes regulatory standards and license requirements on certain business activities which are characterized as sexually-oriented businesses, and certain employees of those businesses characterized as sexually-oriented business employees. Except where the context or specific provisions require, this chapter does not supersede or nullify any other related ordinances.

\_\_\_\_\_.040 **OBSCENITY.**

Notwithstanding anything contained in this chapter, nothing in this chapter shall be deemed to permit or allow the showing or display of any material which is contrary to the provisions of the City of \_\_\_\_\_ Municipal Code, or other applicable federal or state statutes prohibiting obscenity.

\_\_\_\_\_.050 **DEFINITIONS.**

For the purpose of this chapter, the following words shall have the following meanings:

**Adult Arcade:** Adult Arcade shall mean any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly 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 their emphasis on matter exhibiting or describing “Specified Sexual Activities” or “Specified Anatomical Areas”.



***Adult Bookstore, Adult Novelty Store, Adult Video Store:*** Adult Bookstore, Adult Novelty Store, Adult Video Store means a commercial establishment which has as a significant or substantial portion of its stock-in-trade, or derives a significant or substantial portion of its revenues, or devotes a significant or substantial portion of its interior business or advertising, or maintains a substantial section of its sales or display space for the sale or rental, for any form of consideration, of any one or more of the following:

(a) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, slides, or other visual representations which are characterized by their emphasis upon the exhibition or description of “Specified Sexual Activities” or “Specified Anatomical Areas”;

(b) Instruments, devices, or paraphernalia that are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others.

***Adult Cabaret:*** Adult Cabaret means a nightclub, bar, juice bar, restaurant bottle club, or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features: (a) persons who appear Semi-nude, (b) live performances which are characterized by the exposure of “Specified Anatomical Areas” or “Specified Sexual Activities,” or (c) films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by their emphasis upon the exhibition or description of “Specified Sexual Activities” or “Specified Anatomical Areas”.

***Adult Motel.*** Adult Motel means a motel, hotel, or similar commercial establishment which offers public accommodations, for any form of consideration, which regularly provides patrons with



closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by their emphasis upon the exhibition or description of “Specified Sexual Activities” or “Specified Anatomical Areas” and which advertises the availability of this sexually-oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising, including but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television; and (b) offers a sleeping room for rent for a period of time less than ten (10) hours; or (c) allows a tenant or occupant to sub-rent the sleeping room for a time period of less than ten (10) hours.

***Adult Motion Picture Theater:*** Adult Motion Picture Theater means a commercial establishment where films, motion pictures, video cassettes, slides or similar photographic reproductions which are characterized by their emphasis upon the exhibition or description of “Specified Sexual Activities” or “Specified Anatomical Areas” are Regularly Shown for any form of consideration.

***Adult Theater:*** Adult Theater means a theater, concert hall, auditorium, or similar commercial establishment which, for any form of consideration, Regularly Features persons who appear live in a state of Semi-nudity or live performances which are characterized by their emphasis upon the exhibition of “Specified Anatomical Areas” or “Specified Sexual Activities”.

***Business License Official:*** Business License Official means the City's business license officer or his designee.

***Controlling Interest:*** Controlling Interest means the power, directly or indirectly, to direct the operation, management or policies of a business or entity, or to vote twenty per cent or more of any class of voting securities of a business. The ownership, control, or power to vote twenty per



cent or more of any class of voting securities of a business shall be presumed, subject to rebuttal, to be the power to direct the management, operation or policies of the business.

***Distinguished or Characterized by an Emphasis on:*** Distinguished or Characterized by an Emphasis on means the dominant or principal theme of the object described by such a phrase. For instance, when the phrase refers to films “which are Distinguished or Characterized by an Emphasis on” the exhibition or description of “Specified Sexual Activities or Specified Anatomical Areas”. The films so described are those whose dominant or principal character and theme are the exhibition or description of “Specified Anatomical Areas” or “Specified Sexual Activities”.

***Employ, Employee and Employment:*** “Employ, Employee and Employment” describe and pertain to any person who performs any service on the premises of a sexually-oriented business, on a full-time, part-time, or contract basis, whether or not the person is designated an Employee, independent contractor, agent, 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 or similar type of function.

***Establish or Establishment:*** Establish or Establishment shall mean and include any of the following:

- (a) The opening or commencement of any sexually-oriented business as a new business.
- (b) The conversion of an existing business, whether or not a sexually-oriented business, to any sexually-oriented business;



(c) The addition of any sexually-oriented business to any other existing sexually-oriented business; or

(d) The relocation of any sexually-oriented business.

**Hearing Officer:** “Hearing Officer” shall mean the Mayor of \_\_\_\_\_ or a designee of the Mayor.

**Licensee:** Licensee shall mean a person in whose name a license to operate a sexually-oriented business has been issued, as well as the individual or individuals listed as an applicant on the application for a sexually-oriented business license. In case of an “Employee” it shall mean the person in whose name the Employee license has been issued.

**Nudity or State of Nudity:** Nudity or State of Nudity means the showing of the human male or female genitals, pubic area, vulva, anus, or anal cleft 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.

**Opaque:** Opaque shall mean impervious, having capacity to block out or obstruct the visual image of an object.

**Operate or Cause to Operate:** Operate or Cause to Operate shall mean to cause to function or to put or keep in a state of doing business. Operator means any person on the premises of a sexually-oriented business who is authorized to exercise overall operational control of the business or who causes to function or who puts or keeps in operation the business. A person may be found to be operating or causing to be operated a sexually-oriented business whether or not that person is an owner, part owner, or Licensee of the business.

**Park:** Park means public land which has been designated for park or recreational activities, including but not limited to, a park, playground, nature trails, swimming pool, reservoir, athletic field,



basketball or tennis courts, pedestrian/bicycle paths, open space, wilderness areas, or similar public land within the City which is under the control, operation, or management of the City park and recreation authorities, including but not limited to the following existing parks and facilities:

\_\_\_\_\_ and its related facilities, such as, but not limited to, trails, parking lots, playgrounds, ball fields, and \_\_\_\_\_.

***Pecuniary Compensation:*** Pecuniary Compensation means any commission, fee, salary, tip, gratuity, profit, reward, or any other form of consideration.

***Person:*** Person shall mean an individual, proprietorship, partnership, corporation, association, or other legal entity.

***Place Open to Public View:*** Place Open to Public View means an area capable of observance by persons from the general community, where an expectation for privacy is not reasonably justified, and includes a dedicated roadway, sidewalk, a parking lot, any public way, a theater, a restaurant, a movie theater, any room in a hotel or motel other than a guest room, or any other place where an expectation for privacy is not reasonably justified.

***Protected Uses:*** Protected Uses means churches, public libraries, public parks or parkways, public recreation centers, public and private schools, and any residence or residential district.

***Regularly Featured or Regularly Shown:*** Regularly Featured or Regularly Shown means a consistent or substantial course of conduct such that the films or performances exhibited constitute a substantial portion of the films or performances offered as a part of the ongoing business of the sexually-oriented business.



***Semi-nude:*** Semi-nude shall mean a state of dress in which any Opaque clothing covers no more than the genitals, anus, anal cleft or cleavage, pubic area, vulva, and nipple of the female breast, as well as portions of the body covered by supporting straps or devices.

***Sexually-Oriented Business:*** Sexually-Oriented Business shall mean an Adult Arcade, Adult Bookstore, Adult Motion Picture Theater, Adult Novelty Store, Adult Theater, Adult Video Store, Adult Cabaret, and Adult Motel.

***Specified Anatomical Areas:*** Specified Anatomical Areas shall mean (a) human male genitals in a state of sexual arousal; or (b) less than completely and Opaquely covered buttocks, anus, anal cleft or cleavage, male or female genitals, or a female breast.

***Specified Criminal Activity:*** “Specified Criminal Activity” means any of the following offenses as they are defined by applicable Utah State Statute:

(1) prostitution or promotion of prostitution; dissemination of obscenity or illegal pornographic materials; sale, distribution or display of harmful material to a minor; sexual abuse; sexual abuse of a child; sexual exploitation of children; sexual performance by a child; possession or distribution of child pornography; sexual battery; rape; indecent exposure; indecency with a child; the crimes of criminal pandering, tax violations, embezzlement, or racketeering, if such crimes are directly related to the operation of a Sexually-Oriented Business; sexual assault; molestation of a child; or distribution of a controlled substance; criminal attempt, conspiracy or solicitation to commit any of the foregoing offenses or offenses involving the same elements from any jurisdiction if the offenses were committed in the State of Utah, regardless of the exact title of the offense, for which:



(a) 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;

(b) 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

(c) 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 24-month period.

The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant.

***Specified Sexual Activity:*** Specified Sexual Activity shall mean:

- (1) Acts of, or simulating:
  - (a) Masturbation
  - (b) Sexual intercourse
  - (c) Sexual copulation with a person or a beast
  - (d) Fellatio
  - (e) Cunnilingus
  - (f) Bestiality
  - (g) Pederasty
  - (h) Buggery



- (i) Sodomy
- (j) Excretory functions as part of or in connection with any of the activities set forth in (a) through (i) above.

***Transfer of Ownership or Control of a Sexually-Oriented Business:*** Transfer of Ownership or Control of a Sexually-Oriented Business license shall mean any of the following:

- (a) The sale, lease, or sublease of the business;
- (b) The transfer of securities which constitutes a Controlling Interest in the business, whether by sale, exchange, or similar means; or
- (c) The establishment of a trust, gift or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

***Viewing Room:*** Viewing Room shall mean the room, booth, or area where a patron of a Sexually-Oriented Business would ordinarily be positioned while watching a film, video cassette or other video production.

## LOCATION REGULATIONS

### .060 ZONING.

It is unlawful for any Sexually-Oriented Business to do business at any location within the City not zoned for such business. Businesses regulated by this chapter shall not be located closer than six hundred (600) feet to each other and not closer than six hundred (600) feet to Protected Uses.



**\_\_\_\_\_ .070 SEXUALLY-ORIENTED BUSINESS — ADDITIONAL LOCATION REQUIREMENTS.**

It is unlawful for any business licensed as a Sexually-Oriented Business to be located within six hundred (600) feet of a business licensed for the consumption of alcohol or liquor.

**\_\_\_\_\_ .080 METHOD OF MEASUREMENT.**

The six hundred (600) foot limitation is measured from the nearest property line of the business regulated by this chapter to the nearest property line of the other Sexually-Oriented Business or business licensed for the sale or consumption of alcohol, or area of Protected Use.

**\_\_\_\_\_ .090 SINGLE LOCATION AND NAME.**

(A) It is unlawful to conduct business under a license issued pursuant to this chapter at any location other than the licensed premises.

(B) It is unlawful for any Sexually-Oriented Business to do business in the City under any name other than the business name specified in the application.

**\_\_\_\_\_ .100 MOVING OF BUSINESS LOCATION.**

It is unlawful for any Sexually-Oriented Business, as regulated herein, to relocate or otherwise move its location or area of operation. A Sexually-Oriented Business wishing to relocate must submit the appropriate application for a license as required under this chapter. Such application shall be reviewed under the terms and conditions of this chapter and applicable City ordinances.

**LICENSING PROVISIONS**

**\_\_\_\_\_ .110 BUSINESS CATEGORIES.**

The categories of Sexually-Oriented Business are:



- (1) Adult Arcade
- (2) Adult Bookstore, Adult Novelty Store, Adult Video Store
- (3) Adult Cabaret
- (4) Adult Motel
- (5) Adult Motion Picture Theater
- (6) Adult Theater.

**\_\_\_\_\_ .120 HOURS OF OPERATION.**

All premises licensed to Operate a Sexually-Oriented Business shall only Operate between the hours of 10:00 a.m. and 2:00 a.m. of the following day.

**\_\_\_\_\_ .130 BUSINESS LICENSE REQUIRED.**

It is unlawful:

- (1) For any person to Operate a Sexually-Oriented Business without a valid Sexually-Oriented Business license issued by the City pursuant to this ordinance.
- (2) For any person who operates a Sexually-Oriented Business to Employ a person to work for the Sexually-Oriented Business who is not licensed as a Sexually-Oriented Business Employee by the City pursuant to this ordinance.
- (3) For any person to obtain Employment with a Sexually-Oriented Business without having secured a Sexually-Oriented Business work permit pursuant to this ordinance.



(4) Sexually-Oriented Business licenses will be limited to one for each six thousand (6,000) residents of the City of \_\_\_\_\_. Any available license will be issued on a first-come, first-serve basis.

\_\_\_\_\_.140 **BUSINESS LICENSE-APPLICATION-DISCLOSURE.**

(A) If a person who wishes to Operate a Sexually-Oriented Business is an individual, he shall sign the application for a license as applicant. If a person who wishes to Operate a Sexually-Oriented Business is other than an individual, the application shall include the full legal name, address, and state of incorporation of the business. Each officer, director, general partner, or other person who owns a Controlling Interest in the business, or who will participate directly in decisions relating to management and control of the business, shall sign the license application as an applicant. Each applicant must be qualified under this ordinance and each applicant shall be considered a Licensee if a license is granted.

(B) Upon filing a completed application for a Sexually-Oriented Business license or Sexually-Oriented Business work permit, the Business License Official shall issue a Temporary License to the applicant, which Temporary License shall expire upon the final decision of the City to deny or grant the license.

(C) An application shall be considered complete when it contains the information required in paragraphs 1 through 5 as follows:

- (1) The full legal name and any other names or aliases used by the applicant,
- (2) The applicant's date and place of birth,
- (3) Present business address and telephone number,



(4) Identification issued by a federal or state governmental agency with the individual's colored photograph, signature, and physical description,

(5) Fingerprints on a form provided by a public safety department,

(6) The identity of each individual authorized by the corporation partnership or non-corporate entity to receive service of process. If the application is for a Sexually-Oriented Business license, the application shall be accompanied by a sketch or diagram showing the interior configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.

(D) Each applicant must provide a statement of whether the applicant has been convicted of, or has pled guilty or *nolo contendere* to, a Specified Criminal Activity as defined in this ordinance, and if so, the Specified Criminal Activity involved, the date, place, and jurisdiction of each.

(E) In the event the applicant is not the owner(s) of record of the real property upon which the business or proposed business is or is to be located, the application must be accompanied by a notarized statement from the legal or equitable owner(s) of the possessory interest in the property specifically acknowledging the type of business for which the applicant seeks a license to Operate a Sexually-Oriented Business on the property. In addition to furnishing such notarized statement, the applicant shall furnish the name, address, and phone number of the owner of record of the property,



as well as the copy of the lease or rental agreement pertaining to the premises on which the service is or will be located.

**\_\_\_\_\_ .150 LICENSE AND WORK PERMIT FEES.**

(A) Each applicant for a Sexually-Oriented Business license shall be required to pay a regulatory license fee as set forth in the consolidated fee schedule as adopted from time to time by the City Council.

(B) This fee shall be in addition to the other licenses and fees required to do business in the City.

**\_\_\_\_\_ .160 BUSINESS LICENSE TERM.**

A license shall be issued for a period not to exceed 12 months. All Sexually-Oriented Business licenses shall expire on December 31 of each year regardless of when issued. The license fees required shall not be prorated for any portion of the year.

**\_\_\_\_\_ .170 LICENSE-DISPLAY.**

Any Sexually-Oriented Business location within the boundaries of the City must display the license granted pursuant to this chapter in a prominent public location within the business premises.

**\_\_\_\_\_ .180 ISSUANCE OF BUSINESS LICENSE FOR SEXUALLY-ORIENTED BUSINESS.**

(A) Under no circumstances shall the total time for the City to issue a license or issue a written intent to deny an application for a license exceed thirty (30) days from the receipt of a completed application. The Business License Official shall issue a license to the applicant unless the Official finds one or more of the following to be true by a preponderance of the evidence:



(1) The applicant is under eighteen (18) years of age or any higher age, if the license sought requires a higher age.

(2) The applicant is overdue in payment to the City of taxes, fees, fines or penalties assessed against the applicant or imposed on the applicant in relation to a Sexually-Oriented Business.

(3) The applicant has falsely answered a material question or request for information specifically authorized by this chapter.

(4) The license fees required by this chapter have not been paid.

(5) All applicable sales and use taxes have not been paid.

(6) Each applicant must provide a statement of whether the applicant has been convicted of or has pled guilty or *nolo contendere* to a Specified Criminal Activity as defined in this ordinance, and if so, the Specified Criminal Activity involved, the date, place, and jurisdiction of each. The fact that a conviction is being appealed shall have no effect on the disqualification pursuant to this section.

(B) The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the number of the license issued to the Licensee(s), the expiration date, and, if the license is for a Sexually-Oriented Business, the address of the Sexually-Oriented Business. The Sexually-Oriented Business license shall be posted in a conspicuous place at or near the entrance to the Sexually-Oriented Business so that it may be easily read at any time.

**\_\_\_\_\_ .190 TRANSFER OF OWNERSHIP OF BUSINESS LICENSE PROHIBITED.**

Sexually-Oriented Business licenses granted under this chapter shall not be transferable.



\_\_\_\_\_ **.200 CHANGE IN INFORMATION.**

The Licensee shall submit, in writing, any change in the information required to be submitted under this chapter for either a Sexually-Oriented Business license or Sexually-Oriented Business work permit to the Business License Official within fourteen (14) days after such change.

**ADDITIONAL BUILDING REGULATIONS**

\_\_\_\_\_ **.210 REGULATIONS PERTAINING TO EXHIBITION OF SEXUALLY EXPLICIT FILMS OR VIDEOS.**

(A) A person who operates or causes to be operated a Sexually-Oriented Business, other than an Adult Motel, which exhibits on the premises in a Viewing Room of less than one hundred fifty (150) square feet of floor space, films, video cassettes, or other video reproductions characterized by an emphasis on the display of Specified Sexual Activities or Specified Anatomical Areas shall comply with the following requirements. It shall be unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.

(1) Each application for a Sexually-Oriented Business license shall contain a diagram of the premises showing the location of all manager's stations, Viewing Rooms, overhead lighting fixtures, video cameras and monitors installed for monitoring purposes and restrooms, and shall designate all portions of the premises in which patrons will not be permitted. Restrooms shall not contain video reproduction equipment. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. 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. The Business License Official may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

(2) The application shall be sworn to be true and correct by the applicant.

(3) No alteration in the configuration or location of a manager's station or Viewing Room may be made without the prior approval of the Business License Official.

(4) It shall be the duty of the operator, and of any Employees 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 in the application filed pursuant to Paragraph 1 of this subsection.

(5) 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 one (1.0) foot candle as measured at the floor level. It shall be the duty of the operator, and of any Employees 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.



(6) It shall be the duty of the operator, and of any Employees present on the premises, to ensure that no sexual activity occurs in or on the licensed premises.

(7) It shall be the duty of the operator, and of any Employees present on the premises, to ensure that not more than one person is present in a Viewing Room at any time. No person shall enter a Viewing Room that is occupied by another person.

(8) It shall be the duty of the operator, and of any Employees present on the premises, to ensure that no openings of any kind exist between Viewing Rooms. No person shall make an attempt to make an opening of any kind between Viewing Rooms.

(9) It shall be the duty of the operator, or of any Employee who discovers two or more patrons in a Viewing Room, or discovers any person making or attempting to make an opening of any kind between Viewing Rooms, to immediately escort such persons from the premises.

(10) It shall be the duty of the operator, or of any Employee who discovers an opening of any kind between Viewing Rooms, to immediately secure such rooms, and prevent entry into them by any patron until such time as the wall between the rooms has been repaired to remove the opening. Removal and repairing openings between Viewing Rooms shall be in a manner that is as structurally substantial as the original wall construction.

(11) It shall be the duty of the operator, at least once each business day, to inspect the walls between Viewing Rooms for openings of any kind.



(12) It shall be the duty of the operator to post conspicuous signs in well-lighted entry areas of the business stating all of the following:

- (a) That no loitering is permitted in Viewing Rooms.
- (b) That the occupancy of Viewing Rooms is limited to one person.
- (c) That sexual activity on the premises is prohibited.
- (d) That the making of openings between Viewing Rooms is prohibited.
- (e) That violators will be required to leave the premises.
- (f) That violations of Subparagraphs (b), (c) and (d) of this paragraph are unlawful.

(13) It shall be the duty of the operator to ensure that floor coverings in Viewing Rooms are nonporous, easily cleanable surfaces, with no rugs or carpeting.

(14) It shall be the duty of the operator to ensure that all wall surfaces and seating surfaces in Viewing Rooms are constructed of, or permanently covered by, nonporous, easily cleanable material.

(15) It shall be the duty of the operator to ensure that premises are clean and sanitary. Such duty shall be fulfilled if the operator complies with the following cleaning procedures:

- (a) The operator shall maintain a regular cleaning schedule of at least two cleanings per day, documented by appropriate logs.
- (b) The operator shall provide an Employee to check all areas for garbage, trash, body fluids and excrement and to remove and clean all areas



with a disinfectant. All solid waste generated by the business shall be collected from the premises for disposal at a lawful solid waste disposal facility at least once each week. Prior to collection solid waste shall be stored in a manner that prevents access by animals or members of the public and which will not facilitate the creation of a health nuisance.

(c) Thorough cleaning of the entire interior of any room providing patron privacy shall be done using a disinfectant. Cleaning shall include floors, walls, doors, seating, monitors, video cameras, and windows and other surfaces.

(16) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises in which patrons are permitted, including the interior of each Viewing Room but excluding restrooms, to which any patron is permitted access for any purpose. A manager's station shall not exceed forty (40) square feet of floor area. If the premises has two (2) or more manager'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 from at least one of the manager's stations. The view required in this paragraph must be by direct line of sight from the manager's station. It is the duty of the operator to ensure that at least one Employee is on duty and situated in each manager's station at all times that any patron is on the premises. It shall be the duty of the operator, and it shall also be the duty of any Employees 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.

**\_\_\_\_\_ .220 STAGE REQUIREMENTS.**

It shall be a violation of this chapter for an Employee to knowingly or intentionally, in a Sexually-Oriented Business, appear in a state of Semi-nudity unless the Employee is at least three (3) feet from patrons and customers and on a stage at least two (2) feet from the floor.

**EMPLOYEE REGULATIONS**

**\_\_\_\_\_ .230 EMPLOYEE WORK PERMIT REQUIRED.**

It is unlawful for any person to act as a Sexually-Oriented Business Employee, without first obtaining a Sexually-Oriented Business work permit, as specified below in § \_\_\_\_\_ .240 *et. seq.*

**\_\_\_\_\_ .240 SEXUALLY-ORIENTED BUSINESS EMPLOYEE WORK PERMITS.**

It is unlawful for any Sexually-Oriented Business to Employ, or for any individual to be employed as a Sexually-Oriented Business Employee unless that Employee first obtains a Sexually-Oriented Business Employee work permit.

**\_\_\_\_\_ .250 SEXUALLY-ORIENTED BUSINESS EMPLOYEE WORK PERMIT APPLICATION — DISCLOSURE**

(A) Upon the filing of a completed application for a Sexually-Oriented Business Employee work permit, the Business License Official shall issue a Temporary License to the applicant, which Temporary License shall expire upon the final decision of the City to deny or grant



the work permit. An application shall be considered complete when it contains the information required in Paragraphs 1 through 5 as follows.

- (1) The correct legal name of each applicant;
- (2) Present business address and telephone number; and
- (3) Identification issued by a federal or state governmental agency with the individual's date of birth, colored photograph, signature, and physical description.
- (4) The individual's fingerprints on a form provided by a public safety department.
- (5) Each applicant must provide a statement of whether the applicant has been convicted of or has pled guilty or *nolo contendere* to a Specified Criminal Activity as defined in this ordinance, and if so, the Specified Criminal Activity involved, the date, place, and jurisdiction of each. The fact that a conviction is being appealed shall have no effect on the disqualification pursuant to this section.

(B) A license or permit required by this article is in addition to any other licenses or permits required by the City, county, or state to engage in the business or occupation. Persons engaged in the operation of an adult-oriented business or in Employment in an adult-oriented business shall comply with all other applicable local, state, and federal laws, ordinances, and statutes, including zoning ordinances, as may be required.

(C) The information provided by an applicant in connection with an application for a license under this chapter shall be maintained by the City on a confidential basis, except that such information may be disclosed only to law enforcement agencies in connection with a law



enforcement or public safety function, or as may be required by governing law or court order. The information provided by a Sexually-Oriented Business license applicant in connection with the application for a license under this chapter shall be maintained by the Business License Official.

**\_\_\_\_\_ .260 STATE LICENSING EXEMPTION.**

The provisions of this chapter shall not apply to any sex therapist or similar individual licensed by the State of Utah to provide bona fide sexual therapy or counseling, a licensed medical practitioner, licensed nurse, psychiatrist, or psychologist while providing professional services for which they are licensed, nor shall it apply to any educator licensed by the State of Utah for activities in the classroom.

**\_\_\_\_\_ .270 SEXUALLY-ORIENTED BUSINESS EMPLOYEE WORK PERMIT —  
ISSUANCE AND TERM.**

(A) Within thirty (30) days of the initial filing date of the receipt of a completed application, the Business License Official shall either issue a license or issue a written notice of intent to deny a license to the applicant. The Business License Official shall approve the issuance of a license unless one or more of the following is found by a preponderance of evidence to be true.

- (1) The applicant is less than eighteen (18) years of age.
- (2) The applicant has failed to provide information as required by Section 4 for issuance of a license or has falsely answered a question or request for information on the application form.
- (3) The license application fee required by this section has not been paid.



(4) The applicant has been convicted of a Specified Criminal Activity, as defined in this ordinance, or has been shown to have committed two or more violations of Section \_\_\_\_\_ .310 of this ordinance within the previous year.

(B) Sexually-Oriented Business Employee work permits may be obtained at any time throughout the year. All Employee work permits will expire on the last day of the twelfth month following issuance.

(C) Sexually-Oriented Business licenses and Sexually-Oriented Business Employee work permits may be renewed only by making application and payment of a fee as provided for in this ordinance. Application for renewal should be made at least ninety (90) days before the expiration date of said licenses and work permits, and when made less than ninety (90) days before the expiration date, the expiration of the license or work permit will not be affected.

**\_\_\_\_\_ .280 CHANGE IN EMPLOYEE INFORMATION.**

Any change in the information required to be submitted under this chapter for a Sexually-Oriented Business work permit will be given, in writing, to the Business License Official within fourteen (14) days after such change.

**\_\_\_\_\_ .290 LICENSE FEES.**

Each applicant for a Sexually-Oriented Business Employee work permit shall be required to pay yearly regulatory license fees pursuant to the Consolidated Fee Schedule as adopted by the City Council.



**\_\_\_\_\_ .300 LICENSE DISPLAY.**

A Sexually-Oriented Business Employee shall keep the Employee's work permit on his or her person or on the premises where the Licensee is then working and shall, while working on the Sexually-Oriented Business premises, produce such work permit for inspection upon request by a law enforcement officer or other City official performing functions connected with the enforcement of this chapter.

**\_\_\_\_\_ .310 SEXUALLY-ORIENTED BUSINESS EMPLOYEE CONDUCT.**

It is unlawful for any Sexually-Oriented Business Licensee or Sexually-Oriented Business Employee to knowingly or intentionally:

- (A) Allow persons under the age of eighteen (18) years, or the age of twenty-one (21) years if required by any applicable alcohol ordinance, on the business premises;
- (B) Allow, offer or agree to gambling on the business premises;
- (C) Allow, offer or agree to the illegal possession, use, sale or distribution of controlled substances on the licensed premises;
- (D) Permit, commit, offer or agree to commit prostitution, solicitation of prostitution, solicitation of a minor or commit activities harmful to the minor to occur on the licensed premises;
- (E) Permit, commit, offer or agree to permit any live Specified Sexual Activity as defined by City ordinances or state statutes in the presence of any customer or patron;
- (F) Permit, offer or agree to a patron or customer to masturbate within or upon the premises of a Sexually-Oriented Business;
- (G) Appear in a State of Nudity before a patron on the premises of a Sexually-Oriented Business;



(H) Refuse to permit officers or agents of the City of \_\_\_\_\_ who are performing functions connected with the enforcement of this chapter to inspect the portions of the Sexually-Oriented Business premises where patrons are permitted, for the purpose of ensuring compliance with this chapter, at any time the Sexually-Oriented Business is occupied by patrons or open for business. A Licensee's knowing or intentional refusal to permit such an inspection shall constitute a violation of this section. The provisions of this subsection do not apply to areas of an Adult Motel which are currently being rented by a customer for use as a permanent or temporary habitation.

\_\_\_\_\_ **.320 ACTIVITIES OF PATRONS.**

It is unlawful for any patron to knowingly or intentionally:

- (A) Touch in any manner a Sexually-Oriented Business Employee while the Sexually-Oriented Business Employee is Semi-nude;
- (B) Place any money or object on or within the costume or person of any Sexually-Oriented Business Employee while the Sexually-Oriented Business Employee is Semi-nude; or
- (C) Appear in a State of Nudity before another person on the premises of a Sexually-Oriented Business.

**GENERAL APPLICABILITY, ACTIONS FOR VIOLATIONS, DEFENSES**

\_\_\_\_\_ **.340 APPLICABILITY OF REGULATIONS TO EXISTING BUSINESSES.**

(A) The provisions of this chapter shall be applicable to all persons and businesses described in this chapter, whether the described activities were established before or after the



effective date of the ordinance codified in this chapter, and regardless of whether such persons and businesses are currently licensed to do business in the City.

(B) Upon adoption, the provisions of this ordinance shall apply to the activities of all Sexually-Oriented Businesses and Sexually-Oriented Business Employees described herein, whether such businesses or activities were established or commenced before, on, or after the effective date of this ordinance. All existing Sexually-Oriented Businesses and Sexually-Oriented Business Employees are hereby granted a *De Facto* Temporary License to continue operation or Employment for a period of ninety (90) days following the effective date of this ordinance. Within said ninety (90) days, all Sexually-Oriented Businesses and Sexually-Oriented Business Employees must make application for a license pursuant to this chapter. Within said ninety (90) days, Sexually-Oriented Businesses must make any necessary changes to the interior configurations of the regulated business premises to conform to this chapter.

          .350     **INJUNCTIONS.**

An entity or individual who, without a valid license, operates or causes to be operated a Sexually-Oriented Business, without a valid license, or who Employs or is employed as an Employee of a Sexually-Oriented Business, or who operates such a business or functions as such an Employee in violation of the provisions of this chapter, is subject to a suit for injunction in addition to the civil and criminal violations provided in this chapter, and any other remedy available at law or in equity.



\_\_\_\_\_ **.360 SUSPENSION.**

The City shall issue a written letter of intent to suspend a Sexually-Oriented Business license for a period not to exceed thirty (30) days if it is determined that the Sexually-Oriented Business Licensee has knowingly violated this chapter or has knowingly allowed an Employee to violate this chapter. The City shall issue a written letter of intent to suspend a Sexually-Oriented Business Employee work permit if it is determined that the Employee has knowingly violated this chapter.

\_\_\_\_\_ **.370 REVOCATION.**

(A) The Business License Official shall issue a written intent to revoke a Sexually-Oriented Business license or a Sexually-Oriented Business Employee work permit if a cause of suspension in Section \_\_\_\_\_ .380 occurs and the license has been suspended within the preceding twelve (12) months.

(B) The Business License Official shall issue a written intent to revoke a Sexually-Oriented Business license or a Sexually-Oriented Business Employee work permit if the Official determines that a Licensee or an Employee, with the knowledge of the Licensee:

- (1) knowingly gave false or misleading information in the application or in any document or diagram related to the operation of the Sexually-Oriented Business.
- (2) knowingly allowed possession, use, or sale of controlled substances on the premises.
- (3) knowingly allowed prostitution on the premises.



(4) knowingly operated the Sexually-Oriented Business during a period of time when the Licensee's license was suspended.

(5) A Licensee has been convicted, pled guilty, or pled *nolo contendere* to a Specified Criminal Activity as defined in this ordinance.

(6) A Licensee or an Employee has knowingly allowed any Specified Sexual Activity to occur in or on the licensed premises.

(7) A Licensee is delinquent in payment to the City of taxes or fees related to the Sexually-Oriented Business.

(C) The fact that any conviction is being appealed shall have no effect on the revocation of the license.

(D) For the purposes of this ordinance, an act by a Sexually-Oriented Business Employee that constitutes grounds for revocation of that Employee's work permit shall be imputed to the Sexually-Oriented Business for purposes of denial, suspension, or revocation proceedings only if the Hearing Officer determines by a preponderance of evidence that an officer, director, or general partner, or an Employee who managed, supervised, or controlled the operation of the business, knowingly allowed such act to occur on the Sexually-Oriented Business premises.

(E) Nature of Revocation. When, after the notice and hearing procedure described in this chapter, the Business License Official revokes a license, the revocation shall continue for one (1) year and the Licensee shall not be issued a Sexually-Oriented Business license for one (1) year from the date revocation becomes effective, provided that, if the conditions of Section \_\_\_\_\_.380 are met, a Provisional License will be granted pursuant to that section. If, subsequent to revocation, the Enforcement Officer finds that the basis for the revocation found in subsections (B)(1), (B)(4)



and (B)(7) of this section has been corrected or abated, the applicant shall be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective. If the license was revoked under subsections (B)(2), (B)(3), (B)(5) and (B)(6) of this section, an applicant may not be granted another license until the appropriate number of years required under this chapter has elapsed.

**\_\_\_\_\_380 HEARING, REVOCATION, LICENSE DENIAL, SUSPENSION; APPEAL.**

(A) If the Business License Official determines that facts exist for denial, suspension, or revocation of a license under this chapter, the City shall notify the applicant or Licensee (respondent) in writing of the City's intent to deny, suspend or revoke the license, including the grounds therefore, by personal delivery, or by certified mail.

(1) The notification shall be directed to the most current business address or other mailing address on file with the Business License Official for the respondent. Within ten (10) working days of receipt of such notice, the respondent may provide to the Business License Official a written response that shall include a statement of reasons why the respondent believes the license should not be denied, suspended, or revoked.

(2) Within five (5) days of the receipt of respondent's written response, the Business License Official shall notify respondent in writing of the hearing date on respondent's denial, suspension, or revocation proceeding. Within ten (10) working days of the receipt of respondent's written response, the Hearing Officer shall conduct a hearing at which respondent shall have the opportunity to present all of respondent's arguments and to be represented by counsel, present evidence and



witnesses on his or her behalf, and cross-examine any of the City's witnesses. The hearing shall take no longer than two (2) days, unless extended to meet the requirements of due process and proper administration of justice. The Hearing Officer shall issue a written opinion within five (5) days after the hearing. If a court action challenging the City's decision is initiated, the City shall prepare and transmit to the court a transcript of the hearing within ten (10) days after the issuance of the Hearing Officer's written opinion.

(3) If a written response from respondent is not received by the Business License Official within the time stated in paragraph (A)(1) above, or if after a hearing, the Hearing Officer concludes that grounds as specified in this ordinance exist for denial, suspension, or revocation of the license, then such denial, suspension, or revocation shall become final five (5) days after the Hearing Officer sends, by certified mail, written notice to the respondent that the license has been denied, suspended, or revoked. Such notice shall include a statement advising the respondent of the right to appeal such decision to a court of competent jurisdiction. If the Hearing Officer finds that no grounds exist for denial, suspension, or revocation of a license, then within five (5) days after the hearing, the Hearing Officer shall immediately withdraw the intent to deny, suspend, or revoke the license and shall notify the respondent in writing by certified mail of such action. The Hearing Officer shall contemporaneously therewith issue the license to the applicant.



(B) An applicant or Licensee (aggrieved party) whose application for a license has been denied or whose license has been suspended or revoked shall have the right to appeal such action to a court of competent jurisdiction. Upon the filing of any court action to appeal, challenge, restrain, or otherwise enjoin the City's enforcement of the denial, suspension, or revocation, the City shall immediately issue the aggrieved party a Provisional License. The Provisional License shall allow the aggrieved party to continue operation of the Sexually-Oriented Business or to continue Employment as a Sexually-Oriented Business Employee and will expire upon the court's entry of a judgment on the aggrieved party's appeal or other action to restrain or otherwise enjoin the City's enforcement.

(1) Application of Ordinance During Temporary License or Provisional License Periods. Sexually-Oriented Businesses or Sexually-Oriented Business Employees operating or working under Temporary Licenses, Provisional Licenses, or De Facto Temporary Licenses shall be subject to the applicable provisions of this ordinance.

**\_\_\_\_\_390 VIOLATION — PENALTY.**

In addition to revocation or suspension of a license as provided in this chapter, the violation of any provision of this chapter shall be a Class B misdemeanor. Each day of a violation shall be considered a separate offense. The prosecuting agency shall have the discretion to charge any offense under this chapter as an infraction.





CITY COUNCIL VOTE AS RECORDED:

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Transmitted to the Office of the Mayor of \_\_\_\_\_ on this  
\_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_

City Recorder



MAYOR'S ACTION: \_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_

City Recorder