

TITLE 9.
LICENSING, CONTROL AND
REGULATION OF BUSINESS AND
CONSTRUCTION.

CHAPTER 9-700. SEXUALLY ORIENTED BUSINESSES

Part 9-710. Title for Citation.

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

9-711. Purpose. It is the purpose and object of this Chapter that the City establish reasonable and uniform regulations governing the time, place and manner of operation of sexually oriented businesses and their employees in the City. This chapter shall be construed to protect the governmental interests recognized by this Chapter in a manner consistent with constitutional protections provided by the United States and Utah Constitutions.

9-712. Application of Provisions. 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, including, but not limited to, those codified in Chapter 17-100. Adoption of Uniform Utah Criminal Code.

9-713. Definitions.

(1) "Adult Bookstore", "Adult Novelty Store" or "Adult Video Store" means a commercial establishment:

- (a) Which excludes minors from more than fifteen percent (15%) of the retail floor or shelf space of the premises; or
- (b) Which, as one of its principal purposes, offers for sale, viewing or rental, for any form of consideration, any one or more of the following: books, magazines, periodicals, or other printed matter; or photographs, films, motion pictures, video cassettes, or video reproductions, slides, or other visual representations, the central theme of which depicts or describes "specified sexual activities" or "specified anatomical areas"; or instruments, devices,

or paraphernalia which are designated for use in connection with "specified sexual activities," except for legitimate medically recognized contraceptives.

(2) "Adult Business" or "Sexually Oriented Business" means an adult motion picture theater, adult theater, adult bookstore, adult novelty store, adult video store, as defined by this Chapter, or any business providing products or services which constitute at least fifteen percent (15%) of the floor space for retail sales of items and performance of services which are illegal to minors or not legally obtainable without written parental or legal guardian consent, unless exempt under the provisions of Section 9-720 of this Chapter. "Adult Business" or "Sexually Oriented Business" also means semi-nude entertainment businesses, adult oriented outcall services, adult businesses, and semi-nude dancing agencies, as defined by this Chapter.

(3) "Adult Motion Picture Theater" means a commercial establishment which:

- (a) Excludes minors from the showing of two consecutive exhibitions (repeated showings of any single presentation shall not be considered a consecutive exhibition); or
- (b) As its principal business, shows, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions which are primarily characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(4) "Adult Theater" means a theater, concert hall, auditorium, or similar commercial establishment which:

- (a) Holds itself out as such a business; or
- (b) Excludes minors from the showing of two consecutive exhibitions (repeated performance of the same presentation shall not be considered a consecutive exhibition); or
- (c) As its principal business, features persons who appear in live performances in state of semi-nudity or which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

(5) "Employ" means hiring an individual to work for pecuniary or any other form of compensation, whether such person is hired on the payroll of the employer, as an independent contractor, as an agent, or in any other form of employment relationship.

(6) "Escort" means any person who, for pecuniary compensation, dates, socializes, visits, consorts with, or accompanies or offers to date, consort, socialize, visit, or accompany another or

others to or about social affairs, entertainment, or places of amusement, or within any place of public or private resort or any business or commercial establishment or any private quarters. "Escort" shall not be construed to include persons who provide business or personal services, such as licensed private nurses, aides for the elderly, or handicapped, social secretaries or similar service personnel whose relationship with their patron is characterized by a bona fide contractual relationship having a duration of more than twelve hours and who provide a service not principally characterized as dating or socializing. "Escort" shall also not be construed to include persons providing services such as singing telegrams, birthday greetings, or similar activities characterized by appearances in a public place, contracted for by a party other than the person for whom the service is being performed and of a duration not longer than one hour.

(7) "Escort Service" means an individual or entity who, for pecuniary compensation, furnishes or offers to furnish escorts, or provides or offers to introduce patrons to escorts.

(8) "Escort Service Runner" means any third person, not an escort, who, for pecuniary compensation, acts in the capacity of an agent or broker for an escort service, escort, or patron by contacting or meeting with escort services, escorts, or patrons at any location within the City, whether or not such third person is employed by such escort services, escorts, or patrons or by another business, or is an independent contractor or self-employed.

(9) "Nudity" means a state of dress in which the nipple and areola of the female breast or male or female genitals, pubic region, or anus are covered by less than the covering required in the definition of semi-nude.

(10) "Operator" means the manager or other natural person principally in charge of a sexually oriented business.

(11) "Outcall Services" means services of a type performed by an sexually oriented business employee outside of the premises of the licensed sexually oriented business, including but not limited to escorts, models, dancers and other similar employees.

(12) "Patron" means any person who contracts with or employs any escort services or escort or the customer of any business licensed pursuant to this Chapter.

(13) "Pecuniary Compensation" means any commission, fee, salary, tip, gratuity, hire, profit, reward, or any other form of consideration.

(14) "Person" means any person, unincorporated association, corporation, limited liability company, partnership, or other legal entity.

(15) "Semi-nude" means a state of dress in which every portion of the female breast below a

horizontal line across the top of the areola at its highest point or a simulation thereof shall be covered by opaque clothing or other covering; and the male or female genitals, pubic region, and anus or simulation thereof shall be fully covered by opaque clothing or other covering no narrower than four inches (4") wide in the front and five inches wide in the back, which shall not taper to less than one inch wide at the narrowest point, provided, however, that the clothing or covering is sufficient to completely cover the genitals and anus, and that no pubic hair is showing.

(16) "Semi-nude Dancing Agency" means any person, agency, firm, corporation, partnership, or any other entity or individual which furnishes, books, or otherwise engages or offers to furnish, book, or otherwise engage the service of a professional dancer licensed pursuant to this Chapter for performance or appearance at a business licensed for adult theaters, and at or for any other sexually oriented business.

(17) "Semi-nude Entertainment Business" means a business, including adult theater, where employees perform or appear in the presence of patrons of the business in a state of semi-nudity. A business shall also be presumed to be a semi-nude entertainment business if the business holds itself out as such a business.

(18) "Sexually Oriented Business Employees" means those employees who work on the premises of a sexually oriented business in activities related to the sexually oriented portion of the business. This includes all managing employees, dancers, escorts, models, and other similar employees, whether or not hired as employees, agents, or as independent contractors. Employees shall not include individuals whose work is unrelated to the sexually oriented portion of the business, such as janitors, bookkeepers, and similar employees. Sexually oriented business employees shall not include cooks, serving persons, and similar employees, except where they may be managers or supervisors of the business. All persons making outcall meetings under this Chapter, including escorts, models, guards, escort runners, drivers, chauffeurs, and other similar employees, shall be considered sexually oriented business employees.

(19) "Specified Anatomical Areas" means the human male or female pubic area, genitalia, or anus or a simulation thereof with less than a full opaque covering; the human female breast or simulation thereof below a horizontal line across the top of the areola at its highest point, with less than full opaque covering; or the human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(20) "Specified Sexual Activities" means acts, whether real or simulated, of:

(a) Masturbation,

- (b) Human sexual intercourse,
- (c) Sexual copulation between a person and a beast,
- (d) Fellatio,
- (e) Cunnilingus,
- (f) Bestiality,
- (g) Pederasty,
- (h) Buggery,
- (i) Anal copulation between a human male and another human male, human female, or beast,
- (j) Sodomy,
- (k) Manipulating, caressing or fondling, or simulating such actions, by any person of:
 - (i) The genitals of a human or beast,
 - (ii) The pubic area of a human or beast,
 - (iii) The breast or breasts of a human female; or
 - (iv) any part of the human buttocks or anus;
- (l) Actual or simulated acts of sadomasochism, flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of the one so clothed,
- (m) The actual or simulated display of human male genitalia in a discernibly turgid state, even if completely and opaquely covered, or
- (n) The public display of any Specified Anatomical Areas.

9-714. Location of Sexually Oriented Businesses - Restrictions.

(1) An Adult Business or sexually oriented business shall be only permitted in accordance with the City's Land Development Code, subject to the provisions of this Chapter.

(2) No sexually oriented business shall be located:

- (a) Within one thousand feet (1,000') of any school, public park, library, or religious institution.
- (b) Within one thousand feet (1,000') of any residential use (no matter which zoning district) or a residential zoning boundary.
- (c) Within six hundred feet (600') of any other sexually oriented business.
- (d) Within six hundred feet (600') of any gateway or gateway corridor as identified in this title and the General Plan (sometimes also referred to as the Master Plan). The distance shall be measured from the edge of the right-of-way. For purposes of this Chapter, "gateway" or "gateway corridor"

shall mean the state highways, freeways and other primary access roads by which vehicular access to and through Tremonton City is obtained.

(3) Distance requirements between structures and uses specified in this Section shall be measured in a straight line, without regard to intervening structures or zoning districts, from the perimeter property boundaries of the school, public park, library, religious institution, residential use, or other sexually oriented business, or from the edge of the right-of-way of a gateway or gateway corridor, to the nearest point on the structure of the sexually oriented business.

(4) Distance requirements from zoning districts for this Section shall be measured in a straight line, without regard to intervening structures or zoning districts, from the closest zoning boundary of a residential district to the nearest point on the sexually oriented business structure.

9-715. Effect on Non-conforming Businesses. All lawfully established, legally existing, nonconforming sexually oriented businesses, shall comply with the provisions of this Chapter by December 31, 1998, except in the case in which a business is required to be relocated. In such cases where relocation is required for conformance with this Section, the business shall comply by December 31, 2000.

9-716. Signs. Signs for sexually oriented businesses shall be subject to the limitations of this section in addition to any standards within Chapter 4 of the City's Land Development Code.

(1) No more than one exterior building-mounted sign shall be permitted.

(2) No sign shall exceed eighteen (18) square feet in total sign area.

(3) No animation shall be permitted on or around any sign or on the exterior walls or roof of such premises.

(4) No descriptive art or designs depicting any activity related to or inferring the nature of the business shall be permitted on any sign. Signs shall contain alphanumeric copy only.

(5) Only flat wall signs shall be permitted; awnings shall be permitted only to display the street number in letters or numbers no greater than eight inches in height.

(6) Painted wall advertising shall not be allowed.

(7) Other than the signs specifically allowed by this Chapter, the sexually oriented business shall not attach, construct, or allow to be attached or constructed any temporary sign, banner, light, or other device designed to draw attention to the business location.

9-717. Obscenity and Lewdness--Statutory Provisions.

(1) Notwithstanding anything contained in this Chapter, nothing in this Chapter shall be deemed to permit or allow the showing or display of any matter which is contrary to applicable City, Federal or State statutes prohibiting obscenity and/or lewdness.

(2) Notwithstanding anything contained in this Chapter, nothing in this Chapter shall be deemed to permit or allow conduct or the showing or display of any matter which is contrary to the provisions of Chapter 17-100. Adoption of Uniform Utah Criminal Code.

9-718. Location and Zoning Restrictions. It is unlawful for any sexually oriented business to do business at any location within the City not zoned for such business. Sexually oriented businesses licensed as adult businesses or semi-nude entertainment businesses pursuant to this Chapter shall only be allowed in areas zoned for their use pursuant to the City's Land Development Code.

9-719. Business License Required. It is unlawful for any person to operate a sexually oriented business, as specified herein, without first obtaining a general business license and a sexually oriented business license. The sexually oriented business license shall specify the type of business for which it is obtained.

9-720. Exemptions from License Requirements. The provisions of this Chapter shall not apply to any sex therapist or similar individual licensed by the State to provide bona fide sexual therapy or counseling, licensed medical practitioner, licensed nurse, psychiatrist, psychologist, nor shall it apply to any educator licensed by the State for activities in the classroom.

9-721. Legitimate Artistic Modeling.

(1) The City does not intend to unreasonably or improperly prohibit legitimate modeling which may occur in a state of nudity for purposes protected by the First Amendment or similar State protections. The City does intend to prohibit prostitution and related offenses occurring under the guise of nude modeling. Notwithstanding the provisions of Section 9-734 (11), a licensed outcall employee may appear in a state of nudity before a customer or patron, providing that a written contract for such appearance was entered into between the customer or patron and the employee and signed at least forty-eight hours before the nude appearance. All of the other applicable provisions of this Chapter shall still apply to such nude appearance.

(2) In the event of a contract for nude modeling or appearance signed more than forty-eight hours in advance of the modeling or appearance, the individual to appear nude shall not be required to obtain a license pursuant to this Chapter. During such unlicensed nude appearance, it is unlawful to:

- (a) Appear nude or semi-nude in the presence of persons under the age of eighteen;
- (b) Allow, offer, or agree to any touching of the contracting party or other person by the individual appearing nude;
- (c) Allow, offer, or agree to commit prostitution, solicitation of prostitution, solicitation of a minor, or committing activities harmful to a minor;
- (d) Allow, offer, commit, or agree to any sex act as validly defined by City ordinances or State statute;
- (e) Allow, offer, agree, or permit the contracting party or other person to masturbate in the presence of the individual contracted to appear nude;
- (f) Allow, offer, or agree for the individual appearing nude to be within five feet (5') of any other person while performing or while nude or semi-nude.

9-722. Business Categories - Number of Licenses.

(1) It is unlawful for any business premises to operate or be licensed for more than one category of sexually oriented business, except that a business may have a license for both outcall services and a semi-nude dancing agency on the same premises.

(2) The categories of sexually oriented businesses are:

- (a) Outcall services;
- (b) Adult businesses;
- (c) Semi-nude entertainment businesses;
- (d) Semi-nude dancing agency;
- (e) Escort services.

9-723. Employee Licenses. It is unlawful for any sexually oriented business to employ or for any individual to be employed by a sexually oriented business in the capacity of a sexually oriented business employee, unless that employee first obtains a sexually oriented business employee license.

9-724. License - Application - Disclosures Required. Before any applicant may be licensed to operate a sexually oriented business or as a sexually oriented business employee pursuant to this Chapter, the applicant shall submit, on a form to be supplied by the City license authority, the following:

- (1) The correct legal name of each applicant,

corporation, partnership, limited partnership, or entity doing business under an assumed name;

(2) If the applicant is a corporation, limited liability company, partnership, or limited partnership, or individual or entity doing business under an assumed name, the information required below for individual applicants shall be submitted for each partner, member, manager, and each principal of an applicant, and for each officer, director, and any shareholder (corporate or personal) of more than ten percent (10%) of the stock of any applicant. Any holding company, or any entity holding more than ten percent (10%) of an applicant, shall be considered an applicant for purposes of disclosure under this Chapter. The shareholder disclosure requirements above shall only be applicable for outcall service licenses;

(3) All corporations, limited liability companies, partnerships, or non-corporate entities included on the application shall also identify each individual authorized by the corporation, limited liability company, partnership, or non-corporate entity to sign the checks for such corporation, limited liability company, partnership, or non-corporate entity;

(4) For all applicants or individuals, the application must also state:

- (a) Any other names or aliases used by the individual,
- (b) The age, date, and place of birth,
- (c) Height,
- (d) Weight,
- (e) Color of hair,
- (f) Color of eyes,
- (g) Present business address and telephone number.
- (h) Present residence and telephone number,
- (i) Utah driver license or identification number, and
- (j) Social security number;

(5) Acceptable written proof that any individual is at least eighteen (18) years of age;

(6) Attached to the form, as provided above, two color photographs of the applicant clearly showing the individual's face and the individual's fingerprints on a form provided by the Police Department. For persons not residing in the City, the photographs and fingerprints may be on a form from the law enforcement jurisdiction where the person resides. Fees for the photographs and fingerprints shall be paid by the applicant as part of the business license application fee or by the applicant directly to the issuing agency;

(7) For any individual applicant required to obtain a sexually oriented business employee license as an escort or a semi-nude entertainer, a certificate from the Bear River Health Department, stating that

the individual has, within thirty (30) days immediately preceding the date of the original or renewal application, been examined and found to be free of any contagious or communicable diseases;

(8) A statement of the business, occupation, or employment history of the applicant for three (3) years immediately preceding the date of the filing of the application;

(9) A statement detailing the license or permit history of the applicant for the five (5) year period immediately preceding the date of the filing of the application, including whether such applicant previously operating or seeking to operate, in this or any other county, city, state, or territory, has ever had a license, permit, or authorization to do business denied, revoked, or suspended, or has had any professional or vocational license or permit denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the date, the name of the issuing or denying jurisdiction, and state in full the reasons for the denial, revocation, or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application; all criminal convictions or pleas of nolo contendere, except those which have been expunged, and the disposition of all such arrests for the applicant, individual, or other entity subject to disclosure under this Chapter, for five (5) years prior to the date of the application. This disclosure shall include identification of all ordinance violations, excepting minor traffic offenses (any traffic offense involving alcohol or drugs or designated as a felony shall not be construed as a minor traffic offense), stating the date, place, nature of each conviction or plea of nolo contendere, and sentence of each conviction or other disposition, identifying the convicting jurisdiction and sentencing court, and providing the court identifying case numbers or docket numbers. Application for a sexually oriented business or employee license shall constitute a waiver by the applicant and specifically allow the disclosure of any criminal conviction or plea of nolo contendere for the purposes of any proceeding involving the business or employee license;

(10) In the event the applicant is not the owner 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 of the possessory interest in the property specifically acknowledging the type of business for which the applicant seeks a license for 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 in which the service is or will be located;

(11) A description of the services to be provided by the business, with sufficient detail to allow reviewing authorities to determine what business will be transacted on the premises, together with a schedule of usual fees for services to be charged by the licensee, and any rules, regulations, or employment guidelines under or by which the business intends to operate. This description shall also include:

- (a) The hours that the business or service will be open to the public, and the methods of promoting the health and safety of the employees and patrons and preventing them from engaging in illegal activity,
- (b) The methods of supervision preventing the employees from engaging in acts of prostitution or other related criminal activities,
- (c) The methods of supervising employees and patrons to prevent employees and patrons from charging or receiving fees for services or acts prohibited by this Chapter or other statutes or ordinances,
- (d) The methods of screening employees and customers in order to promote the health and safety of employees and customers and prevent the transmission of disease, and prevent the commission of acts of prostitution or other criminal activity.

(12) It is unlawful to knowingly submit false or materially misleading information on or with a sexually oriented business license application or to fail to disclose or omit information for the purpose of obtaining a sexually oriented business or employee license.

9-725. License Fees. Each applicant for a sexually oriented business or employee license shall be required to pay the application and regulatory license fees as contained in the City's Consolidated Fee Schedule, adopted by Resolution of the City Council. An application is not complete until all appropriate fees have been paid.

9-726. License - Bond. Each application for a sexually oriented business license shall post, with the City Treasurer, a cash or corporate surety bond payable to City of Tremonton in the amount of two thousand dollars. Any fines assessed against the business, officers, or managers for violations of City ordinances shall be taken from this bond if not paid in cash within ten (10) days after notice of the fine, unless an appeal is filed as provided by this Chapter. In the event the funds are drawn against the cash or surety bond to pay such fines, the bond shall be replenished to two thousand dollars within fifteen (15) days of the date of notice of any draw against it.

9-727. License - Premises Location and Name.

(1) It is unlawful to conduct business under a license issued pursuant to this Chapter at any location other than the licensed premises. Any location to which telephone calls are automatically forwarded by such business shall require a separate license.

(2) 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.

9-728. License - Issuance Conditions. The City Recorder shall approve the issuance of a license to the applicant within thirty (30) days after receipt of a completed application, unless the official finds one or more of the following: (Ord. No. 09-24)

(1) The applicant is under eighteen (18) years of 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.

(3) The applicant has falsely answered a material question or request for information as authorized by this Chapter;

(4) The applicant has violated a provision of this Chapter or similar provisions found in statutes or ordinances from any jurisdiction within two (2) years immediately preceding the application; a criminal conviction for a violation of a provision of this Chapter or similar provisions from any jurisdiction, whether or not it is being appealed, is conclusive evidence of a violation, but a conviction is not necessary to prove a violation;

(5) The premises to be used for the business have been disapproved by the Bear River Health Department, the Fire Department, the Police Department, the building officials, or the zoning officials as not being in compliance with applicable laws and ordinances of the City. If any of the foregoing reviewing agencies cannot complete their review within the thirty (30) day approval or denial period, the agency or department may obtain from the City Treasurer an extension of time of no more than fifteen (15) days for their review. The total time for the City to approve or deny a license shall not exceed forty-five (45) days from the receipt of a completed application and payment of all fees. Businesses located outside of the corporate boundaries of the City, but requiring a license under this Chapter, may be denied a license pursuant to this Chapter if the business does not have a valid business license to conduct business at the business location from the appropriate jurisdiction for that location;

(a) Upon receipt of an application, all departments required to review the application shall determine within seven (7)

days whether or not the application is incomplete in items needed for processing. Incomplete applications shall immediately be returned to the applicant with a specification of the items which are incomplete;

(b) The time for processing applications specified in this Section shall begin to run from the receipt of a complete application;

(c) In the event that a license for semi-nude entertainment, semi-nude dancing agencies, adult businesses, or semi-nude entertainment businesses has not been disapproved within thirty (30) days or the forty-five (45) days allowed after an extension, the City shall issue the license pending completion of the City's review;

(d) Any license issued pursuant to item(c) above may be revoked by the City, pursuant to the revocation procedures provided for herein, if the complete review determines that the license should have been denied.

(6) The required license fees have not been paid;

(7) All applicable sales and use taxes have not been paid;

(8) An applicant for the proposed business is in violation of or not in compliance with this Chapter or similar provisions found in statutes or ordinances from any jurisdiction;

(9) An applicant has been convicted or pled nolo contendere to a crime:

(a) Involving prostitution; exploitation of prostitution; aggravated promotion of prostitution; aggravated exploitation of prostitution; solicitation of sex acts; sex acts for hire; compelling prostitution; aiding prostitution; sale, distribution, or display of material harmful to minors; sexual performance by minors; possession of child pornography; lewdness; indecent exposure; any crime involving sexual abuse or exploitation of a child; sexual assault or aggravated sexual assault; rape; forcible sodomy; forcible sexual abuse; incest; harboring a runaway child; criminal attempt, conspiracy, or solicitation to commit any of the foregoing offenses or offenses involving similar elements from any jurisdiction, regardless of the exact title of the offense; for which:

(i) Less than two (2) years have elapsed from the date of conviction, if the conviction is of a misdemeanor offense, or less than five (5) years have elapsed from the date of the last conviction, if the convictions are of two

(2) or more misdemeanors within the five (5) years or

(ii) Less than five (5) years have elapsed from the date of conviction, if the offense is of a felony.

(b) The fact that a conviction is being appealed shall have no effect on the disqualification pursuant to this Section.

9-729. License - Term. Sexually oriented business and employee licenses issued pursuant to this Chapter shall be valid from the date of issuance through December 31st of each year. The license fees required for the applicable classification shall not be prorated for any portion of a year, but shall be paid in full for whatever portion of the year for which the license is applied.

9-730. License - Notice of Change of Information. Any change in the information required to be submitted under this Chapter for either a sexually oriented business license or sexually oriented business employee license shall be given, in writing, to the City Recorder and the Police Department within fourteen (14) days after such change. (Ord. No. 09-24)

9-731. License - Transfer Limitations. Sexually oriented business licenses granted under this Chapter shall not be transferable. It is unlawful for a license held by an individual to be transferred. It is unlawful in the case of a license held by a corporation, limited liability company, partnership, or other non-corporate entity, for any owner or other interest holder in such licensee, to transfer any interest in excess of ten percent (10%) in such licensee, without filing a new application and obtaining prior City approval. If any transfer of the controlling interest in a business licensee occurs, the license is immediately null and void, and the business shall not operate until a separate new license has been properly issued by the City as provided in this Chapter.

9-732. License - Display. It is unlawful for any sexually oriented business location within the boundaries of the City to fail to display the license granted pursuant to this Chapter in a prominent location within the business premises. It is unlawful for any individual licensed pursuant to this Chapter to fail to carry, at all times while engaged in licensed activities within the corporate boundaries of the City, their employee license on their person. If the individual is nude, such license shall be visibly displayed within the same room the employee is performing. When requested by police, City licensing or other enforcement personnel or health official, it is unlawful to fail to show the appropriate

licenses while engaged in licensed activities within the corporate boundaries of the City.

9-733. License - Statement in Advertisements. It is unlawful for any advertisement by a sexually oriented business or employee to fail to state that the business or employee is licensed by the City, and shall include the City license number.

9-734. Regulations and Unlawful Activities. It is unlawful for any sexually oriented business or sexually oriented business employee to:

(1) Allow persons under the age of eighteen (18) years on the licensed premises, except that in adult businesses which exclude minors from less than all of the business premises, minors shall not be permitted in excluded areas;

(2) Allow, offer, or agree to conduct any outcall business with persons under the age of eighteen (18) years;

(3) To allow, offer, or agree to allow any alcohol to be stored, used, or consumed on or in the licensed premises;

(4) Allow the outside door to the premises to be locked while any customer is in the premises;

(5) Allow, offer, or agree to gambling on the licensed premises;

(6) Allow, offer, or agree to any sexually oriented business employee touching or being touched by any patron or customer; except that outcall employees and customers may touch, except that any touching of specified anatomical areas, whether clothed or unclothed, is prohibited;

(7) Allow, offer, or agree to illegal possession, use, sale, or distribution of controlled substances on the licensed premises;

(8) Allow sexually oriented business employees to possess, use, sell, or distribute controlled substances while engaged in the activities of the business;

(9) Allow, offer, or agree to commit prostitution, solicitation of prostitution, solicitation of a minor, or committing activities harmful to a minor to occur on the licensed premises or, in the event of an outcall employee or business, the outcall employee committing, offering, or agreeing to commit prostitution, attempting to commit prostitution, soliciting prostitution, soliciting a minor, or committing activities harmful to a minor;

(10) Allow, offer, commit, or agree to any specified sexual activity as validly defined by City ordinances or State statute in the presence of any customer or patron;

(11) Allow, offer, or agree to any outcall employee appearing before any customer or patron in a state of nudity, except as may be specifically allowed by law;

(12) Allow, offer, or agree to allow a patron or customer to masturbate in the presence of the sexually oriented business employee or on the premises of a sexually oriented business.

(13) Allow, offer, or agree to commit an act of lewdness as defined in City, State or Federal law.

9-735. Outcall Services - Operation Requirements. It is unlawful for any business or employee providing outcall services contracted for in the City to fail to comply with the following requirements:

(1) All businesses licensed to provide outcall services pursuant to this Chapter shall provide to each patron a written contract in receipt of pecuniary compensation for services. The contract shall clearly state the type of services to be performed, the length of time such services shall be performed, the total amount such services shall cost the patron, and any special terms or conditions relating to the services to be performed. The contract need not include the name of the patron. The business licensee shall keep and maintain a copy of each written contract entered into pursuant to this Section for a period not less than one (1) year from the date of provision of services thereunder. The contracts shall be numbered and entered into a register listing the contract number, date, names of all employees involved in the contract, and pecuniary compensation paid.

(2) All outcall businesses licensed pursuant to this Chapter shall maintain an open office or telephone at which the licensee or licensee's designated agent may be personally contacted during all hours outcall employees are working. The address and phone number of the license location shall appear and be included in all patron contracts and published advertisements. For outcall businesses which premises are licensed within the corporate limits of the City, private rooms or booths where the patrons may meet with the outcall employee shall not be provided at the open office or any other location by the service, nor shall patrons meet outcall employees at the business premises.

(3) Outcall services shall not advertise in such a manner that would lead a reasonably prudent person to conclude that specified sexual activities would be performed by the outcall employee.

(4) All employees of outcall services who provide outcall services within the City shall be licensed in accordance with this Chapter, regardless of the primary location of the business.

9-736. Adult Business - Design of Premises.

(1) In addition to the general requirements of disclosure for a sexually oriented business, any applicant for a license as an adult business shall also submit a diagram, drawn to scale, of the premises of

the license. The design and construction, prior to granting a license or opening for business, shall conform to the following:

(a) 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 to which any patron is permitted access for any purpose, excluding restrooms.

(b) Restrooms may not contain any video reproduction equipment or any of the business merchandise. Signs shall be posted requiring only one person being allowed in the restroom per stall, and only one person in any stall at a time, and requiring that patrons shall not be allowed access to manager's station areas.

(c) For businesses which exclude minors from the entire premises, all windows, doors and other apertures to the premises shall be darkened or otherwise constructed to prevent anyone outside the premises from seeing the inside of the premises. Businesses which exclude minors from less than all of the premises shall be designed and constructed so that minors may not see into the area from which they are excluded.

(d) The diagram required shall not necessarily be a professional engineer's or architect's blueprint; however, the diagram must show marked internal dimensions, all overhead lighting fixtures, and ratings for illumination capacity.

(2) It shall be the duty of the licensee and the licensee's employees to ensure that the views from the manager's station in subsection (1) of this Section remain unobstructed by any doors walls, merchandise, display racks, or any other materials at all times that any patron is present in the premises, and 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.

(3) The premises shall at all times be equipped and operated 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 foot-candle, measured at floor level. It shall be the duty of the licensee and the licensee's employees present on the premises to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

9-737. Semi-Nude Entertainment Business - Design of Premises.

(1) It is unlawful for business premises licensed for semi-nude entertainment to:

(a) Permit a bed, sofa, mattress, or similar

item in any room on the premises, except that a sofa may be placed in a reception room open to the public or in any office to which patrons are not admitted, and except that in an adult theater such items may be on the stage as part of a performance;

(b) Allow any door on any room used for the business, except for the door to an office to which patrons shall not be admitted, outside doors, and restroom doors to be lockable from the inside;

(c) Provide any room in which the employee or employees and the patron or patrons are alone together without a separation by a solid physical barrier at least three feet (3') high and six inches (6") wide. The patron or patrons shall remain on one side of the barrier and the employee or employees shall remain on the other side of the barrier.

(2) Adult theaters shall also require that the performance area shall be separated from the patrons by a minimum of six feet, which separation shall be delineated by a physical barrier at least three feet high.

9-738. Semi-Nude Entertainment Business - Location Restriction. It is unlawful for any business licensed for semi-nude entertainment to be located within six hundred feet (600') of a business licensed for the sale or consumption of alcohol.

9-739. Alcohol Prohibited.

(1) It is unlawful for any business licensed pursuant to this Chapter to allow the sale, storage, supply, or consumption of alcoholic beverages on the premises.

(2) It is unlawful for any person to possess or consume any alcoholic beverage on the premises of any sexually oriented business.

9-740. Semi-Nude Dancing Agencies.

(1) It is unlawful for any individual or entity to furnish, book, or otherwise engage the services of a professional dancer, model, or performer to appear in a state of semi-nudity for pecuniary compensation in or for any semi-nude entertainment business or adult theater licensed pursuant to this Chapter, unless such agency is licensed pursuant to this Chapter.

(2) It is unlawful for any individual or entity to furnish, book, or otherwise engage or permit any person to perform as a professional dancer, model, or performer in a state of semi-nudity or nudity, either gratuitously or for compensation, in or for any business licensed pursuant to this Chapter, unless such person is licensed pursuant to this Chapter.

9-741. Performers - Prohibited Activities. It is unlawful for any professional dancer, model, or performer, while performing in any business licensed pursuant to this Chapter, to:

- (1) Touch in any manner any other person;
- (2) Throw any object or clothing off the stage area;
- (3) Accept any money, drink, or any other object directly from any person; or
- (4) Allow another person to touch such performer or to place any money or object on the performer or within the costume or person of the performer; or
- (5) Place anything within the costume or adjust or move the costume while performing so as to render the performer in a state of nudity.

9-742. Patrons - Prohibited Activities. It is unlawful for any person or any patron of any business to touch in any manner any performer; to place any money or object on or within the costume or person of any performer; or to give or offer to give to any such performer any drinks, money, or object while such performer is performing; except that money may be placed on the stage, which shall not be picked up by the performer except by hand.

9-743. Nudity - Defenses to Prosecution. It is a defense to prosecution or violation under this Chapter that a person appearing in a state of nudity did so in a modeling class operated:

- (1) By a proprietary school licensed by the state, or a college, junior college or university supported entirely or partly by taxation;
- (2) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.

9-744. Existing Businesses - Compliance Time Limits.

(1) The provisions of this Chapter shall be applicable to all persons and businesses described herein, whether the herein-described activities were established before or after the effective date of the provisions codified in this Chapter and regardless of whether such persons and businesses are currently licensed to do business in the City.

- (a) All such persons and businesses requiring outcall service licenses shall have forty-five (45) days from the effective date of the ordinance codified in this Chapter, or until their current license expires, whichever is first in time, to comply with the provisions of this Chapter.
- (b) All semi-nude dancing agency licenses

shall have forty-five (45) days from the effective date of the ordinance codified in this Chapter, or until their license must be renewed, whichever is first, to comply with the provisions of this Chapter.

(c) All adult businesses and semi-nude entertainment businesses shall have forty-five (45) days from the effective date of the ordinance codified in this Chapter, or until their current license must be renewed, whichever is first, to comply with the provisions of this Chapter.

(2) For the year 1998, all businesses required by this Chapter to be licensed as sexually oriented businesses shall receive credit for any 1998 license fee(s) paid and shall be required to remit the difference, if any, for fees assigned to the sexually oriented business classifications established, as applicable.

9-745. Violation - Injunction When. An entity or individual who operates or causes a sexually oriented business to be operated 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 herein, and any other remedy available at law or in equity.

9-746. Violation - License Suspension or Revocation.

(1) The City may issue a notice of intent to suspend or revoke, or not renew a sexually oriented business or employee license granted under this Chapter, and may suspend, revoke or not renew a license, if a licensee or an employee of the licensee has:

- (a) Violated or is not in compliance with this Chapter,
- (b) Refused to allow any inspection of the premises of the sexually oriented business specifically authorized by this Chapter or by any other statute or ordinance;
- (c) Failed to replenish the cost bond as provided in this Chapter (such a suspension shall extend until the bond has been replenished);
- (d) Given materially false or misleading information in obtaining the license;
- (e) Knowingly operated the sexually oriented business or worked under the employee license during the period when the business licensee's or employee licensee's license was suspended;
- (f) A licensee has committed an offense

which would be grounds for denial of a license for which the time period required has not elapsed;

(g) On two or more occasions within a twelve (12) month period, a person or persons committed in or on the licensed premises, or solicited for on the licensed premises, or an outcall employee solicited or committed on or off the premises, an offense which would be grounds for denial of a license for which a conviction has been obtained, and the person or persons were employees, whether or not licensed, of the sexually oriented business at the time the offenses were committed;

(h) A licensee is delinquent in payment to the City for taxes or fees related to the sexually oriented business.

(2) Notice of Intent to Suspend, Revoke or Not Renew shall be given and a hearing held as set forth in Section 9-120.B. of the Revised Ordinances of Tremonton City Corporation.

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

(4) The preceding subsections shall not apply to applications for sexually oriented businesses which have not previously been licensed by the municipality, and such applicants need only be informed that their application has been denied and the reasons for the denial.

9-747. Effect of License Revocation. When a license issued pursuant to this Chapter is revoked, suspended or not renewed, the action shall remain in effect for one (1) year from its effective date, and the licensee shall not be issued a sexually oriented business or employee license for no less than one (1) year from the date of such action.

9-748. Violation - Penalty Responsibility.

(1) In addition to revocation or suspension of, or the refusal to renew, a license, as provided in this Chapter, each violation of this Chapter shall, upon citation by the City Manager, require the licensee to pay a civil penalty. Fees are subject to the fee amount contained in the City's Consolidated Fee Schedule, adopted by Resolution of the City Council. Such civil penalties shall be deducted from the cost bond posted pursuant to this Chapter, unless paid within ten (10) days of notice of the civil penalty or the final determination by the City Council as set forth in 9-746(2), above. Each day of a violation shall be considered a separate offense, for purposes of both civil penalties and criminal prosecution.

(2) Every act or omission by an employee constituting a violation of the provisions of this Chapter shall be deemed the act or omission of the

sexually oriented business licensee and/or operator, if such act or omission occurs either with the authorization, knowledge, or approval of the licensee and/or operator, or as a result of the licensee's and/or operator's negligent failure to supervise the conduct of the employee, and the sexually oriented business licensee shall be punishable for such act or omission in the same manner as if the licensee committed the act or caused the omission.

(3) A sexually oriented business licensee and/or operator shall be responsible for the conduct of all employees while on the licensed premises, and any act or omission of any employee constituting a violation of the provisions of this Chapter shall be deemed the act or omission of the licensee and/or operator for the purposes of determining whether the licensee's license shall be revoked, suspended, or renewed. (Ord. No. 98-09)

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