

## **TITLE 8. REGULATION OF BUSINESS**

### **CHAPTER 8-100. General Provisions.**

#### **8-101. Definitions.**

- (A) **Business.** All activities engaged in within this municipality carried on for the purpose of gain or economic profit. The acts of employees rendering service to employers shall not be included in the term “business” unless otherwise specifically provided. Businesses can normally be described by reference to the Standard Industrial Class (SIC) code, or the North American Industry Classification System (NAICS).
- (B) **Place of business.** The place of operation of a person or persons engaging in business. Each separate place of business is defined as each separate establishment or place of operation, whether or not operating under the same name, within the municipality, including a home or other place of lodging, if the same is held out by advertisements, listings or otherwise as the establishment.
- (C) **Employee.**
- (1) The operator, owner or manager of a place of business and any persons employed by such person in the operation of said place of business in any capacity and also any salesman, agent or independent contractor engaged in the operation of the place of business in any capacity.
  - (2) For the purposes of a home-based business, employees are defined as the residents in the home that are engaged in the operations of the home-based business and any employees that are not residents of the home but who work at the home on either a regular or occasional, or full-time or part-time basis. An employee’s work location is defined as the place where they perform the majority of their duties for the home-based business for which they are employed.
- (D) **Engaging in business.** Includes, but is not limited to, the sale of tangible personal property at retail or wholesale, the manufacturing of goods or property and the rendering of personal services for others for a consideration by persons engaged in any profession, trade, craft, business, occupation or other calling, except the rendering of personal services by an employee to his employer under any contract of personal employment.
- (E) **Home-based business.** Any business conducted by the resident(s) and any employees of the business when the place of business is a residential property.
- (F) **Residential Business.** A business operated on either a for-gain/profit basis or a not-for-profit basis in which the business activity includes providing a residence for persons living in the facility either on a permanent/long term or temporary/short term basis. Residential businesses, like other businesses, can normally be described by reference to

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the Standard Industrial Class (SIC) code, or the North American Industry Classification System (NAICS). Neither a Residential Facility for the Elderly nor a Residential Facility for Persons with a Disability are considered a residential business for the purpose of this chapter and do not require licensing as a business by the city. All other Group Dwellings as defined in NLC Code 12C-114 are considered residential businesses and must be licensed as such.

- (G) Solicitor, canvasser, peddler, or itinerant merchant. A person who goes from place to place carrying and displaying for sale goods or merchandise which he carries; or who sells and delivers to consumers the identical or similar goods which he carried with him; a person who establishes himself in business and a locality for a short period of time or season or who occupies a place or site for the exhibition and sale of his goods or produce; or who goes from place to place or person to person seeking orders or subscriptions or distributing literature or materials for the purpose of advertising.
- (H) Wholesaler. A person doing a regularly organized wholesale or jobbing business and selling to retail merchants, jobbers, dealers or other wholesalers, for the purpose of resale.
- (I) Wholesale. A sale of tangible personal property by wholesalers to retail merchants, jobbers, dealers or other wholesalers for resale, and does not include a sale by wholesalers or retailers to users or consumers not for resale, except as otherwise specified.

(Ord 09-08, 02-16)

### **8-102. Business License Required.**

- (A) It shall be a Class "B" Misdemeanor for any person to transact, engage in or carry on any business, trade, profession, calling, or to operate a vending, pinball, or coin operated machine without first receiving the class or type of license required by the municipality.
- (B) It shall be a Class "B" Misdemeanor for any person to make a false statement or provide false information in any license application for the purpose of inducing the issuance of a business license. The making of any false statement or providing false information in any business license application shall constitute prima facia cause for the immediate revocation of the license. Any violation of this Chapter shall be deemed a Class "B" Misdemeanor for each day of the offense.

8-103. License Assessor and Collector. The recorder/clerk is designated and appointed as ex officio assessor of license fees for this municipality. On receipt of any application for a license, the recorder/clerk shall assess the amount due thereon and shall collect all license fees based upon the rate established by resolution. He shall enforce all provisions of this title, and shall cause to be filed complaints against all persons violating any of the provisions of this title.

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8-104. Payment and Renewal Dates. All business licenses shall be renewed each year in advance. Annual renewal license fees shall be due and payable one year from the date of issuance. The annual license shall date from the date of issuance of the license of each year and shall expire one year from the date of issuance. Annual fees shall become delinquent if not paid within 30 days following the due date.

(A) Deleted

(B) Deleted

(Ord. 98-03)

8-105. Penalty for Late Payment. If any license fee is not paid by the due date, a penalty of an amount as established by resolution of the City Council shall be added to the original amount thereof. No license shall be issued until all penalties legally assessed have been paid in full.

(Ord. 11-03)

8-106. Applications for License.

(A) All applications for license shall include:

(1) The name of the person desiring a license.

(2) The kind of license desired, stating the business, calling, trade or profession to be performed, practiced or carried on.

(3) The class of license desired, if such licenses are divided into classes.

(4) The place where such business, calling, trade or profession is to be carried on, giving the street number if the business calling, trade or profession is to be carried on in any building or enclosure having such number.

(5) The period of time for which such license is desired to be issued.

(B) In the event that the license application relates to a coin-operated machine or device, the application shall identify the machine or device to which it applies and the location thereof.

(C) License fees shall be submitted in full with any application for any initial business license and with each application submitted by a solicitor, canvasser, peddler, or itinerant merchant.

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- (D) The city may require positive identification of any applicant including fingerprints or otherwise as determined by the city in its discretion. The city may require an appropriate and reasonable bond of any license applicant at its discretion.

8-107. Certificate. All certificates of license shall be signed by the Mayor, attested by the recorder/clerk, and shall contain the following information:

- (A) The name of the person to whom such certificate has been issued.
- (B) The amount paid.
- (C) The type of license and the class of such license if licenses are divided into classes.
- (D) The term of the license with the commencing date and the date of its expiration.
- (E) The place where such business, calling, trade or profession to be conducted.

8-108. Display.

- (A) Every certificate of license issued under this title shall be posted by the licensee in a conspicuous place upon the wall of the building, room or office of the place of business so that the same may be easily seen. When such certificate of license has expired, it shall be removed by the licensee from such place in which it has been posted, and no certificate of license which is not in force and effect shall be permitted to remain posted upon the wall or any part of any room within the place of business. If the licensee's business is such that a license cannot be displayed due to the transient or mobile nature of the business, then the licensee shall carry the license on his person ready to be shown on request by an authorized officer during all such time or times while the licensee is engaged in or pursuing the business for which a license is granted.
- (B) In the event the license is for a coin-operated machine or device, the certificate shall be attached or displayed in the immediate vicinity of the machine for which it has been issued.

8-109. Transfer of License Prohibited. No license granted or issued under any ordinance of this municipality shall be assigned or transferred to any other person. It shall not be deemed to authorize any other business, calling, trade or profession than is therein named unless by permission of the governing body.

8-110. Revocation or Denial of Business License.

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- (A) Any license issued pursuant to the provisions of this code or of any ordinance of this municipality may be revoked and any application denied by the governing body because of:
- (1) The failure of the licensee or applicant to comply with the conditions and requirements of this code or any ordinance of the municipality.
  - (2) Unlawful activities conducted or permitted on the premises where the business is conducted.
- (B) Prior to the revocation of a license, or denial of an application to renew business license, the licensee or applicant shall be given a notice which shall state in substance that the governing body intends to revoke the business license or deny the application to renew, together with the reason or reasons therefore, at a regular or special meeting of the governing body (which shall be at least ten days and not more than 30 days from the date notice is sent and that the licensee or applicant has a right to appear, to be represented by counsel, to hear the evidence against him, to cross-examine witnesses and to present evidence as to why the license should not be revoked or the application denied.
- (C) The preceding subsection shall not apply to applications for businesses which have not previously been licensed by the municipality, and such applicants need only be informed that their application has been denied.
- (D) If an applicant makes any false statement or provides any false information in his application which induces the city to issue a business license, the making of such false statement or provision of such false information shall constitute grounds for the immediate revocation of the business license without notice or hearing; provided, however, that notice of the revocation and the reason therefore shall be delivered to the licensee without undue delay and in a reasonable manner and the licensee may request a hearing before the City Council which will be held within a reasonable time not to exceed ten days from the date of request, for reinstatement before the City Council.

**8-111. Branch Establishments.** A separate license must be obtained for each separate place of business in the municipality and each license shall authorize the licensee to engage only in the business licensed thereby at the location or in the manner designated in such license, provided, that warehouses and distributing places used in connection with or incident to a business licensed under this part shall not be deemed to be separate places of business or branch establishments.

**8-112. Joint License.** Whenever any person is engaged in two or more businesses at the same location within the municipality, such person shall not be required to obtain separate licenses for conducting each of such businesses, but shall be issued one license which shall specify on its face all such businesses. The license tax to be paid shall be computed at the highest license fee applicable to any of the businesses being conducted at such location. The sale of beer or any

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other product or service requiring and additional license shall be subject to such additional licensing requirement. Where two or more persons conduct separate businesses at the same location, each such person shall obtain a license for such business and pay the required license tax for such business.

### **8-113. Reciprocal Recognition of Licenses.**

- (A) No license shall be required nor shall any license fee be imposed for operation of any business in this municipality when such business is not maintaining a place of business within this municipality but who has paid a like or similar license tax or fee to some other taxing unit within the State of Utah and which taxing unit exempts from its license tax or fee, by ordinance, reciprocal agreement or by its practice, businesses domiciled in this municipality and doing business in such taxing unit. The license assessor and collector may, with approval of the governing body, enter into reciprocal agreements with the proper officials of other taxing units, as may be deemed equitable and proper in effecting the reciprocal recognition of licenses provided for in this paragraph.
- (B) No license shall be required for operation of any vehicle or equipment in this municipality when:
  - (1) Such person's business is at the time of such delivery licensed by the Utah municipality or county in which such place of business is situated, and,
  - (2) The authority licensing such business grants to licensees of this municipality making deliveries within its jurisdiction the same privileges, upon substantially the same terms, as are granted by this section, and,
  - (3) Neither the property delivered nor any of the facilities by which it was manufactured, produced or processed are subject to inspection by authority of this municipality for compliance with health, or sanitary standards prescribed by this municipality, and,
  - (4) The truck or other conveyance by which such delivery is made prominently displays at all times a license plate or symbol issued by the said licensing authority to evidence such business license. Such plate or symbol shall identify the licensing authority by which it is issued, shall indicate that it evidences a license issued thereby, and shall specify the year or term for which it is effective.
- (C) The recorder/clerk shall at the request of any person certify a copy of this section to any municipality or county of the State of Utah to which a copy has not previously been certified.

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- (D) Businesses exempted from licensing under this section shall not be exempt from compliance with other city regulations applicable to businesses including but not limited to sign regulations, other zoning regulations and home-based business operation regulations.

(Ord. 08-08)

### 8-114. Exemptions to License.

- (A) No license fee shall be imposed under Chapters 8-200 or 8-300 on any person engaged in business for solely religious, charitable, eleemosynary or other types of strictly non-profit purpose which is tax exempt in such activities under the laws of the United States and the State of Utah, nor shall any license fee be imposed on any person engaged in a business specifically exempted from municipal taxation and fees by the laws of the United States or the State of Utah.
- (B) Businesses exempted from licensing under paragraph (A) above shall not be exempt from compliance with other city regulations including but not limited to sign regulations, zoning regulations and home based business regulations.

(Ord. 08-08)

### 8-115. Fee not to Constitute Undue Burden on Interstate Commerce.

- (A) None of the license taxes provided for by Chapters 8- 200 and 8-300 shall be applied as to occasion an undue burden on interstate commerce.
- (B) In any case, where a license tax is believed by a licensee or applicant for license to place an undue burden upon such commerce, he may apply to the license assessor and collector for an adjustment of the tax so that it shall not be discriminatory, unreasonable or unfair as to such commerce.
- (C) Such application may be made before, at or within six months after payment of the prescribed license tax.
- (D) The applicant shall, by affidavit and supporting testimony show his method of business and the gross volume or estimated gross volume of business and such other information as the license assessor and collector may deem necessary in order to determine the extent, if any, of such undue burden on such commerce.
- (E) The license assessor and collector shall then conduct an investigation, comparing applicant's business with other businesses of like nature and shall make findings of facts from which he shall determine whether the tax fixed by Chapters 8-200 and 8-300 is

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discriminatory, unreasonable or unfair as to applicant's business and shall recommend to the governing body a license tax for the applicant in an amount that is nondiscriminatory, reasonable and fair, and if the governing body is satisfied that such license tax is the amount that the applicant should pay, it shall fix the license tax in such amount.

- (F) If the regular license tax has already been paid, the governing body shall order a refund of the amount over and above the tax fixed by the governing body.
- (G) In fixing the fee to be charged, the license assessor and collector shall have the power to base the fee upon a percentage of gross sales, or employees, or may use any other method which will assure that the fee assessed shall be uniform with that assessed on businesses of like nature.

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### **CHAPTER 8-200. Businesses Licensed on Annual Fee Basis.**

8-201. Annual Fees. addition to any other business license fee which any person or place of business may be required to pay, there is hereby imposed on the business location of every person for whom a business license is required by Chapter 8-100 an annual fee in an amount set by resolution of the City Council.

#### 8-202. Fees and Categories.

(A) The categories and schedules of fees for business license in this municipality shall be as follows:

(See Resolution 88-2)

(B) The categories and schedule of fees for business licenses in this municipality may be amended, modified, or set aside upon resolution of the City Council.

### **CHAPTER 8-300. Business Licensed on Gross Receipts Basis.**

(Reserved)

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### **CHAPTER 8-400. Businesses Engaged in the Sale of Alcoholic Beverages.**

8-401. License to Sell Alcoholic Beverages at Retail. With respect to the issuance of any licenses to sell alcoholic beverages within North Logan City, it is the policy of the City to neither promote nor encourage the sale or consumption of alcoholic beverages, but to license, tax, and regulate the sale or other distribution of alcoholic beverages in such a way as to protect the public interest, including the rights of citizens who do not wish to be involved in any substantive way with alcoholic beverages. It is the general policy of the city that businesses whose primary focus is the sale of alcoholic beverages shall not be allowed in the city at all; and businesses selling beer for consumption off-premises, where there is little or no control regarding consumption, shall be restricted in number. Restaurant liquor licenses will only be issued to business establishments where the consumption of alcoholic beverages is controlled by trained managers of the business and trained servers at the table, where complete meals are prepared and served to the general public, and where the premises have all the necessary and adequate culinary fixtures for food preparation and dining accommodations. It is the intent of this ordinance that restaurants that are permitted to sell and serve alcoholic products only do so in conjunction with meals and in restaurants that are of a type and character that bring to this community a commitment to high quality, providing specialty dining opportunities for residents and visitors to this city. (Ord. 08-01)

- (A) It shall be a Class B Misdemeanor for any person to engage in the business of selling alcoholic beverages without first having procured a license therefor from the governing body and paid the license fee required by this part.
- (B) It shall be a Class B Misdemeanor for any person to sell alcoholic beverages after the revocation of the license issued pursuant to this part.
- (C) A separate license shall be required for each place of sale and the license shall at all times be conspicuously displayed in the place to which it shall refer or for which it shall be issued. All licensees shall comply with the Utah Alcoholic Beverage Control Act and the rules of the Alcoholic Beverage Control Commission.

8-402. Definitions. The words and phrases used in this part shall have the meanings specified in the Utah Alcoholic Beverage Control Act unless a different meaning is clearly evident.

8-403. Retail Licenses. Retail licenses issued hereunder shall be of the following eight kinds and shall carry the following privileges and be known as –

- (1) Consumption Off Premises Beer License,
- (2) On Premise Beer Retailer License,
- (3) Limited Restaurant License
- (4) On Premise Banquet License
- (5) Tavern License,

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- (6) Restaurant Liquor License,
- (7) Private Club Liquor License, and
- (8) Temporary Beer Permit

(Ord 04-08)

- (A) **Consumption Off Premises Beer License** shall entitle the licensee to sell beer on the licensed premises in the original containers for consumption off the premises in accordance with the Utah Alcoholic Beverage Control Act and the ordinances of this municipality.
- (B) **On Premise Beer Retailer License** shall entitle the licensee to sell beer in the original containers or on draft on the licensed premises for consumption on the premises; or sell beer on the licensed premises in sealed containers for consumption off-premises in accordance with the Utah Alcoholic Beverage Control Act. Total sales from beer is not to exceed thirty percent (30%) of the business's gross sales. Sale of beer to patrons is contingent upon ordering food with any beer purchased. (Ord. 10-04)
- (C) **Limited Restaurant License** shall entitle the licensee to sell beer, heavy beer, or wine on the licensed premises for consumption on the premises in accordance with the Utah Alcoholic Beverage Control Act. Sale of any alcoholic beverage to patrons is contingent upon ordering food with any alcoholic beverage purchased. Total sales from alcoholic beverages is not to exceed thirty percent (30%) of the business's gross sales. Further, no more than thirty percent (30%) of the retail floor area of the licensee's restaurant may be utilized as a bar.
- (D) **On Premise Banquet License** shall entitle the licensee to sell alcoholic beverages (beer, wines and liquors) for consumption in connection with the licensee's banquet and room service activities on the licensed premises in accordance with the Utah Alcoholic Beverage Control Act and the ordinances of this municipality.
- (E) **Tavern License** is for a facility selling beer for consumption on the licensed premises as the major part of the business. The license shall entitle the licensee to sell beer in the original containers or on draft on the licensed premises for consumption on the premises; or sell beer on the licensed premises in sealed containers for consumption off-premises in accordance with the Utah Alcoholic Beverage Control Act. Includes any businesses which serve beer but exceed the 50% limit on percent of sales from beer, as set forth in the Utah Alcoholic Beverage Control Act.
- (F) **Restaurant Liquor License** shall entitle the licensee to sell alcoholic beverages (beer, wines and liquors) for consumption on the licensed premises in accordance with the Utah Alcoholic Beverage Control Act and the ordinances of this municipality. Total sales from alcohol shall not exceed thirty percent (30%) of restaurant's gross sales.

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- (G) **Private Club Liquor License** shall entitle the licensee to sell alcoholic beverages (beer, wines and liquors) for consumption on the licensed premises in accordance with the Utah Alcoholic Beverage Control Act and the ordinances of this municipality. Each private club license must be specified as to class (class A, B, C, or D). Total sales from alcohol are not restricted to any specific percentage of gross sales in the club.
- (H) **Temporary Beer Permit** shall entitle the permittee to sell beer for a period of time not to exceed thirty (30) days. Each temporary permit must be specified as to type of license and other rules governing that class of license apply for the time of the temporary permit. Temporary permits are for temporary events, not for permanent businesses engaged in the sale of alcoholic beverages. A temporary permit may not, therefore, be issued as a temporary measure in lieu of, or until a permanent alcoholic beverage license is obtained.

(Ord 04-08)

8-404. Alcoholic Beverages License Fees. In addition to any other business license fees which any person or place of business may be required to pay, there is hereby imposed on any business location of every person engaged in the sale or dispensing of alcoholic beverages an annual license fee for each of the above listed licenses. Amount of license fee is to be specified by resolution adopted by the City Council.

8-405. License Fees to Accompany Application. Applications provided for in this part shall be accompanied by the fees provided in this part. The fee shall be returned to the applicant if the application is denied.

8-406. Purchase of Alcoholic Beverages for Resale. It is a Class B Misdemeanor for any licensee to purchase or acquire or to have or possess for the purpose of sale or distribution any alcoholic beverages except that which he shall have lawfully purchased from the State or from a brewer or wholesaler licensed under the provisions of the Utah Alcoholic Beverage Control Act.

8-407.1 Application Determination By Recorder/Clerk.

- (A) The Recorder/Clerk is hereby delegated the authority to process, grant or deny all alcoholic beverage license applications, subject to the total number of licenses allowed and other provisions of this Chapter, and state and federal law and regulations.
- (B) Whenever the Recorder/Clerk shall determine that an application for an alcoholic beverage license, transfer renewal is complete the Recorder/Clerk shall approve or deny such application.
- (C) Whenever the Recorder/Clerk shall deny any application, the Recorder/Clerk shall specify in writing

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- (1) The statutes, ordinances and standards used in evaluating the application;
  - (2) The reasons for denial; and
  - (3) The actions, if any, that the applicant could take to obtain the license, transfer or renewal thereof.
- (D) Any applicant denied a license or refused a renewal of a license may request a hearing before the City Council pursuant to Section 8-418 of this Chapter. Any action to revoke or suspend a license must be taken by the governing body pursuant to Section 8-418 of this Chapter.

(Ord. 08-01)

### **8-408. Applications Referred to Chief of Police.**

- (A) All applications filed in accordance with the provisions of this part shall be referred to the Chief of Police for inspection and report.
- (B) The Chief of Police shall when possible within 30 days after receiving such application make report to the governing body of the general reputation and character of the applicant and all persons named in the application as partners, officers, shareholders, directors and their criminal records, if any, and the general reputation and character of the persons who habitually frequent such place; the nature and kind of business conducted at such place by the applicant or by any other person or by the applicant at any other place; whether the place or any other place owned by the applicant is or has been conducted in a lawful, quiet and orderly manner; the nature and kind of entertainment, if any at such places; whether gambling is or has been permitted on the premises or by the applicant at any other place; and the proximity of such premises to any public or private school; church; public library; or public playground /park.
- (C) The Chief of Police shall also add to such report his recommendation as to whether or not the application should be granted.

### **8-409. Renewals.**

- (A) All applications for renewal licenses filed by the holders of existing licenses shall be filed with the recorder/clerk at least thirty days prior to the expiration date of the then issued license and shall be accompanied by the fees required by this chapter.

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- (B) Any person who fails to file such application within the stated time limit shall close his licensed premises on the expiration date of the then issued license and shall keep the premises closed and/or discontinue the sale of alcoholic beverages, if the business can continue without the sale of alcoholic beverages, until the date his new license is issued by the governing body.

8-410. Qualifications. No license shall be granted to any applicant or business to sell alcoholic beverages within the municipality unless the applicant shall meet the qualifications as set forth in the Utah Alcoholic Beverage Control Act. In the event specific qualifications are not stated in said act, the minimum qualifications to be met shall be those stated for an On Premise Beer Retailer License. (Ord. 98-03, 04-08)

8-411. Bond Required. No license required by this part shall be granted by the governing body until the applicant therefor shall post a cash or corporate surety bond in the penal sum of \$1,000 payable to the City, which the licensee has procured and must maintain for so long as the licensee continues to operate as a business selling alcoholic beverages. The bond shall be in a form approved by the City, conditioned upon the licensee's faithful compliance with this title and the Utah Alcoholic Beverage Control Act. If the \$1,000 surety bond is canceled due to the licensee's negligence, a \$300 reinstatement fee may be assessed. No part of any cash or corporate bond so posted may be withdrawn during the period the license is in effect, or while revocation proceedings are pending against the licensee. A bond filed by a licensee may be forfeited if the license is finally revoked. All licensees shall procure and maintain such bonds as are required by the Utah Alcoholic Beverage Control Act.

8-412. Department of Health Permit. No license under this part shall be issued until the applicant therefor shall have first procured from the Department of Health of the State and/or County a permit which shall show that the premises to be licensed are in a sanitary condition and that the equipment used in the storage, distribution or sale of alcoholic beverages complies with all the health regulations of this municipality and the State of Utah.

8-413. Transfer of License. Licenses issued pursuant to this part shall not be transferable, and if revoked by the governing body, the fee paid by the licensee to the municipality for the license shall be forfeited to the municipality.

8-414. Other Restrictions.

- (A) Time of Day When Alcohol May be Sold. The licensee shall only be permitted to sell alcoholic beverages during the times of the day consistent with the Utah Alcoholic Beverage Control Act. (Ord 04-08)

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- (B) Quota on Number of Licenses/Granting of Local Consent. The total number of alcoholic beverage licenses, shall be controlled as follows. The municipality shall not grant local consent for, nor issue licenses in numbers more than as listed in table 8-1:

Type of License	Total Number of Licenses Allowed in the City
Consumption Off-Premises Beer License	Two (2)
On Premise Beer Retailer License	No Limit
Limited Restaurant License	No Limit
On Premise Banquet License	Two (2)
Tavern License	None
Restaurant with Liquor License	No Limit
Private Club With Liquor License	None
Temporary Beer License	N/A

Table 8-1 (Ord. 08-01, 10-04)

This section shall not reduce the number of holders of licenses now issued by the municipality and that in the event this section affects the right of any person to continue in business by reason of the annexation of that person's property into the municipality, the governing body may grant consent and authorize On Premise Beer Retailer Licenses, Limited Restaurant Licenses, On Premise Banquet Licenses, Private Club with Liquor License or Restaurant With Liquor Licenses to be issued to such person in addition to the number of licenses (grants for local consent) permitted by this section.

(Ord. 99-04, 01-01, 04-08, 05-06)

- (C) Proximity. No licenses shall be issued to any person to sell alcoholic beverages where the licensed premises would be located closer to any public or private school; church; public library; or public playground /park than that which is permitted by the Utah Alcoholic Beverage Control Act. Nor shall any Temporary Beer Permit be issued where the permitted premises would be located closer to any public or private school; church; public library; or public playground /park than that which is permitted by the Utah Alcoholic Beverage Control Act for an On Premise Beer Retailer License. (Ord 04-08)
- (D) Storage of Alcoholic Beverages to be Out Of Sight: Any facility in which alcoholic beverages are allowed to be consumed on premises shall store the alcoholic beverages in such a manner that they are kept substantially out of sight from the public. Bottles or other containers meant for holding alcoholic beverages (even if such containers are empty) shall not be used as decorations or otherwise displayed to the public, particularly in the lobby or general waiting areas of the premises. The display and storage of bottles or other containers for holding alcoholic beverages in other areas of the licensed premises

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shall be limited to such display as is reasonably necessary to properly store said containers, while having them available for the preparation and service of alcoholic beverages, as allowed by law. (Ord. 08-01)

- (E) Sign Restrictions for Restaurants with Liquor Licenses: Any person seeking a Restaurant with Liquor License shall submit a signed agreement with the person's application agreeing that the Licensee shall not have any signs in the windows or on the exterior of the licensed premises, which advertise or promote the sale of alcoholic beverages, whether by brand or generally. All information regarding alcohol product availability, price and factual information regarding product qualities shall only be provided on menus and price lists, as allowed by Alcohol Beverage Control Commission Rules and Regulations, provided that product-related signs may be placed in the areas of the restaurant where alcoholic beverages are prepared. (Ord. 08-01)
- (F) Restriction on Alcohol-Related Promotional Activities or Events: Any person seeking a Restaurant with Liquor License shall submit a signed agreement with the person's application agreeing that no promotional or advertising events or activities will be conducted on the licensed premises using any alcoholic beverage identification, including logos, trademarks, or names on clothing, toys, games or any equipment to promote the use of alcoholic products or the increased consumption of alcoholic products inasmuch as Restaurants with Liquor Licenses are frequented by patrons under the age of 21 years. Such promotions and advertising are not in keeping with the City's stated intent to encourage Restaurants of a type and character that bring a commitment to high quality to the community. (Ord. 08-01)
- (G) Attire and Conduct Restrictions. Any person seeking a Restaurant with Liquor License, shall submit a signed agreement with the person's application agreeing to strictly comply with Section 32A-1-601 through 604, Utah Court Annotated, 1953, as amended, and as it may be amended in the future, which is entitled the "Attire, Conduct and Entertainment Act." In addition to the state-imposed requirements of said Act, all employees and agents of the Licensee shall at all times be tastefully and fully-clothed, in furtherance of the City's stated intent to encourage Restaurants of a type and character that brings a commitment to high quality to the community. (Ord. 08-01)
- (H) The restrictions stated in this Section 8-414 shall apply to all license applications submitted after the effective date of this ordinance, whether an initial application or an application for a renewal of a license. (Ord. 08-01)

8-415. Sunday Beer Sales Prohibited. It shall be unlawful for any person having a license for the sale of beer to sell, barter, distribute, give away, exchange, dispense, or serve beer on the first day of the week commonly known as "Sunday". This provision shall not apply to on premise banquet licenses, restaurants with liquor license or private clubs with liquor licenses. (Ord 04-08)

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### **8-416. Inspection.**

- (A) All licensed premises shall be subject to inspection by any officer, agent, or peace officer of the municipality or the Alcoholic Beverage Control Commission, or the Board of Health, and every licensee shall, at the request of the Board of Health furnish to it samples of alcoholic beverages which the licensee shall have for sale.
- (B) Any license granted pursuant to this part may be revoked on a finding by the governing body that the licensee has had ten days or more notice from the Board of Health that the licensee is violating one or more health ordinances, rules or regulations of this municipality or of the Utah Division of Health and has failed to comply with such health ordinance, rule or regulation.
- (C) The governing body may direct the Chief of Police to close down any business licensed under this part where the Board of Health has determined that continued operation of the business presents an imminent danger to the health of the community or persons who may eat or drink at the business.

**8-417. Current Status of Other Charges.** No license provided in this chapter shall be issued to or renewed for any applicant who is delinquent in payment to the city for his business license fees, or who is otherwise delinquent in the payment of amounts due to the city. Failure to pay business license fees, annual alcoholic beverage license fees or other charges properly assessed by the city for any reason promptly when due shall be the basis for suspension or revocation of a license issued under this chapter.

### **8-418. Revocation of Suspension.**

- (A) The governing body may, after notice and a hearing, revoke, suspend or affirm or reverse the Recorder/Clerk's refusal to renew any license issued under this chapter. Such action shall be taken in accordance with the following guidelines: (Ord. 08-01)
  - 1. Such action may be taken by the council on a finding by it that the licensee or one or more of his/its partners, managers, officers, directors, shareholders as specified in this chapter, agents or employees, or any one of them have violated any of the provisions of this chapter or any ordinance of the city or law of the state whether now or hereafter enacted.
  - 2. A license shall be permanently revoked if the licensee knowingly submits false or fraudulent material information on any application or document filed with the city as a part of obtaining the license.
  - 3. The license of a licensee shall be permanently revoked if the licensee or any of his partners, managers, officers, directors, shareholders as specified in this chapter,

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agents or employees are convicted of a felony, with the exception that if said convicted person is an employee and said employee is immediately terminated and not re-hired by the licensee and the licensee was in no way associated with the felony for which the employee was convicted and further provided the felony was in no way associated with the sale of alcoholic beverages pursuant to the license granted under this chapter, the license may be retained in good standing by the licensee. (Ord. 98-03)

4. Any license issued shall be suspended, revoked or not renewed if the applicant or licensee or any of his/its managers, officers, directors, partners, shareholders, agents or employees fail to satisfactorily maintain or shall cease to possess or meet all of the qualifications required by the Utah Alcoholic Beverage Control Act, and the ordinances of North Logan City, specifically including this chapter. The same sanction may be imposed upon the licensee should he attempt to assign, transfer or sell his license in violation of this chapter.
5. Any license issued pursuant to this chapter may be revoked, suspended or not renewed if the licensee or any of his/its managers, officers, directors, partners, shareholders, agents or employees shall be found in violation of any law of the state or provisions of the ordinances of this city relating to alcoholic beverages, drugs or keeping a gambling or disorderly house whether such violation is established by a conviction, a guilty plea or the forfeiture of bail on such a charge and the same does not constitute a felony.
6. Except where these provisions require the permanent revocation of a license, a licensee who is found to have violated any of the provisions of this chapter may have his license suspended for a minimum of six months for a first offense, for a minimum of twelve (12) months for a second offense, and the license shall be permanently revoked for a third offense. If a period of five years passes between the date of the first offense and the next offense, then the succeeding offense shall be considered a first offense for purposes of this chapter. Provided, however, should any licensee accrue a total of four such violations, then his license shall be permanently revoked. If five years have passed since the last alleged offense, not requiring permanent revocation, at the time the ordinance codified in this chapter is adopted, then such licensee shall be currently deemed as having no such offenses. Any such offense(s) committed within five years prior to the adoption of the ordinance codified in this chapter shall be considered a first offense. The city council retains full discretion, however, to suspend a license for a longer period of time than the minimum stated in this section or to revoke a license permanently, even though not specifically required by the provisions of this chapter, should the circumstances of any particular violation, in its judgment, warrant such action.

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7. Any license which has been suspended or revoked prior to the effective date of the ordinance codified in this chapter may be reviewed for reinstatement upon request of the licensee, provided a minimum of six months has passed since the license was suspended or revoked and provided further, that the reason for the suspension or revocation was not one that requires the permanent revocation of such license according to the provisions of this chapter.
- (B) The city recorder shall receive all complaints of alleged violation of this chapter and shall refer the same to the city council which shall be responsible for investigating, through and with the assistance of the city's police department or the Cache County sheriff's office, all allegations of a violation of or noncompliance with this chapter, the Utah Alcoholic Beverage Control Act or any other condition imposed upon the licensee by the license or the city. As deemed necessary, the city council may cause a notice of violation and a hearing to be directed to the licensee which shall set forth the date and place of the hearing and the alleged violations and shall direct that the licensee, within ten days after service of the notice, appear before the city council at the named hearing. Failure of the licensee to appear shall be deemed an admission by him of his commission of the violations set forth in the notice and the city council may proceed immediately to take such action as allowed by this chapter. The city council shall conduct any hearing and may accept any relevant and material evidence and testimony. Such hearings shall be open to the public and shall be conducted informally with technical rules of evidence not applying to the proceedings. The licensee involved or any other person requesting such a hearing may be present and cross examine witnesses and give evidence before the council and may be represented by an attorney if so desired. The council shall issue a decision either at the conclusion of the hearing or within fourteen (14) days following the same, and all such decisions shall be in writing. The notice required by this chapter shall be sufficient if served personally upon the licensee or a partner, officer, director or legally constituted agent of the licensee or if sent to one of the named individuals by registered or certified mail not less than ten days in advance of the hearing to the principal place of business of the licensee.
- (C) A hearing may also be requested by any person:
1. Who is denied or refused a license to sell alcoholic beverages by any officer, agent or employee of this municipality; or
  2. Whose license to sell alcoholic beverages is revoked, restricted, qualified or limited from that for which it was first issued.
- (D) The request for hearing must be made in writing to the mayor or recorder and be made within ten days following the date notice denying, refusing, revoking, qualifying or restricting the license is mailed by the municipality to the applicant or license holder at his address as it appears on the application or license.

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- (E) Following receipt of a request for hearing, the governing body shall inform the person requesting a hearing of the time and place the hearing is to be held. At the hearing, the aggrieved party shall have the right to hear and examine any witnesses the municipality may produce to support its decision and to present his own evidence in support of his contention. The governing body shall, within fourteen (14) days following the conclusion of the hearing, in writing, inform the person who requested the hearing of the decision of the city council.
- (F) This chapter shall not be considered so as to afford any aggrieved party more than one hearing before the city council nor shall the hearing provided in this section apply to any criminal complaint or proceeding.

(Ord. 97-13)

8-419. Application for Licenses. An applicant for any available alcoholic beverage license may submit an application to the city for such license 1) at the time they are ready to operate the business, or 2) if the applicant is requesting a license but for legitimate reasons the applicant is not ready to operate the business at the time of application. Such legitimate reasons may include but not necessarily limited to: construction of the facility, obtaining state required licenses of other licenses, or to resolve zoning or other land-use issues. An application will be held by the city until a business is ready to begin operation at which time the license would be issued. The license fee and the required bond will be paid at the time of application.

- (A) If the application is being held awaiting construction of the facility in which the business will operate, the application shall become void if the applicant has not submitted a building permit for the facility within one year of the date of the application.
- (B) The application may be voided by the city if the applicant fails to show reasonable continuing progress towards completing the facility, obtaining other required licenses, of resolving any other zoning or land-use issues.
- (C) The application may be voided by the city if any of the conditions for license revocation are met as outlined in NLC Code 8-418.
- (D) An application for an alcoholic beverage license is not transferable and shall be voided if the applicant changes prior to the issuance of the license.
- (E) If for any reason the city voids an application for an alcoholic beverage license, the license fee paid with the application shall be forfeited to the city. Any bond paid shall be returned to the applicant.

(Ord. 06-10)

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### **8-500. Home-Based Businesses.**

8-501. Purpose. North Logan City recognizes that there are many residents who wish to pursue business endeavors at their homes. The City further recognizes the need and value of home-based businesses in enabling the expression of creative talents and abilities of residents. The City therefore encourages home-based businesses that are compatible with the ordinances of the City and do not compromise the residential character of the neighborhood where they exist.

- (A) Applicability. Home-based businesses must comply with zoning regulations, business licensing requirements, sign regulations and other applicable municipal ordinances. The use of a residence in the municipality for the purposes of a home-based business shall be clearly and obviously subordinate to the main purpose of the property as a residence. Home-based businesses shall involve only a minor portion of the residence. When the operation of the business uses portions of the residential property other than the residence itself, appropriate regulations shall be established by the city to minimize the impact of the business upon the residential character of the neighborhood. (Ord. 10-03)
- (B) Exempt Status. Home-based businesses subject to this chapter shall be limited to those with occupational activities performed on a regular basis (for example, daily, weekly or monthly). Home-based business activities that occur only on a sporadic basis (for example, once a year or the sale of agricultural products that are for sale for two (2) or less consecutive months per year) are not considered home-based businesses for purposes of this chapter and are exempt from the requirement to license with the city as a home-based business.

8-502. Guidelines. The pursuit of home-based businesses in a residential zone shall meet the following guidelines:

- (A) Except as provided herein or as otherwise provided by specific agreement between the home-based business and the City Council, home-based businesses shall be conducted completely within the walls of the residence and/or accessory building(s). There shall be no display outside the home or accessory building(s) other than a sign in conformance with the city's sign ordinance. Outside display of merchandise or advertising displays are prohibited. Outside storage of material or equipment used in the conduct of the business are prohibited. This includes for example the prohibition of outdoor storage of vehicles to be worked on by a home-based business or the outdoor storage of construction equipment at the residence of a contractor. Vehicles used by the employees to conduct the business or transport themselves to and from the place of business may be stored outside but off-street parking must be provided for all such vehicles.
- (B) Home-based businesses shall be conducted primarily by residents of the home. It is not permissible to use a residence and/or an accessory building(s) for a home-based business where at least one of the residents of the property is not an employee or owner or operator

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of the business. Outside employees (non-residents of the home) working at a home-based business (meaning those who have their work location at the residence) shall be limited to two (2) at any one time (meaning two per shift). An unlimited number of employees may work for a home-based business if their work location is some place other than the residence or the property associated with the residence. Other non-resident persons working in the home assisting with the care of the property, the residence, or family of the resident(s) of the home, are excluded from consideration when determining employees for the home-based business.

- (C) Any home-based business must comply with all local, state, and federal employment laws, fire codes, and other applicable business and safety laws and standards when such laws apply to their place or type of business and/or to the employees.
- (D) Home-based businesses shall be operated with regard to minimizing traffic impact and problems for the neighborhood. Any home-based business shall provide to at least two (2) off-street parking spaces for the use of the residents and at least one (1) off-street parking space for each non-resident employee who has his/her work location at the residence. Businesses that have clients that come to the place of business by appointment must have sufficient off-street parking for the largest number of possible clients that would normally be expected to come to the business at any time. Businesses that have clients that come to the place of business on a walk-in basis must have at least two (2) off-street parking spaces for their customers in addition to the spaces required for employees and the residents. Parking spaces must be provided and located such that the residence retains the appearance and character of a residence, i.e. the front lawn of a home may not be turned into a parking lot. Parking may be placed behind the residence to avoid such a problem.
- (E) Home-based businesses shall not create safety problems for the neighborhood nor shall they detract from the integrity and character of the neighborhood. All equipment, machinery, materials, waste products, etc. must be stored either within the residence or in an accessory building(s). Any hazardous materials associated with a home-based business shall require an inspection of the premises by the city to ensure compliance with building code requirements and applicable state and federal requirements.
- (F) The home-based business shall be conducted to minimize disturbance to neighbors (i.e., noise, odors, noxious fumes, electrical interference or other distractions). All outside lighting shall conform with city ordinances. Conducting a home-based business and licensing as such does not exempt the business from compliance with the city's nuisance ordinance.
- (G) Written approval for any home-based business shall be required from the property owner when a tenant of the property makes application for a home-based business license.

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**8-503. Application.** Home-based business licenses are obtained by making application for the licenses and any applicable conditional use permit and paying the required fee(s) at the North Logan City Office. A license is granted for a one-year period and must be renewed annually. Compliance with the stated conditions for any conditional use permit is generally reviewed at the time the license is originally granted and annually upon renewal of the license and may also be reviewed for compliance at any time.

**8-504. Revocation or Staff Review.** Complaints regarding the home-based business or a finding of non-compliance with law or a conditional use permit may cause a review and possible revocation of the license and/or conditional use permit.

- (A) **Revocation.** Revocation of a conditional use permit alone is subject to the action of the Planning Commission and may be appealed to the City Council. Revocation of a home-based business license is subject to the action of the City Council and includes the revocation of any conditional use permit. The decision of the City Council is final.
- (B) **Reinstatement.** Anyone having had a home-based business license or conditional use permit revoked, who wishes to have that license and/or permit reinstated must apply to the City Council for permission to apply for such. With the permission of the City Council, the applicant may apply for a new license and/or conditional use permit. All such conditional use permits are subject to action by the Planning Commission.
- (C) **Staff Review.** The licenses of home-based businesses that are not being considered for revocation but are operating in such a manner that generates complaints from neighbors, or is otherwise disruptive or detracting from the integrity and character of the neighborhood as determined by the city staff, are also subject to review but city staff. If the city staff cannot resolve such issues by having changes made to the operation of the business, which changes are agreeable to the business operator, the city staff shall refer the matter to the Planning Commission. The Planning Commission shall have the authority to establish reasonable conditions for home-based businesses to resolve such issues and minimize the impact on the specific neighborhood in which the home-based business is located. Any such decisions may be appealed to the City Council. The decision of the City Council is final.

**8-505. Special Requirements for Some Home-Based Businesses.** Some home-based businesses, as specified below are prohibited or will require conditional use permits, special inspections, or other special licensing requirements. Any special requirements listed below must be complied with prior to the issuance of a home-based business license. The Planning Commission may place conditions on these types of home-based businesses in order to minimize disruptions to the specific neighborhood in which a home-based business is located.

- (A) Child-care, day-care, pre-school/short term child day care for more than eight (8) children at one time shall require an inspection of the premises by the city to ensure compliance

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with building code requirements and any applicable state and federal regulations. A conditional use permit shall be required from the Planning Commission. (Ord. 10-03)

- (B) Licensed proctor care for one child or up to three (3) children if they are siblings or foster care or a host home for up to four (4) children shall require an inspection of the premises by the city to ensure compliance with building code requirements and any applicable state and federal regulations. A conditional use permit shall be required from the Planning Commission.
- (C) A beauty or barber-shop home-based business with more than three(3) beauticians and/or barbers shall require a conditional use permit from the Planning Commission
- (D) A home-based business that includes providing instructions to a group of more than four students per class (such as dancing or martial arts classes; and educational class offerings with more than four students per class shall be required to obtain a conditional use permit from the Planning Commission
- (E) Home-based businesses that would also be defined as an adult oriented business or any home-based business that sells alcoholic beverages (both as defined in the city's zoning ordinance) are prohibited as home-based businesses because of those business type's inherent incompatibility with a residential area.

(Ord. 97-03; 99-07, 02-16)

## **TITLE 8. REGULATION OF BUSINESS**

### **CHAPTER 8-600. Adult-Oriented Businesses** (Added Ord. 98-04)

**8-601. 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 adult 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.

**8-602. Application of Provisions.** This Chapter imposes regulatory standards and license requirements on certain business activities which are characterized as adult oriented businesses, and certain employees of those businesses characterized as adult 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 15-600, Offenses Against Public Health, Safety, Welfare, and Morals of the North Logan City Code.

#### **8-603. Definitions.**

- (1) "Adult Bookstore", "Adult Novelty Store" or "Adult Video Store" means a commercial establishment:
  - (a) Which excludes minors from more than fifteen percent 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 "Adult Oriented Business" means an adult motion picture 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 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 8-610 of this Chapter. "Adult 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:

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- (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 a 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 that, for pecuniary compensation, furnishes or offers to furnish escorts, or provides or offers to introduce patrons to escorts.

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- (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 service, escort, patron, 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 an adult oriented business.
- (11) "Outcall Services" means services of a type performed by an adult oriented business employee outside of the premises of the licensed adult 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 covering; and the male or female genitals, pubic region, and anus or simulation thereof shall be fully covered by an opaque covering no narrower than four inches 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 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 adult 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

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if the business holds itself out as such a business. "

- (18) "Adult Oriented Business Employees" means those employees who work on the premises of an adult-oriented business in activities related to the adult 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 adult-oriented portion of the business, such as janitors, bookkeepers, and similar employees. Adult-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 adult-oriented business employees.
- (19) "Specified Anatomical Areas" means the human male or female pubic area 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

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clothed.

- (m) The actual or simulated display of human male genitalia in a discernibly turgid state, even if completely and opauely covered; or
- (n) The public display of any specified anatomical areas.

### **8-604. Location of Adult Oriented Businesses - Restrictions.**

- (1) Adult oriented business shall be only permitted in accordance with Title 12.C. Chapter 12C-1001, subject to the provisions of this Chapter.
- (2) No adult-oriented business shall be located:
  - (a) Within 1,000 feet of any school, public park, library, or religious institution.
  - (b) Within 1,000 feet of any residential use (no matter which zoning district) or residential zoning boundary.
  - (c) Within 600 feet of any other adult-oriented business.
  - (d) Within 600 feet of any gateway or gateway corridor as identified in this title or as identified in the General Plan (sometimes also referred to as the Master Plan). The distance shall be measured from the edge right-of-way. For the purposes of this section the gateways to the city are defined as the following three points or intersections: 1) Main street and 3100 North, 2) Main Street and 1500 North, and 2500 North and 600 West.
- (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 institutions, residential use, or other adult-oriented business, or from the edge of right-of-way of a gateway to the nearest point on the structure of the adult-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 adult-oriented business structure.

**8-605. Effect on Non-conforming Businesses.** All lawfully established, legally existing, non-conforming adult-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.

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**8-606. Signs.** Signs for adult-oriented businesses shall be subject to the limitations of this section in addition to any standards within Chapter 12C-600 of the North Logan City Code.

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

**8-607. 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 federal or State statutes prohibiting obscenity.
- (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 15-600, Offenses Against Public Health, Safety, Welfare and Morals.

**8-608 Location and Zoning Restrictions.** It is unlawful for any adult oriented business to do business at any location within the City not zoned for such business. Adult 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 Title 12 of the North Logan City Code.

**8-609 Business License Required.** It is unlawful for any person to operate an adult oriented business, as specified herein, without first obtaining a general business license and an adult oriented business license. The adult oriented business license shall specify the type of business for which it is obtained.

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8-610 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.

### 8-611 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 8-624 (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; (Ord. 98-06)
  - (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 of any other person while performing or while nude or semi-nude.

### 8-612. Business Categories - Number of Licenses.

- (1) It is unlawful for any business premises to operate or be licensed for more than one

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category of adult 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 adult oriented businesses are:
  - (a) Outcall services;
  - (b) Adult businesses;
  - (c) Semi-nude entertainment businesses;
  - (d) Semi-nude dancing agency.

8-613. Employee Licenses. It is unlawful for any adult oriented business to employ or for any individual to be employed by an adult oriented business in the capacity of an adult oriented business employee, unless that employee first obtains an adult oriented business employee license.

8-614. License – Application - Disclosures Required. Before any applicant may be licensed to operate an adult-oriented business or as an adult 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 of the stock of any applicant. Any holding company, or any entity holding more than ten percent 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 companies, 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,

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- (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 years of age; (Ord. 98-06)
- (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 an adult 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 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 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-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 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 any offense 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

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the convicting jurisdiction and sentencing court, and providing the court identifying case numbers or docket numbers. Application for an adult 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 an adult oriented business license application or to fail to disclose or omit information for the purpose of obtaining an adult oriented business or employee license.

8-615 License Fees. Each applicant for an adult oriented business or employee license shall be required to pay the application and regulatory license fees as set forth in the fee schedule established by the North Logan City Council by resolution. An application is not complete until

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all appropriate fees have been paid. The fee schedule may be amended from time to time by the North Logan City Council by resolution.

8-616 License - Bond. Each application for an adult oriented business license shall post, with the City Treasurer, a cash or corporate surety bond payable to City of North Logan 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 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 days of the date of notice of any draw against it.

### 8-617 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 adult oriented business to do business in the City under any name other than the business name specified in the application.

8-618 License - Issuance Conditions. The City Treasurer shall approve the issuance of a license to the applicant within thirty days after receipt of a completed application, unless the official finds one or more of the following:

- (1) The applicant is under eighteen years of age; (Ord. 98-06)
- (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 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-day approval or denial period, the agency or department may obtain from the City

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Treasurer an extension of time of no more than fifteen days for their review. The total time for the City to approve or deny a license shall not exceed forty-five 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 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 days or the forty-five 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

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of the exact title of the offense; for which:

- (i) Less than two years have elapsed from the date of conviction, if the conviction is of a misdemeanor offense, or less than five years have elapsed from the date of the last conviction if the convictions are of two or more misdemeanors within the five years, or
  - (ii) Less than five 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.

8-619 License - Term. Adult oriented business and employee licenses issued pursuant to this Chapter shall be valid from the date of issuance for a period of one 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 the year for which the license is applied.

8-620 License - Notice of Change of Information. Any change in the information required to be submitted under this Chapter for either an adult oriented business license or adult oriented business employee license shall be given, in writing, to the Treasurer and the Police Department within fourteen days after such change.

8-621 License - Transfer Limitations. Adult 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 license to transfer any interest in excess of ten percent in such license, 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.

8-622 License – Display. It is unlawful for any adult 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.

8-623 License - Statement in Advertisements. It is unlawful for any advertisement by the adult

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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.

8-624 Regulations and Unlawful Activities. It is unlawful for any adult oriented business or adult oriented business employee to:

- (1) Allow persons under the age of eighteen 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; (Ord. 98-06)
- (2) Allow, offer, or agree to conduct any outcall business with persons under the age of eighteen years; (Ord. 98-06)
- (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 adult 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 adult 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;

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- (12) Allow, offer, or agree to allow a patron or customer to masturbate in the presence of the adult oriented business employee or on the premises of an adult oriented business.
- (13) Allow, offer, or agree to commit an act of lewdness as defined in City, State or Federal law.

**8-625. 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 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.

**8-626. Adult Business - Design of Premises.**

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

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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 that 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.

### **8-627. 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

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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 high and six inches 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.

8-628. Semi-Nude Entertainment Business - Location Restriction. It is unlawful for any business licensed for semi-nude entertainment to be located within six hundred feet of a business licensed for the sale or consumption of alcohol.

### 8-629. 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 adult oriented business.

### 8-630. 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.

8-631. Performers - Prohibited Activities. It is unlawful for any professional dancer, model, or

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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.

8-632. 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.

8-631. 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.

8-633. 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 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 days from the effective date

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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 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 adult 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 adult oriented business classifications established, as applicable.

8-634. Violation - Injunction When. An entity or individual who operates or causes an adult oriented business to be operated without a valid license, or who employs or is employed as an employee of an adult 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.

8-635. Violation - License Suspension or Revocation.

- (1) The City may issue a notice of intent to suspend, revoke, or not renew an adult oriented business or employee license granted under this Chapter 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 adult 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 adult oriented business or worked under the employee license during the period when the business licensee or employee licensee's license was suspended;
  - (f) A licensee has committed an offense that would be grounds for denial of a license for which the time period required has not elapsed;

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- (g) On two or more occasions within a twelve-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 adult 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 adult oriented business.
- (2) Notice of intent to suspend, revoke, or not renew shall be given and a hearing held as set forth in Section 8-110 of this code.
  - (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 adult-oriented businesses which have not previously been licensed by the municipality, and such applicants need only be informed that their applications has been denied and the reasons for denial.

8-636 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 year from its effective date, and the licensee shall not be issued an adult oriented business or employee license for no less than one year from the date of such action.

### 8-637 Violation – Penalty, Responsibility.

- (1) In addition to revocation or suspension of a license, as provided in this Chapter, each violation of this Chapter shall, upon citation by the City Administrator, require the licensee to pay a civil penalty in the amount of five hundred dollars. Such fines shall be deducted from the cost bond posted pursuant to this Chapter, unless paid within ten days of notice of the fine or the final determination after any appeal. In addition to the civil fines 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.
- (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 adult 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 adult 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.

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- (3) An adult 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.

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