

Moroni City  
**Codes and Ordinances**

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## General License Provisions

### Section

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### 3-1-1: Definitions

As used in this Chapter, the following words and terms shall have the meanings ascribed to them in this section:

- **Business:** Includes all activities engaged in within the City carried on for the purpose of gain or economic profit, except that the acts of employees rendering service to employers shall not be included in the term business, unless otherwise specifically provided.

- **Each Separate Place of Business:** Each separate establishment or place of operation, whether or not operating under the same name, within the City, including a home or other place of lodging if the same is held out by advertisements, listings or otherwise as the establishment or place of operation of a person engaging in the business of selling tangible, personal property at either retail or wholesale, or both, in the City.
- **Employee:** The operator or manager of a place of business and any persons employed in the operation of said place of business in any capacity and also any salesperson, agent or independent contractor engaged in the operation of the place of business in any capacity.
- **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.
- **Place of Business:** Each separate location maintained or operated by the licensee within the City from which business activity is conducted or transacted.
- **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.
- **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. (1982 Code § 9-1 11; amd. 2000 Code)

3-1-2: License Assessor and Collector

The City Recorder/Clerk is designated and appointed as ex officio assessor of license fees for the City. Upon receipt of any application for a license, the City 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. (1982 Code § 9-113; amd. 2000 Code)

3-1-3: Business License Required; Penalty

It shall be a Class B misdemeanor, subject to penalty as provided in Section 1-4-1 of this Code, 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 City. (1982 Code § 9-112; amd. 2000 Code)

3-1-4: Application for License

1. **Contents:** All applications for license shall include:
  - a. The name of the person desiring a license.
  - b. The kind of license desired, stating the business, calling, trade or profession to be performed, practiced or carried on.
  - c. The class of license desired, if such licenses are divided into classes.
  - d. 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.
  - e. The period of time for which such license is desired to be issued.
2. **Coin-Operated Machine or Device:** 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. (1982 Code § 9-1 16)
3. **Serving Beer:** Business license applications for food serving establishments, which include a request to permit the serving of beer to patrons within any established or proposed business, shall be denied by the City, except for those businesses established pursuant to Chapter 2 of this Title. (Ord. 95-2, 3-22-1995; amd. 2000 Code)

3-1-5: Fee for License

1. **Established:** The business, location, trade, calling or profession of every person engaged in a business in the City shall pay an annual license fee as established by resolution of the City Council. (1982 Code § 9-21 1; amd. 2000 Code)
2. **Interstate Commerce:** None of the license taxes provided for by this Section shall be applied as to occasion an undue burden on interstate commerce. 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. Such application may be made before, at or within six (6) months after payment of the prescribed license tax. 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. 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 fact from which he shall determine whether the tax fixed by this Section is discriminatory, unreasonable or unfair as to applicant's business and shall recommend to the City Council a license tax for the applicant in an amount that is nondiscriminatory, reasonable and fair, and if the City Council is satisfied that such license tax is the amount that the applicant should pay, it shall fix the license tax in such amount. If the regular license tax has already been paid, the City Council shall order a refund of the amount over and above the tax fixed by the City Council. 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. (1982 Code § 9-125)

3-1-6: Payment Dates

All license fees shall be due and payable as follows, except as may be otherwise provided: (1982 Code § 9-114; amd, 2000 Code)

1. **Payable:** Annual fees shall be payable before each calendar year, in advance. The annual license shall date from January 1 of each year and shall expire on December 31 of each year.
2. **Due:** Annual fees shall be due on January 1 of each calendar year and shall become delinquent if not paid by February 1 of each year.
3. **Issued after July 1:** One-half (1/2) of the annual fee shall be payable for all licenses issued by the City pursuant to applications made after July 1 of each year, and licenses issued after July 1 shall expire on January 1 of the year following. Payment shall be due upon the date of application approval. (1982 Code § 9-114)
4. **Penalty for Late Payment:** If any license fee is not paid within thirty (30) days of the due date, a penalty of ten percent (10%) of the amount of such license fee shall be added to the original amount thereof. No license shall be issued until all penalties legally assessed have been paid. (1982 Code § 9-115)

3-1-7: Certificate of License

1. **Contents:** All certificates of license shall be signed by the City Recorder/Clerk, and shall contain the following information: (1982 Code § 9-117;amd. 2000 Code)
  - a. **Name:** The name of the person to whom such certificate has been issued.

- b. Amount: The amount paid.
- c. Type: The type of license and the class of such license, if licenses are divided into classes.
- d. Term: The term of the license with the commencing date and the date of its expiration.
- e. Location: The place where such business, calling, trade or profession is to be conducted. (1982 Code § 9-117)

## 2. **Display:**

- a. Required: Every certificate of license issued under this Chapter 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 upon 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. Coin-Operated Machine: 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. (1982 Code § 9-118)

### 3-1-8: Transfer of License Prohibited

No license granted or issued under any ordinance of the City shall be assigned or transferred to any other person. It shall not be deemed to authorize any person other than therein named to do business or to authorize any other business, calling, trade or profession than is therein named, unless by permission of the City Council. (1982 Code § 9-119)

### 3-1-9: Branch Establishments

A separate license must be obtained for each separate place of business in the City 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 Chapter shall not be deemed to be separate places of business or branch establishments. (1982 Code § 9-121)

3-1-10: Joint Business Licenses

Whenever any person is engaged in two (2) or more businesses at the same location within the City, 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 other product or service requiring an additional license shall be subject to such additional licensing requirement. Where two (2) 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. (1982 Code § 9-122)

3-1-11: Reciprocal Recognition; Delivery of Goods

1. **Exceptions:** No license shall be required for operation of any vehicle or equipment in the City when:
  - a. Such vehicle is merely passing through the City.
  - b. Such vehicle is used exclusively in intercity or interstate commerce.
2. **Delivery of Property:** No license shall be required by this Chapter of any person whose only business activity in the City is the mere delivery in the City of property sold by him at a regular place of business maintained by him outside the City where:
  - a. 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
  - b. The authority licensing such business grants to licensees of the City making deliveries within its jurisdiction the same privileges, upon substantially the same terms, as are granted by this Section; and
  - c. Neither the property delivered nor any of the facilities by which it was manufactured, produced or processed are subject to inspection by authority of the City for compliance with health or sanitary standards prescribed by the City; and
  - d. 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.

3. **Certification of Section:** The City Recorder/Clerk shall, at the request of any person, certify a copy of this Section to any municipality or county of the State to which a copy has not previously been certified. (1982 Code § 9-123)

3-1-12: Exemptions to License

1. **Tax Exempt Businesses:** No license fee shall be imposed under Section 3-1-5 of this Chapter on any person engaged in business for solely religious, charitable, eleemosynary or other types of strictly nonprofit purpose which is tax exempt in such activities under the laws of the United States and the State, 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; nor shall any license fee be imposed upon any person not maintaining a place of business within the City who has paid a like or similar license tax or fee to some other taxing unit within the State and which taxing unit exempts from its license tax or fee, by reciprocal agreement or otherwise, businesses domiciled in the City and doing business in such taxing unit.
2. **Reciprocal Agreements with Other Agencies:** The license assessor and collector may, with approval of the City Council, enter into reciprocal agreements with the proper officials of other taxing units, as may be deemed equitable and proper in effecting the exemption provided for in subsection A of this Section. (1982 Code § 9-124)

3-1-13: Revocation or Denial of License

1. **Failure To Comply; Unlawful Activities:** Any license issued pursuant to the provisions of this Code or of any ordinance of the City may be revoked and any application denied by the City Council because of:
  - a. The failure of the licensee or applicant to comply with the conditions and requirements of this Code or any ordinance of the City.
  - b. Unlawful activities conducted or permitted on the premises where the business is conducted.
2. **Notice To Licensee:** 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 City Council 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 City Council (which shall be at least 10 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.

3. **Not Applicable to Businesses not Previously Licensed:** The preceding subsection shall not apply to applications for licenses for businesses which have not previously been licensed by the City, and such applicants need only be informed that their application has been denied. (1982 Code § 9-120)

## Liquor Control

### Section

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### 3-2-1: State Statute Adopted

Except insofar as the application thereof is clearly impractical or inappropriate, in view of the context of purposes or penalty as provided, all of the definitions, requirements, regulations, prohibitions, provisions and sections of the Utah Alcoholic Beverage Control Act (title 32A), as

amended, are hereby adopted by the City. Any and all violations thereof shall be considered violations of this Chapter and each such violation shall subject the violator thereof to penalty provisions under this Chapter if preceded hereunder. (2000 Code)

3-2-2: Application for License and Renewal License

1. **Verified:** All applications for alcoholic beverage licenses authorized by this Chapter shall be verified and shall be filed with the City Recorder/Clerk. The application must state the applicant's name in full, that he understands and has read and complied with the requirements, and that he possesses the qualifications specified in the Alcoholic Beverage Control Act and this Chapter. If the applicant is a co-partnership, the names and addresses of all partners, and if a corporation, the names and addresses of all officers and directors must be stated.
2. **Subscribed:** The application must be subscribed by the applicant who shall state under oath that the facts therein contained are true.
3. **Renewal:** All applications for renewal licenses filed by the holders of existing licenses shall be filed with the City Recorder/Clerk at least thirty (30) days prior to the expiration date of the then issued license. Any person who fails to file such application within the time limit shall close his licensed premises on the expiration date of the then issued license and shall keep the premises closed for any and all business for the sale of alcoholic beverages until the date of his new license is issued by the City Council. (2000 Code)

3-2-3: Fees

1. **Annual Regulatory License Fee:** In 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 engaged in the sale or dispensing of alcoholic beverages an annual regulatory license fee. The amount of the annual regulatory fee will be set by resolution of the City Council, according to the license classification.
2. **License Fee to Accompany Application:** Applications provided for in this Chapter shall be accompanied by the fees provided in this Section. The fee shall be returned to the applicant if the application is denied. (2000 Code)

3-2-4: Referral to Chief of Police

All applications filed in accordance with the provisions of this Chapter shall be referred to the Chief of Police for inspection and report. The Chief of Police shall, when possible, within seven (7) days after receiving such application make a report to the City Council of 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, by any other person, or by the applicant at

any other place; whether the place is or has been conducted in a lawful, quiet and orderly manner; the nature and kind of entertainment, if any, at such place; 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 school, church, park or library. The Chief of Police shall also add to such report his recommendation as to whether or not the application should be granted. (2000 Code)

3-2-5: Bond Required

1. **Compliance Bond:** No regulatory license required by this Chapter shall be granted by the City Council until the applicant shall have filed a compliance bond with the City Recorder/Clerk, in an amount to be determined by the City Council and established by resolution. The bond shall be made payable to the City, conditioned upon the licensee's faithful compliance with the Alcoholic Beverage Control Act and the ordinances of the City.
2. **Failure to Maintain Valid Bond:** If the licensee fails to maintain a valid bond, payable to the City, the alcoholic beverage license shall be immediately suspended until such time as a valid bond is obtained. Failure to obtain a bond within thirty (30) days of notification by the City of the delinquency shall result in the automatic revocation of the City alcoholic beverage license.
3. **Withdrawal of Bond Restricted:** No part of the bond may be withdrawn until the alcoholic beverage license has been in effect for a period of at least five (5) years, after which time the City may elect to waive continuance of the bond, if it is determined that the licensee has demonstrated faithful compliance with the laws of the State and the ordinances of the City. Persons who have been granted and maintained a City beer license for at least three (3) years prior to the passage date hereof, and who have subsequently demonstrated faithful compliance with the laws of the State and City ordinances, shall be exempted from the bond requirement unless the license has been allowed to expire. (2000 Code)

3-2-6: Department of Health Permit

No license under this Chapter shall be issued until the applicant therefore shall have first procured from the appropriate health district 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 the City and the State. (2000 Code)

3-2-7: Alcoholic Beverage Training and Education

1. **Required:** No person shall be granted a license to operate or maintain a trade, profession or calling, the transaction or carrying on of which requires a license, within the City if such person operates an establishment which, as part of its business, serves "alcoholic

beverages”, as defined in Utah Code Annotated section 32A-1-105(2), to the public for consumption on the premises, unless that person shall show by certificate granted by the Utah Department of Alcoholic Beverage Control, or by adequate proof of the existence of such certificate, that each employee of the business engaging in the serving, selling or furnishing of such alcohol on the premises has completed the alcoholic training and education seminar, as required in Utah Code Annotated section 62A-8-403.

2. **New Employees:** Every new employee hired after the licensee has been licensed in compliance with subsection A of this Section, who is required to complete this seminar, shall complete the seminar within six (6) months of commencing employment. Violation of this Section will result in revocation of the license granted; unless compliance is completed within two (2) months of the time that licensee first became aware that such violation occurred. (2000 Code)

### 3-2-8: Classifications of Licenses

Retail alcoholic beverage licenses shall be of the following kinds, shall carry the following privileges, and shall be known as: Class A Beer, Class B Beer, Class C Beer and liquor consumption and temporary beer.

1. **Class A Beer License:** Class A beer retail licenses shall entitle the licensee to sell beer on the premises, in original sealed containers no larger than two (2) liters, for consumption off the premises, in accordance with the ordinances of the City, provided beer is not sold by minors except under the supervision of a person twenty one (21) years of age or older who is on the premises.
2. **Class B Beer License:** Class B beer retail licenses shall entitle the licensee to sell beer in the original containers, and on draft, in containers no larger than two (2) liters, for on-premises consumption; beer in sealed containers no larger than two (2) liters may be sold for consumption off-premises in accordance with the Alcoholic Beverage Control Act, and the ordinances of the City.
3. **Class C Beer and Liquor Consumption License:** Class C beer and liquor consumption licenses shall entitle restaurant and private club licensees to sell liquor and beer for consumption on the premises, and to sell beer in sealed containers no larger than two (2) liters, for off-premises consumption, as specifically defined in and in accordance with the Alcoholic Beverage Control Act.
4. **Temporary Beer License:** Temporary beer licenses, for sale or dispensing of beer, may be issued for a period of time not to exceed thirty (30) days, and in accordance with the ordinances of the City. (2000 Code)

**3-2-9: Purchase of Alcoholic Beverages for Sale**

It is a Class B misdemeanor, subject to penalty as provided in Section 1-4-1 of this Code, for any licensee to purchase or acquire, or to have or possess for the purpose of sale or distribution, any alcoholic beverage except that which he shall have lawfully purchased, as defined in the Alcoholic Beverage Control Act. (2000 Code)

**3-2-10: Separate License for each Place of Business; Display**

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 Alcoholic Beverage Control Act and the regulations of the Alcoholic Beverage Control Commission. (2000 Code)

**3-2-11: License not Transferable**

Licenses issued pursuant to this Chapter shall not be transferrable, and if revoked by the City Council, the fee paid by the licensee to the City for the license shall be forfeited to the City. (2000 Code)

**3-2-12: Restrictions**

The following restrictions shall apply to all establishments within the City where alcoholic beverages are sold:

**1. Location Of Business; Exception; Variance:**

- a. No Class B, Class C or temporary alcoholic beverage license shall be granted to a business located within six hundred feet (600') of any public or private school, church, public library, public playground or park, measured from the nearest entrance of the outlet by following the shortest route of either ordinary pedestrian traffic or, where applicable, vehicular travel along public thoroughfares, whichever is the closer, to the property boundary of the public or private school, church, public library, public playground, school playground or park; and within two hundred feet (200') if measured in a straight line from the nearest entrance of the proposed outlet to the nearest property boundary of the public or private school, church, public library, public playground, school playground or park.
- b. No Class A alcoholic beverage licenses, for sale of beer for off-premises consumption, shall be granted to any business located within six hundred feet (600') of any public or private school or church, measured from the nearest entrance of the outlet by following the shortest route of either ordinary pedestrian traffic or, where applicable, vehicular travel along public thoroughfares, whichever is the closer, to the property boundary of the public or private school or church; and within two hundred feet (200') if measured in a straight line from the

nearest entrance of the proposed outlet to the nearest property boundary of the public or private school or church.

- c. If compliance with distance requirements would result in peculiar and exceptional practical difficulties, or exceptional and undue hardships, a variance may be required of the City Council. Following a public hearing, a variance may or may not be granted by the City Council. Should the City grant a variance for a Class B or C license, final authority regarding State licensure would require approval of the variance by the Alcoholic Beverage Control Commission, as defined in Utah Code Annotated title 32A, chapters 4, 5 and 10.
2. **Conduct of Employees and Entertainers:** Lewd attire and/or sexually-oriented conduct of employees and entertainers, as explicitly defined in Utah Code Annotated section 32A-10-206, subsections 10 and 13, are prohibited. Furthermore, entertainers are prohibited in this City from performing unclothed, or in attire, costume or clothing that exposes to view any portion of the female breast below the top of the areola or any portion of the pubic hair, anus, and cleft of the buttocks, vulva or genitals.
3. **Giving, Selling and Providing Alcoholic Beverages to Specific Persons:** It is unlawful for any person to give, sell, or otherwise provide alcoholic beverages for consumption to:
  - a. Any person under the age of twenty one (21) years;
  - b. Any person who is apparently under the influence of intoxicating alcoholic beverages or products or drugs;
  - c. Any person whom the person furnishing the alcoholic beverage knew or should have known from the circumstances was under the influence of intoxicating alcoholic beverages or products or drugs; or
  - d. Any person who is a known interdicted person.
4. **Business or Premises where Gasoline Sold:** Only a Class A beer license may be granted to any person to sell beer at any business or premises where gasoline for use in motor vehicles is sold.
5. **Hours of Alcoholic Beverage Sales:** It shall be unlawful to sell or otherwise furnish or dispose of an alcoholic beverage, whether or not the premises are open to the public, during the following days and hours, according to license classification:

- a. Class A Beer License: Beer may not be sold between the hours of one o'clock (1:00) A.M. and five o'clock (5:00) A.M.
  - b. Class B Beer License: Beer may not be sold between the hours of one o'clock (1:00) A.M. and ten o'clock (10:00) A.M.
  - c. Class C Beer And Liquor Consumption License:
    - i. **Restaurants**: Liquor may not be sold or offered for sale on the day of any election, until after the polls close, including regular general, regular primary, special State-wide, Municipal, special district or school elections; or on any other day between the hours of twelve o'clock (12:00) midnight and twelve o'clock (12:00) noon. Beer may not be sold between the hours of one o'clock (1:00) A.M. and ten o'clock (10:00) A.M.; and
    - ii. **Private Clubs**: Liquor may not be sold or offered for sale on the day of any election, until after the polls close, including regular general, regular primary, special State-wide, Municipal, special district or school elections; or on Sundays and any State or Federal legal holiday after twelve o'clock (12:00) midnight and before twelve o'clock (12:00) noon, or on any other day between the hours of one o'clock (1:00) A.M. and ten o'clock (10:00) A.M. Beer may not be sold between the hours of one o'clock (1:00) A.M. and ten o'clock (10:00) A.M.
6. **On-Premises Consumption after Hours**: On-premises consumption of alcoholic beverages may continue for one hour past the time sales cease. Anyone having a Class B beer or Class C beer and liquor consumption license, or his agents or employees, shall close the establishment and remove or cause to be removed from the premises all patrons, customers, or individuals not employed on the premises no later than two o'clock (2:00) A.M.
7. **Patrons not to Remain after Closing**: It shall be unlawful for any Class B or Class C licensee, or for his agents or employees, to permit any patron, customer, or individual not employed on the premises to remain on such premises after the closing time of two o'clock (2:00) A.M.
8. **Illumination of Premises**: Licensed premises shall be kept brightly illuminated at all times while occupied or open for business; no booth, or other type of stall, shall be maintained unless all tables, chairs, and occupants are kept open to full view from the main floor and the entrance of such licensed premises.



9. **Advertising:** It shall be unlawful to advertise the sale of alcoholic beverages, except as defined in the Alcoholic Beverage Control Act.
10. **Number of Alcoholic Beverage Licenses:** The total number of businesses licensed to sell alcoholic beverages in the City shall not exceed:
  - a. An unlimited number of Class A beer licenses.
  - b. Four (4) Class B beer licenses.
  - c. Four (4) Class C beer and liquor consumption licenses. (2000 Code)

3-2-13: Inspection of Premises

1. **Premises Subject to Inspection:** All licensed premises shall be subject to inspection by any officer, agent, or peace officer of the City or the Alcoholic Beverage Control Commission, or the State Board of Health, and every licensee shall, at the request of the State Board of Health furnish to it samples of alcoholic beverages which he shall have for sale.
2. **Revocation of License for Violation:** Any license granted pursuant to this Chapter may be revoked on a finding by the City Council that the licensee has had ten (10) days' or more notice from the State Board of Health that the licensee is violating one or more health ordinances, rules or regulations of the City or of the Utah Division of Health and has failed to comply with such health ordinance, rules or regulations.
3. **Closing of Business:** The City Council may direct the Chief of Police to close down any business licensed under this Chapter where the State 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. (2000 Code)

3-2-14: Disqualification for Conviction of Crime

No license shall be granted to any retailer to sell alcoholic beverages within the City if the licensee, a partner, manager, officer, director, managing agent or shareholder with more than twenty percent (20%) stock has been convicted of:

1. A felony under any Federal or State law;
2. Any violation of any Federal or State law or local ordinance concerning the sale, manufacture, distribution, warehousing, adulteration or transportation of alcoholic beverages;

3. Any crime involving moral turpitude;
4. Nor shall any license to sell alcoholic beverages be granted to anyone who has violated any provision of the ordinances of the City relating to intoxicating liquors; nor to any individual less than twenty one (21) years of age. (2000 Code)

3-2-15: Revocation or Suspension

1. **Violations Related to Operation Of Business:** The City Council may, after a hearing, revoke or suspend any alcoholic beverage license on a finding by it that the licensee or his officers, agents or employees have violated any provision of this Chapter or any ordinance of the City whether now or hereafter enacted which in any way related to the operation of the business or the safety of the public.
2. **Hearing:** A hearing before the City Council may be requested by any person:
  - a. That is denied or refused an alcoholic beverage license by any officer, agent or employee of the City.
  - b. Whose alcoholic beverage license is revoked, restricted, qualified, or limited from that for which it was first issued.
3. **Request for Hearing:** The request for hearing must be made in writing to the City Recorder/Clerk and made within thirty (30) days following the date notice denying, refusing, revoking, qualifying, restricting or revoking the alcoholic beverage license is mailed by the City to the applicant or license holder at his address as it appears on the application or license.
4. **Notification of Hearing:** Following receipt of a request for hearing, the City Recorder/Clerk 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 City may produce to support its decision and to present his own evidence in support of his contention. The City Council shall, within ten (10) days following the conclusion of the hearing, in writing, inform the person who requested the hearing of the decision of the City Council.
5. **No More Than One Hearing:** This Section shall not be construed so as to afford any aggrieved party more than one hearing before the City Council nor shall the hearing provided in this Chapter apply to any criminal complaint or proceeding. (2000 Code)

3-2-16: Penalty

1. **Sales without License:** It shall be a Class B misdemeanor, subject to penalty as provided in Section 1-4-1 of this Code, for any person to engage in the business of selling alcoholic beverages at retail without first having procured a license therefore from the City.
  
2. **Sales after Revocation of License:** It shall be a Class B misdemeanor, subject to penalty as provided in Section 1-4-1 of this Code, for any person to sell alcoholic beverages after the revocation of the license issued pursuant to this Chapter. (2000 Code)

## **Sales and Use Tax**

Reserved

## **Mobile Telephone Service Revenue Act**

### Section

- Repealer 3-4-1
- Enactment 3-4-2
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### 3-4-1: Repealer

Any provision of the Moroni City Code found in conflict with this ordinance is hereby repealed.

### 3-4-2: Enactment

Section (to be inserted when incorporated into the code book) relating to the Mobile Telecommunication Service Revenue Act, is hereby enacted to read as follows:

### 3-4-3: Definitions

For purposes of this ordinance, the following terms are defined as follows:

- **Customer:**
  - The person or entity, having a place of primary use within the City, that contracts with the home service provider for mobile telecommunications services; or
  - If the end user of mobile telecommunications services is not the contracting party, the end user of the mobile telecommunications services; but this clause applies only for the purpose of determining the place of primary use.

Customer does not include

- A reseller of mobile telecommunications service; or
  - A serving carrier under an arrangement to serve the customer outside the home service Provider's licensed service area.
- **Designated Database Provider:** a corporation, association, or other entity representing all the political subdivisions of a state that is:
    - Responsible for providing an electronic database prescribed in subsection 119 (a) of chapter 4, title 4 of the United States Code if the state has not provided such electronic database; and
    - Approved by municipal and county associations or leagues of the state whose responsibility it would otherwise be to provide such database prescribed by sections 116 through 126 of chapter 4, title 4 of the United States Code.
  - **Enhanced Zip code:** a United States postal zip code of nine or more digits.
  - **Home Service Provider:** the facilities-based carrier or reseller with which the customer contracts for the provision of mobile telecommunications services.
  - **Licensed Service Area:** the geographic area in which the home service provider is authorized by law or contract to provide commercial mobile radio service to the customer.
  - **Mobile Telecommunications Service:** commercial mobile radio service, as defined in section 20.3 of title 47 of the Code of Federal Regulations as in effect on June 1, 1999. For purposes of this ordinance, mobile telecommunications services shall not include:
    - Pager services using mobile devices that do not allow for two-way voice Communications.
    - Narrowband personal communications services; and

- Short message services (SMS)
- **Place of Primary Use:** the street address representative of where the customer's use of the mobile telecommunications service primarily occurs, which must be:
  - The residential street address or the primary business street address of the customer; and
  - Within the licensed service area of the home service provider.
- **Prepaid Telephone Calling Services:** means the right to purchase exclusively telecommunications services that must be paid for in advance, that enables the origination of calls using an access number, authorization code, or both, whether manually or electronically dialed, if the remaining amount of units of service that have been prepaid is known by the provider of the prepaid service on a continuous basis.
- **Reseller:**
  - A provider who purchases telecommunications services from another telecommunications service provider and then resells, uses as a component part of: or integrates the purchased services into a mobile telecommunications service; and
  - Does not include a serving carrier with which a home service provider arranges for the service to its customer outside the home service provider's or reseller's licensed service area.
- **Serving Carrier:** a facilities-based carrier providing mobile telecommunications service to a customer outside a home service provider's or reseller's licensed service area.

#### 3-4-4: Monthly Tax Levied

There is levied upon every home service provider a tax of one dollar (\$1) per month for each telephone number assigned to any customer whose place of primary use is within the City. The home service provider may or may not pass this tax on to its customers. If the home service provider passes the tax on to the customer, and the tax is reflected on the customer's bill the tax shall be shown on the bill as a flat rate municipal tax charge.

#### 3-4-5: Remittance Date

1. Within thirty (30) days after the end of each calendar month, the borne service provider taxed hereunder shall file, with the City Treasurer, a report computing the tax. Coincidental with the filing of such report, the business shall pay, to the City Treasurer, the amount of the tax due for the calendar month subject to the report. If the 30th day after the end of each calendar month falls on a Saturday, Sunday, or state or federal

holiday, the deadline for filing the monthly report and remitting payment for that month is extended to the next subsequent day.

2. **Delinquent Payment:** Any payment not paid when due shall be subject to a delinquency penalty charge of ten percent (10%) of the unpaid amount. Failure to make full payment and penalty charges within sixty (60) days of the applicable payment date shall constitute a violation of this ordinance. *All* overdue amounts, including penalty charges, shall bear interest until paid at the rate of an additional ten percent ( 10%) per annum.
3. **Reconciliation:** Within three (3) years after the filing of any report or the making of any payment, the City Treasurer may examine such report or payment, determine the accuracy thereof, and, if the City Treasurer finds any errors, report such errors to the home service provider for correction. If any tax, as paid, shall be found deficient, the home service provider shall within sixty (60) days remit the difference, and if the tax is paid and found excessive, the City shall within (60) days refund the difference plus interest at the same rate as is such amount was deficient. In the event of a disagreement, the home services provider shall file under protest pending the resolution of the dispute between the parties or through the courts.
4. **Record Inspection:** The records of the home service provider pertaining to the reports and payment of the tax, including, but not limited to, any records deemed necessary by the City to calculate or confirm proper payment by the home provider, shall be open for inspection by the City and its duly authorized representatives upon reasonable notice at all reasonable business hours of the home services provider within the statute of limitations period defined in the "Reconciliation" subsection above.
5. **Home Service Provider Duty to Cooperate on Record Inspection:**
  - a. In order to facilitate any record inspection, the home service provider shall, upon thirty (30) days' prior written request:
    - i. Grant the City or its duly authorized representatives reasonable access to those portions of the books and records of the home service provider necessary to calculate and confirm property payment of the tax; or
    - ii. Provide the City or its duly authorized representatives with reports containing or based on information necessary to calculate and confirm proper payment of the tax.
  - b. Any requests for such books, records, reports, or portions thereof shall specify in writing the purpose of such request. Any books, records, reports, or portions thereof provided by the home service provider to the City under a claim that such documents are confidential business records are hereby designated as "protected records" and shall not be copied or disclosed by the City to third parties without the written permission of the home service provider, unless such documents are



determined by a court of law to constitute "public records" within the meaning of the Utah government records access Management Act

3-4-6: Requirement to Maintain Electronic Database or Enhanced Zip code Listing

**1. Electronic Database:**

- a. Provision of Database: The State may provide an electronic database to a home service provider; or, if the State does not provide such an electronic database, the designated database provider may choose to provide an electronic database to a home service provider.
- b. Format:
  - i. Such electronic database, whether provided by the State or the designated database provider, shall be provided in a format approved by the American National Standards Institute's Accredited Standards Committee Z 12, which, allowing for *de minimis* deviations, designates for each street address in the City, including, to the extent practicable, any multiple postal street addresses applicable to one street location, the appropriate taxing jurisdictions, and the appropriate code identified by one nationwide standard numeric code.
  - ii. Such electronic database shall also provide the appropriate code for each street address with respect to political subdivisions that are not taxing jurisdictions when reasonably needed to determine the proper taxing jurisdiction.
  - iii. The nationwide standard numeric codes shall contain the same number of numeric digits, with each digit or combination of digits referring to the same level of taxing jurisdiction throughout the United States, using a format similar to FIPS 55-3 or other appropriate standard approved by the Federation of Tax Administrators and the Multistate Tax Commission or their successors. Each address shall be provided in standard postal format.
- c. Notice; Updates: The State or designated database provider that provides or maintains an electronic database described above shall provide notice of the availability of the then-current electronic database and any subsequent revisions thereof: by publication in the manner normally employed for the publication of informational tax, charge, or fee notices to taxpayers in such State.
- d. User Held Harmless: A home service provider using the data contained in an electronic database described above shall be held harmless from any tax, charge, or fee liability that otherwise would be solely as a result of any error or omission in such database provided by the City or designated database provider. The home service provider shall reflect changes made to such database during a calendar quarter, not later than thirty (30) days after the end of such calendar quarter the

State has issued notice of the availability of an electronic database reflecting such changes under the "Notice; Updates" subsection above.

- e. Procedure if no Electronic Database Provided:
- i. **Safe Harbor:** If neither the State nor the designated database provider provides an electronic database, a home service provider shall be held harmless from any tax, charge, or fee liability in the City that otherwise would be due solely as a result of an assignment of a street address to an incorrect taxing jurisdiction, if the home service provider employs an enhanced zip code to assign each street address to a specific taxing jurisdiction and exercises the due diligence to ensure that each street address is assigned to the correct taxing jurisdiction. If an enhanced zip code overlaps boundaries of taxing jurisdictions of the same level, the home service provider must designate one specific jurisdiction within such enhanced zip code for use in taxing the activity for such enhanced zip code. Any enhanced zip code assignment changed is deemed to be in compliance with this section. For purposes of this section, there is a rebuttable presumption that a home service provider has exercised due diligence if the home service provider demonstrates that it has:
    1. Expended reasonable resources to implement and maintain an appropriately detailed electronic database of street address assignments to taxing jurisdictions;
    2. Implemented and maintained reasonable internal controls to promptly correct miss-assignments of street addresses to taxing jurisdictions; and
    3. Used all reasonably obtainable and usable data pertaining to municipal annexations, incorporations, reorganizations, and any other changes in jurisdictional boundaries that materially affect the accuracy of such database.
  - ii. **Termination of Safe Harbor:** The "Safe harbor" subsection above applies to a home service provider that is in compliance with the requirements of the "Safe Harbor" subsection with respect to a state for which an electronic database is not provided, until the later of:
    1. Eighteen (18) months after the nationwide standard numeric code has been approved by the Federation of Tax Administrators and the Multistate Tax Commission; or
    2. Six (6) months after the State or designated database provider in the State provides such database.

3-4-7: Place of Primary Use

1. A home service provider is responsible for obtaining and maintaining the customer's place of primary use. Subject to the "Requirement to Maintain Electronic Database or Enhanced Zip Code Listing" section above, and if the home service provider's reliance on information by its customer is in good faith, a home service provider:
  - a. May rely upon the applicable residential or business street address supplies by the home service provider's customer.
  - b. Is not liable for any additional taxes, charges, or fees based on a different determination of the place of primary use for taxes, charges, or fees that are customarily passed on to the customer as a separate address under existing agreements.
2. A home service provider may treat the address used by the home service provider for tax purposes for any customer under a service contract or agreement in effect two (2) years after the date of this amendment to this ordinance as that customer's place of primary use for the remaining term of such service contract or agreement, excluding any extension or renewal of such service contract or agreement, for purposes of determining the taxing jurisdiction to which taxes, charges, or fees on charges for mobile telecommunication services are remitted.

3-4-8: Tax against Customer

Each customer shall accurately report the customer's place of primary use. The customer shall be liable for any taxes not paid by the home service provider as a result of the customer's failure to accurately report the customer's place of primary use.

3-4-9: Non-Application

This ordinance does not apply to the determination of the taxing status of:

1. Prepaid telephone calling services; or
2. Air-ground radiotelephone service, as defined in Section 22.99 of title 47 of the code of Federal Regulation as in effect on June 1, 1999.

3-4-10: Implementation Date

If this ordinance is adopted before January 1, 2001, a home service provider shall have a minimum of thirty (30) days' notice before being obligated to collect the tax described in this ordinance. After January 1, 2001, a home service provider shall have a minimum of sixty (60) days' notice before being obligated to collect the tax described in this ordinance. After January 1, 2001, a home service provider shall receive a minimum of sixty (60) days' notice regarding any changes to this ordinance

3-4-11: Severability

If the "Monthly Tax Levied" section above is for any reason determined to be, or is rendered, illegal, invalid, or superseded by other lawful authority, including any state or federal, legislative, regulatory, or administrative authority having Jurisdiction, such section shall be deemed a separate, distinct, and independent provision, and such determination shall have no effect on the validity of any other section~ provided, however, upon such event and in lieu of such tax, there is levied upon every home service provider a tax equal to six percent (6%) of the annual gross revenue of the home provider generated from services and products to customers.

(Code 1/1/2001)

## Solicitors, Canvassers, Peddlers and Itinerant Merchants

### Section

- Definitions 3-5-1
- License Required 3-5-2
- Application for License 3-5-3
- Investigation and Issuance of License 3-5-4
- Fee 3-5-5
- License Provisions 3-5-6
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### 3-5-1: Definitions

As used in this Chapter, the following words and terms shall have the meanings ascribed to them in this section:

- **Canvasser or Solicitor:** Any individual whether or not a resident of the City, traveling either by foot, wagon, motor vehicle or other type of conveyance from place to place, from house to house, or from street to street, taking or attempting to take orders for the sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries, or exposes for sale a sample of the subject of such sale, or whether he is collecting advance payments on such sales; provided, that such definition shall include any person who, for himself, or for another person, firm or corporation, hires, leases, uses or occupies any building, structure, tent, railroad boxcar, hotel or motel room, lodging house, apartment, shop or any other place within the City for the sole purpose of exhibiting samples and taking orders for future delivery.
- **Peddler:** Shall include any person, whether or not a resident of the City, traveling by foot, wagon, motor vehicle or any other type of conveyance, from place to place, from

house to house, or from street to street, carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products or provisions, offering and exposing the same for sale, or making sales and delivering articles to purchasers, or who, without traveling from place to place, shall see or offer the same for sale from a wagon, motor vehicle, railroad car, or other vehicle or conveyance; and further provided, that one who solicits orders and as a separate transaction makes deliveries to purchasers as part of a scheme or design to evade the provisions of this Chapter shall be deemed a peddler subject to the provisions of this Chapter. The word “peddler” shall include the words “hawker” and “huckster”.

- **Transient Merchant, Itinerant Merchant or Itinerant Vendor:** Any person, firm or corporation, whether as owner, agent, consignee or employee, whether or not a resident of the City, who engages in a temporary business of selling and delivering goods, wares and merchandise within the City, and who in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, tent, railroad boxcar, public room in any hotel, motel, lodging house, apartment, shop or any street, alley, or other place within the City, for the exhibition and sale of such goods, wares and merchandise, either privately or a public auction. The person, firm or corporation so engaged shall not be relieved from complying with the provisions of this Chapter merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant or auctioneer. (1982 Code § 9-452; amd. 2000 Code)

3-5-2: License Required

It shall be unlawful for:

1. **Transient Merchant, Itinerant Merchant or Vendor:** A transient merchant, itinerant merchant or itinerant vendor to engage in such business without first obtaining a license therefore in compliance with the provisions of this Chapter. (1982 Code § 9-451)
2. **Peddler:** Any person to engage in the business of peddler without first obtaining a license therefore as provided in this Chapter.
3. **Solicitor or Canvasser:** Any solicitor or canvasser to engage in such business without first obtaining a license therefore in compliance with the provisions of this Chapter. (1982 Code § 9-450; amd. 2000 Code)

3-5-3: Application for License

Applicants for licenses under this Chapter shall file a sworn application in writing signed by the applicant, if an individual; by all partners, if a partnership; and by the president, if a corporation, or by an agent, including a State or regional agent, with the City Recorder/Clerk, which shall give the following information: (1982 Code § 9-453; amd. 2000 Code)

1. The name of the applicant and, if the applicant is an employee or agent of a corporation, the name of the corporation.
2. The address of the applicant and, if the applicant is an agent or employee of a corporation, the address of the corporation.
3. A brief description of the nature of the business and the goods to be sold and from whom or where the applicant obtains the goods to be sold.
4. If the applicant is employed by or an agent of another person, the name and permanent address of such other person.
5. The length of time for which the applicant desires to engage in business within the City.
6. The places within the City where the applicant proposes to carry on his or her business.
7. A list of the other municipalities in which the applicant has engaged in business within the six (6) month period preceding the date of the application.
8. A photograph of the applicant, taken within six (6) months immediately prior to the date of filing the application, which photograph shall be two inches by two inches (2" x 2"), showing the head and shoulders of the applicant in a clear and distinguishing manner.
9. A statement as to whether or not the applicant or any of his employers have been convicted of any crime, misdemeanor or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefore.
10. If the applicant desires to sell fresh vegetables, fruits, meats or other foodstuffs, a statement by a reputable physician of the State, dated not more than ten (10) days prior to submission of the application, certifying the applicant to be free of infectious, contagious or communicable diseases.
11. If the applicant is employed by another person documents showing that the person for which the applicant proposes to do business is authorized to do business within the State. (1982 Code § 9-453)

3-5-4: Investigation and Issuance of License

1. **Referral to Chief of Police:** On receiving the application, the City Recorder/Clerk shall refer it to the Chief of Police, who shall cause such investigation of the applicant's business and moral character to be made as he deems reasonable and necessary for the protection of the public good. (1982 Code § 9-454)

2. **Unsatisfactory Result of Investigation:** If, as a result of the investigation, the applicant's character or business responsibility is found to be unsatisfactory, the Chief of Police shall endorse such upon the application, together with a statement of his reasons therefore, and return the application to the City Recorder/Clerk, who shall notify the applicant that his application has been disapproved and that no license will be issued.
3. **Satisfactory Result of Investigation:** If, as a result of such investigation, the character and business responsibility of the applicant is found to be satisfactory, the Chief of Police shall endorse such upon the application and return it to the City Recorder/Clerk who shall, upon payment of the prescribed license fee, issue a license. Such license shall contain the signature of the issuing officer and shall show the name, address and photograph of the licensee and the kind of goods to be sold pursuant to the application, together with an expiration date. (1982 Code § 9-454; amd. 2000 Code)

3-5-5: Fee

The license fee which shall be charged by the City Recorder/Clerk for any license issued pursuant to this Chapter shall be in such amount as established by resolution of the City Council. (1982 Code § 9-455; amd. 2000 Code)

3-5-6: License Provisions

1. **Exhibit License:** Any person licensed pursuant to this Chapter shall exhibit such license at the request of any citizen of the City.
2. **Produce License upon Request:** It shall be the duty of any police officer of the City to require any person seen soliciting, canvassing or peddling, and who is not known by such officer to be duly licensed, to produce his or her license and to enforce the provisions of this Chapter.
3. **Expiration of License:** All licenses issued pursuant to this Chapter shall expire on the date specified on the license. (1982 Code § 9-456; amd. 2000 Code)

3-5-7: Appeal

Any person aggrieved by the action of the Chief of Police or the City Recorder/Clerk in the denial of a license issued pursuant to this Chapter, or by the action of the City Council, may file an appeal. Such appeal shall be taken by filing with the City Council within fourteen (14) days after notice of the action complained of has been mailed to such person's last known address or address on the business application, a written statement setting forth fully the grounds for the appeal. A time and place for the hearing on such appeal and notice of such hearing shall be set and given to the applicant in the same manner as provided in Section 3-1-13 of this Title. (1982 Code § 9-456; amd. 2000 Code)



3-5-8: Additional Requirements

This Chapter shall not be construed so as to waive the provisions and requirements of any other ordinance of the City and the requirements and fees required herein shall be in addition to any other requirements and fees of any other ordinance of the City. (1982 Code § 9-457)

3-5-9: Exceptions

The provisions of this Chapter shall not apply to any individual who is, at the time he is engaged in any activity which would otherwise require licensing by this Chapter, engaged in an activity which is authorized by any church or charity which has a permanent structure located within the State, provided such church or charity has had such permanent structure for at least six (6) months prior to the date when the individual engaged in the activity would otherwise require licensing by this Chapter. (1 982 Code § 9-458)

## Offensive Businesses and Facilities

### Section

- Defined 3-6-1
- Conditional Use Permit Required 3-6-2
- Application for Permit 3-6-3
- Issuance of Permit 3-6-4
- Control of Animal and Fowl Facilities 3-6-5
- Existing Businesses and Facilities 3-6-6

#### 3-6-1: Defined

Offensive businesses, within the meaning of this Chapter, shall include, but not be limited to, packing houses, dairies, tanneries, canneries, renderers, junk or salvage yards, bone factories, slaughter houses, butcher shops, soap factories, foundries, breweries, distilleries, livery stables, blacksmith shops or any other enterprise or establishment which creates excessive odors, fumes, smoke, gases or noises. (1982 Code § 10-241 B)

#### 3-6-2: Conditional Use Permit Required

No person shall commence or change the location of an offensive business or establishment in or within one mile of the limits of the City without first filing an application for a conditional use permit to do so as provided in Title 10, Chapter 9 of this Code. (1982 Code § 10-241A; amd. 2000 Code)

#### 3-6-3: Application for Permit

The application for a conditional use permit shall specify the location at which the business or establishment is to be operated and maintained or the new location to which it is to be moved. The application shall describe the type of activity which will be conducted and describe the manner in which the business or establishment shall eliminate, control or modify the emission by the business of the undesirable odors, fumes, noises and other noisome features and the manner in which it shall be screened from public view, if its appearance is offensive. (1982 Code § 10-2410; amd. 2000 Code)

#### 3-6-4: Issuance of Permit

1. **Report and Recommendation:** In addition to the requirements of Title 10, Chapter 9 of this Code, the City Recorder shall cause a study to be made of the proposed business or

relocation of any offensive business or establishment by the Sanpete County Board of Health and by personnel engaged in the inspection of buildings and other facilities. A report and recommendation shall be made to the Planning Commission.

2. **Revocation Of Permit:** In the event a conditional use permit is granted, it shall be subject to revocation either upon failure of the operator or owner to conduct his business in the manner specified by the City Council at the time of the granting of the conditional use permit, or because a change of circumstances makes the continued operation or maintenance of the business or facility a public nuisance.
3. **Modification of Permit:** The City Council shall have power to revoke or modify the permission to operate and maintain the business in such a manner as it deems necessary for the public good. (1982 Code § 10-242; amd. 2000 Code)

3-6-5: Control of Animal and Fowl Facilities

1. **Location and Management:** The City Council shall have the power to prohibit or control the location and management of any offensive, unwholesome business or establishment in or within one mile of the City and may compel the owner of any pigsty, privy, barn, corral, fur-bearing animal farm, feed yard, poultry farm or other unwholesome or nauseous house or place, to cleanse, abate or remove the same.
2. **Examination of Operation:** The City Council may, on its own initiative and shall, on complaint of a member of the public, examine the operation, control, or location of any business or facility for the purpose of determining whether or not the operation of such business or facility should be improved, so as to minimize the offensive and unwholesome characteristics, or whether the business or activity should be moved or abated.
3. **Notification of Abatement:** In the event that the City Council decides that the business or facility should be abated, removed or controlled, it shall notify the owner or operator of the business or facility of such fact. (1982 Code § 10-244)
4. **Hearing; Limited Permit:** After a hearing, the City Council may issue a limited conditional use permit wherein it may prescribe the specifications and standards which must be followed by the business or facility in order to be permitted to continue in operation. (1982 Code § 10-244; amd. 2000 Code)
5. **Abatement or Removal:** Upon a determination by the City Council that the business or facility is a nuisance, it shall have power to order the abatement or removal of the facility or establishment. If the owner fails to conform to such order, the City Council shall have

power to bring all necessary legal proceedings to force removal, abatement or adherence to standards. (1982 Code § 10-244)

3-6-6: Existing Businesses and Facilities

1. **Investigation by City Council:** The City Council may require an investigation of any existing offensive business or facility to determine whether or not it should be permitted to remain in existence in or within one mile of the City limits. If the City Council determines that the continuation of the business or facility has become a nuisance to persons situated within the City limits or that ample control is not being exercised to minimize the creation of excessive odors, fumes, smoke, gases and noise, it shall notify the owner or operator thereof that the City Council is considering revoking or modifying the operator's conditional use permit.
  
2. **Conform to Standards And Specifications:** If the City Council decides to require a modification of the manner in which the business or facility is to be maintained, it shall specify the standards or specifications to which the enterprise must conform or otherwise lose its conditional use permit to engage thereafter in the business or activity. (1982 Code § 10-243; amd. 2000 Code)

## Sexually Oriented Businesses

### Section

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3-7-1: Title

The provisions codified in this Chapter shall be known and may be referred to as the **Sexually Oriented Business and Employee Licensing Ordinance**. (Ord., 6-9-1999)

3-7-2: Purpose

It is the purpose and object of this Chapter that the City establishes reasonable and uniform regulations governing the time, place and manner of operation of sexually-oriented businesses and their employees in the City. This Chapter shall be construed to protect the governmental interests recognized by this Chapter in a manner consistent with constitutional protections provided by the United States and the Utah constitutions. (Ord., 6-9-1999)

3-7-3: Application of Provisions

This Chapter imposes regulatory standards and license requirements on certain business activities which are characterized as sexually-oriented businesses, and certain employees of those businesses characterized as sexually-oriented business employees. Except where the context or specific provisions require, this Chapter does not supersede or nullify any other related ordinances, including, but not limited to, those codified in this Code. (Ord., 6-9-1999)

3-7-4: Definitions

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

- **Adult Bookstore or Adult Video Store:** A commercial establishment:
  - Which excludes minors from more than fifteen percent (15%) of the retail floor or shelf space of the premises; or
  - Which, as one of its principal purposes, offers for sale 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, compact disks (CD5) video cassettes, or video productions, slides or other visual representations, the central theme of which depicts or describes “specific sexual activities” or “specific anatomical areas”, or instruments, devices or paraphernalia which are

designated for use in connection with “specified sexual activities”, except for legitimate medically recognized contraceptives.

- **Adult Business:** An adult motion picture theater, adult bookstore or adult video store.
- **Adult Motion Picture Theater:** A commercial establishment which:
  - Excludes minors from the showing of two (2) consecutive exhibitions (repeated showings of any single presentation shall not be considered a consecutive exhibition); or
  - 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”.
- **Adult Theater:** A theater, concert hall, auditorium or similar commercial establishment which:
  - Holds itself out as such a business; or
  - Excludes minors from the showing of two (2) consecutive exhibitions (repeated performance of the same presentation shall not be considered a consecutive exhibition); or
  - 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”.
- **Employ:** 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.
- **Escort:** 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 (12) hours and who provide a service not principally characterized as dating and 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 duration not longer than one hour.

- **Escort Service:** An individual or entity who, for pecuniary compensation, furnishes or offers to furnish escorts, or provides or offers to introduce patrons to escorts.
- **Escort Service Runner:** 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.
- **Nudity:** A state of dress in which the 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”.
- **Operator:** The manager or other natural person principally in charge of a sexually-oriented business.
- **Outcall Services:** Services of a type performed by a sexually-oriented business employee outside of the premises of the licensed sexually-oriented business, including, but not limited to, escorts, models, dancers and other similar employees.
- **Patron:** Any person who contracts with or employs any escort services or escort, or the customer of any business licensed pursuant to this Chapter.
- **Pecuniary Compensation:** Any commission, fee, salary, tip, gratuity, hire, profit, reward or any other form of consideration.
- **Person:** Any person, unincorporated association, corporation, partnership or other legal entity.
- **Semi-Nude:** A state of dress in which opaque clothing covers no more than the areola of the female breast, and the male or female genitals, pubic region and anus shall be fully covered by an opaque covering no narrower than four inches (4”) wide in the front and



five inches (5”) wide in the back, which shall not taper to less than one inch (1”) wide at the narrowest point.

- **Semi-Nude Dancing Agency:** 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.
- **Semi-Nude Entertainment Business:** A business, including adult theater, where employees perform or appear in the presence of patrons of the business in a state of semi-nudity. A business shall also be presumed to be a semi-nude entertainment business if the business holds itself out as such a business.
- **Sexually Oriented Business:** Semi-nude entertainment businesses, sexually oriented outcall services, adult businesses and semi-nude dancing agencies, as defined in this Chapter.
- **Sexually Oriented Business Employees:** Those employees who work on the premises of a sexually-oriented business in activities related to the sexually-oriented portion of the business. This includes all managing employees, dancers, escorts, models and other similar employees, whether or not hired as employees, agents or as independent contractors. Employees shall not include individuals whose work is unrelated to the sexually-oriented portion of the business, such as janitors, bookkeepers and similar employees. Sexually-oriented business employees shall not include cooks, serving persons and other similar employees, except where they may be managers or supervisors of the business. All persons making outcall meetings under this Chapter, including escorts, models, guards, escort runners, drivers, chauffeurs and other similar employees, shall be considered sexually-oriented business employees.
- **Specified Anatomical Areas:** The human male or female pubic area or anus with less than a full opaque covering, or the human female breast below a point immediately above the top of the areola, with less than a full opaque covering.
- **Specified Sexual Activities:**
  - Acts of:
    - Masturbation
    - Human sexual intercourse
    - Sexual copulation between a person and a beast

- Fellatio
  - Cunnilingus
  - Bestiality
  - Pederasty
  - Buggery, or
  - Any anal copulation between a human male and another human male, human female or beast;
- Manipulating, caressing or fondling by any person of:
    - The genitals of a human,
    - The pubic area of a human,
    - The breast or breasts of a human female;
  - Flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of the one so clothed. (Ord., 6-9-1 999)

3-7-5: Categories; Number of Licenses

1. It is unlawful for any business premises to operate or be licensed for more than one category of sexually-oriented business, except that a business may have a license for both outcall services and a semi-nude dancing agency on the same premises.
2. The categories of sexually-oriented businesses are:
  - a. Outcall services;
  - b. Adult businesses;
  - c. Semi-nude entertainment businesses;
  - d. Semi-nude dancing agency. (Ord., 6-9-1999)

3-7-6: License Required; Exemptions

1. **Sexually-Oriented Business:** It is unlawful for any person to operate a sexually-oriented business, as specified herein, without first obtaining a general business license and a sexually-oriented business license. The sexually-oriented business license shall specify the type of business for which it is obtained.

2. **Employee License:** It is unlawful for any sexually-oriented business to employ or for any individual to be employed by a sexually-oriented business employee, unless that employee first obtains a sexually-oriented business employee license.
3. **Exemptions:** 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. (Ord., 6-9-1 999)

3-7-7: Application for License

1. **Information Submitted:** Before any applicant may be licensed to operate a sexually-oriented business or as a sexually-oriented business employee pursuant to this Chapter, the applicant shall submit, on a form to be supplied by the City license authority, the following:
  - a. The correct legal name of each applicant, corporation, partnership, limited partnership or entity doing business under an assumed name;
  - b. If the applicant is a corporation, 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 and each principal of an applicant, and for each officer, director and any shareholder (corporate or personal) of more than ten percent (10%) of the stock of any applicant. Any holding company, or any entity holding more than ten percent (10%) of an applicant, shall be considered an applicant for purposes of disclosure under this Chapter (the shareholder disclosure requirements above shall only be applicable for outcall service licenses);
  - c. All corporations, partnerships or non-corporate entities included on the application shall also identify each individual authorized by the corporation, partnership or non-corporate entity to sign checks for such corporation, partnership or non-corporate entity;
  - d. For all applicants or individuals, the application must also state:
    - i. Any other names or aliases used by the individual;
    - ii. The age, date and place of birth,
    - iii. Weight,

- iv. Color of hair,
  - v. Color of eyes,
  - vi. Present business address and telephone number,
  - vii. Present residence and telephone number,
  - viii. Utah drivers license or identification number, and
  - ix. Social security number;
- e. Acceptable written proof that any individual is at least eighteen (18) years of age;
  - f. Attached to the form, as provided above, two (2) 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 directly to the issuing agency;
  - g. For any individual applicant required to obtain a sexually-oriented business employee license as an escort or a semi-nude entertainer, a certificate from the Sanpete County Health Department, stating that the individual has, within the thirty (30) days immediately preceding the date of the original or renewal application, been examined and found to be free of any contagious or communicable diseases;
  - h. A statement of the business, occupation or employment history of the applicant for three (3) years immediately preceding the date of the filing of the application;
  - i. A statement detailing the license or permit history of the applicant for the five (5) year period immediately preceding the date of the filing of the application, including whether such applicant previously operating or seeking to operate, in this or any other county, city, state or territory, has ever had a license, permit or authorization to do business denied, revoked or suspended, or has had any professional or vocational license or permit denied, revoked or suspended. In the event of any such denial, revocation or suspension, state the date, the name of the issuing or denying jurisdiction, and state in full the reasons for the denial,

revocation or suspension. A copy of any order of denial, revocation or suspension shall be attached to the application;

- j. All criminal convictions or pleas of nolo contendere, except those which have been expunged, and the disposition of all such arrests for the applicant, individual or other entity subject to disclosure under this Chapter, for five (5) years prior to the date of the application. This disclosure shall include identification of all ordinance violations, excepting minor traffic offenses (any traffic offense designated as a felony shall not be construed as a minor traffic offense), stating the date, place, nature of each conviction or pleas of nolo contendere, and sentence of each conviction or other disposition, identifying the convicting jurisdiction and sentencing court, and providing the court identifying case numbers or docket numbers. Application for a sexually-oriented business or employee license shall constitute a waiver of disclosure of any criminal conviction, or plea of nolo contendere for the purposes of any proceeding involving the business or employee license;
- k. 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;
- l. 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 to the licensee, and any rules, regulations or employment guidelines under or by which the business intends to operate. This description shall also include:
  - i. 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;
  - ii. The methods of supervision preventing the employees from engaging in acts of prostitution or other related criminal activities;

- iii. 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;
  - iv. The method 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.
2. **False or Misleading Information Unlawful:** It is unlawful to knowingly submit false or materially misleading information on or with a sexually-oriented business license application or to fail to disclose or omit information for the purpose of obtaining a sexually-oriented business or employee license. (Ord., 6-9-1 999)

3-7-8: Fee for License

Each applicant for a sexually-oriented business or employee license shall be required to pay regulatory license fees as set forth in the consolidated fee schedule. An application is not complete until all appropriate fees have been paid. (Ord.6-9-1 999)

3-7-9: Bond Required

Each application for a sexually-oriented business license shall post with the City a cash or corporate surety bond payable to the City in the amount of two thousand dollars (\$2,000.00). Any fines assessed against the business, officers or managers for violations of City ordinances shall be taken from this bond if not paid in cash within ten (10) days after notice of the fine, unless an appeal is filed as provided by this Chapter. In the event the funds are drawn against the cash or surety bond to pay such fines, the bond shall be replenished to two thousand dollars (\$2,000.00) within fifteen (15) days of the date of notice of any draw against it. (Ord., 6-9-1999)

3-7-10: Issuance Conditions

The City Recorder/Clerk shall approve the issuance of a license to the applicant within thirty (30) days after the receipt of a completed application, unless the official finds one or more of the following:

1. **Age:** The applicant is under eighteen (18) years of age;
2. **Overdue Assessments:** The applicant is overdue in payment to the City of taxes, fees, fines or penalties assessed against the applicant or imposed on the applicant in relation to a sexually-oriented business;
3. **False Information:** The applicant has falsely answered a material question or request for information as authorized by this Chapter;

4. **Violation Of Laws:** The applicant has violated a provision of this Chapter or similar provisions found in statutes or ordinances from any jurisdiction within two (2) years immediately preceding the application, a criminal conviction for a violation of a provision of this Chapter or similar provisions from any jurisdiction, whether or not it is being appealed, is conclusive evidence of a violation, but a conviction is not necessary to prove a violation;
  
5. **Premises Disapproved:** The premises to be used by the business has been disapproved by the Sanpete County Health Department, the Fire Department, the Police Department, the building officials or the zoning officials as not being in compliance with applicable laws and ordinances of the City. If any of the foregoing reviewing agencies cannot complete their review within the thirty (30) day approval or denial period, the agency or department may obtain from the City Recorder/Clerk an extension of time of no more than fifteen (15) days for their review. The total time for the City to approve or deny a license shall not exceed forty five (45) days from the receipt of a completed application and payment of all fees. Businesses located outside of the corporate boundaries of the City, but requiring a license under this Chapter, may be denied a license pursuant to this Chapter if the business does not have a valid business license to conduct business at the business location from the appropriate jurisdiction for that location:
  - a. Upon receipt of an application, all departments required to review the application shall determine within seven (7) days whether or not the application is incomplete in items needed for processing. Incomplete applications shall immediately be returned to the applicant with a specification of the items which are incomplete;
  - b. The time for processing applications specified in this Section shall begin to run from the receipt of a complete application;
  - c. In the event that a license for semi-nude entertainment, semi-nude dancing agencies, adult businesses or semi-nude entertainment businesses has not been disapproved within thirty (30) days or the forty five (45) days allowed after an extension, the City shall issue the license pending completion of the City's review;
  - d. Any license issued pursuant to subsection E3 of this Section may be revoked by the City, pursuant to the revocation procedures provided for herein, If the completed review determines that the license should have been denied;
  
6. **Fees Not Paid:** The required license fees have not been paid;

7. **Unpaid Sales, Use Tax:** All applicable sales and use taxes have not been paid;
8. **Noncompliance by Applicant:** 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. **Conviction of Crime:** An applicant has been convicted or pled nolo contendere to a crime:
  - a. Involving prostitution; exploitation of prostitution; aggravated exploitation of prostitution; solicitation of sex acts; sex acts for hire; compelling prostitution; aiding prostitution; sale, distribution or display of material harmful to minors; sexual performance by minors; possession of child pornography; lewdness; indecent exposure; any crime involving sexual abuse or exploitation of a child; sexual assault or aggravated sexual assault; rape; forcible sodomy; forcible sexual abuse; incest; harboring a runaway child; criminal attempt, conspiracy or solicitation to commit any of the foregoing offenses or offenses involving similar elements from any jurisdiction, regardless of the exact title of the offense; for which:
    - i. Less than two (2) years have elapsed from the date of conviction, if the conviction is of a misdemeanor offense, or less than five (5) years if the convictions are of two (2) or more misdemeanors within the five (5) years; or
    - ii. Less than five (5) years have elapsed from the date of conviction, if the offense is of a felony;
  - b. The fact that a conviction is being appealed shall have no effect on the disqualification pursuant to this Section. (Ord., 6-9-1 999)

3-7-11: 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. 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 twenty four (24) 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 (48) 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 shall be unlawful to:
  - a. Appear nude or semi-nude in the presence of persons under the age of eighteen (18);
  - b. Allow, offer or agree to any touching of the contracting party or other person by the individual appearing nude;
  - c. Allow, offer or agree to commit prostitution, solicitation of prostitution, solicitation of a minor or committing activities harmful to a minor;
  - d. Allow, offer, commit or agree to any sex act as validly defined by City ordinances or State statute;
  - e. Allow, offer, agree or permit the contracting party or other person to masturbate in the presence of the individual contracted to appear nude;
  - f. Allow, offer or agree for the individual appearing nude to be within five feet (5') of any other person while performing or while nude or semi-nude. (Ord., 6-9-1 999)

3-7-12: Obscenity and Lewdness; Statutory Provisions

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; provided, however, that for the purpose of sexually-oriented businesses, the definition of “private parts” shall be construed to mean “nudity”, as defined in this Chapter. (Ord., 6-9-1 999)

3-7-13: Location and Zoning Restrictions

It is unlawful for any sexually-oriented business to do business at any location within the City not zoned for such business. Sexually-oriented businesses licensed as adult businesses or semi-nude entertainment businesses pursuant to this Chapter shall only be allowed in areas zoned for their use pursuant to the this Code. (Ord., 6-9-1 999)

3-7-14: Premises Location and Name

1. **Licensed Premises Required:** 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. **Semi-Nude Entertainment Business:** It is unlawful for any business licensed for semi-nude entertainment to be located within three hundred thirty feet (330') of a business licensed for the sale or consumption of alcohol.
3. **Name:** It is unlawful for any sexually-oriented business to do business in the City under any name other than the business name specified in the application. (Ord., 6-9-1 999)  
See also Section 10-8-19 of this Code for location restrictions.

3-7-15: License Provisions

1. **Term of License:** Sexually-oriented business and employee licenses issued pursuant to this Chapter shall be valid from the date of issuance through July 1 of each succeeding year. The license fees required under the consolidated fee schedule shall not be prorated for any portion of a year, but shall be paid in full for whatever portion of the year the license is applied for.
2. **Notice of Change of Information:** Any change in the information required to be submitted under this Chapter for either a sexually-oriented business license or sexually-oriented business employee shall be given, in writing, to the City Recorder/Clerk and the Police Department within fourteen (14) days after such change.
3. **Transfer Limitations:** Sexually-oriented business licenses granted under this Chapter shall not be transferable. It is unlawful for a license held by an individual to be transferred. It is unlawful for a license held by a corporation, partnership or other non-corporate entity to transfer any part in excess of ten percent (10%) thereof, 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.
4. **Display of License:** It is unlawful for any sexually-oriented business location within the boundaries of the City to fail to display the license granted pursuant to this Chapter in a prominent location within the business premises. It is unlawful for any individual licensed pursuant to this Chapter to fail to carry, at all times while engaged in the 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.

5. **Statement in Advertisements:** It is unlawful for any advertisement by the sexually-oriented business or employee to fail to state that the business or employee is licensed by the City, and shall include the City license number. (Ord., 6-9-1999)

3-7-16: 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. **Contract:** 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 of not less than one year from the date of provision of services hereunder. 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. **Office; Telephone:** 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 licensee 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. **Advertisement:** 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. **Employee License Required:** 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. (Ord., 6-9-1 999)

3-7-17: Design of Premises**1. Adult Business:**

- a. In addition to the general requirements of disclosure for a sexually-oriented business, any applicant for a license as an adult business shall also submit a diagram, drawn to scale, of the premises of the license. The design and construction, prior to granting a license or opening for business, shall conform to the following:
  - i. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station at every area of the premises to which any patron is permitted access for any purpose, excluding restrooms;
  - ii. 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 one time, and requiring that patrons shall not be allowed access to manager's station areas;
  - iii. For businesses which exclude minors from 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 inside the premises. Businesses which exclude minors from less than all of the premises shall be designed and constructed so that minors may not see into the area from which they are excluded;
  - iv. 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;
- b. 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 A1 of this Section remain unobstructed by any doors, walls, merchandise, display racks or any other materials at all times that any patron is present on 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;

- c. The premises shall at all times be equipped and operated with overhead lighting fixtures of sufficient intensity to illuminate every place in 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.

## 2. **Semi-Nude Entertainment Business:**

- a. It is unlawful for business premises licensed for semi-nude entertainment to:
  - i. Permit a bed, sofa, mattress or similar item in any room on the premises, except that a sofa may be placed in a reception room open to the public or in any office to which patrons are not admitted, and 'except that in an adult theater such items may be on the stage as part of a performance;
  - ii. 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;
- b. Adult theaters shall also require that the performance area shall be separated from the patrons by a minimum of three feet (3'), which, separation shall be delineated by a physical barrier at least three feet (3') high. (Ord 6-9-1 999)

### 3-7-18: Prohibited Acts and Activities

1. **Generally:** It is unlawful for any sexually-oriented business or sexually-oriented business employee to:
  - a. Allow persons under the age of eighteen (18) years on the licensed premises, except that in adult businesses which exclude minors from less than all of the business premises, minors shall not be permitted in excluded areas;
  - b. Allow, offer or agree to conduct any outcall business with persons under the age of eighteen (18) years;
  - c. Allow, offer or agree to allow any alcohol to be stored, used or consumed on or in the licensed premises;
  - d. Allow the outside door to the premises to be locked while any customer is in the premises;

- e. Allow, offer or agree to gambling on the licensed premises;
- f. Allow, offer or agree to any sexually-oriented business employee touching or being touched by any patron or customer; except that outcall employees and customers may touch, except that any touching of specified anatomical areas, whether clothed or unclothed, is prohibited;
- g. Allow, offer or agree to illegal possession, use, sale or distribution of controlled substances on the licensed premises;
- h. Allow sexually-oriented business employees to possess, use, sell or distribute controlled substances while engaged in the activities of the business;
- i. 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;
- j. 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;
- k. Allow, offer or agree to any outcall employee appearing before any customer or patron in a state of nudity;
- l. Allow, offer or agree to allow a patron or customer to masturbate in the presence of the sexually-oriented business employee or on the premises of the sexually-oriented business;
- m. Allow, offer or agree to commit an act of lewdness, as defined in this Title.

**2. Alcohol Prohibited:**

- a. 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;
- b. It is unlawful for any person to possess or consume any alcoholic beverage on the premises of any sexually-oriented business.

### 3. **Semi-Nude Dancing Agencies:**

- a. 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;
- b. 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.

### 4. **Performers:** It is unlawful for any professional dancer, model or performer, while performing in any business licensed pursuant to this Chapter, to:

- a. Touch in any manner any other person;
- b. Throw any object or clothing off the stage area;
- c. Accept any money, drink or any other object directly from any person;
- d. 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
- e. Place anything within the costume or adjust or move the costume while performing so as to render the performer in a state of nudity.

### 5. **Patrons:** 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. (Ord., 6-9-1 999)

### 3-7-19: Nudity; Defenses to Prosecution

It is a defense to prosecution for 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. (Ord., 6-9-1999)

3-7-20: Existing Businesses; Compliance Time Limit

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 hereof and regardless of whether such persons and businesses are currently licensed to do business in the City:
  - a. All such persons and business requiring outcall service licenses shall have forty five (45) days from the effective date hereof, 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 seventy five (75) days from the effective date hereof, 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 one hundred thirty five (135) days from the effective date hereof, or until their current license must be renewed, whichever is first, to comply with the provisions of this Chapter.
2. For the year 1999-2000, all businesses required by this Chapter to be licensed as sexually-oriented businesses shall be credited against the fees required in the consolidated fee schedule with the regulatory license fees paid for the current 1999-2000 license. (Ord., 6-9-1999)

3-7-21: Suspension or Revocation of License

1. **Conditions:** The City may issue a notice suspending or revoking a sexually-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 sexually-oriented business specifically authorized by this Chapter or by any other statute or ordinance;
  - c. Failed to replenish the cost bond as provided in this Chapter (such a suspension shall extend until the bond has been replenished);



- d. Given materially false or misleading information in obtaining the license;
  - e. Knowingly operated the sexually-oriented business or worked under the employee license during the period when the business licensee or employee licensee's license was suspended;
  - f. A licensee has committed an offense which would be grounds for denial of a license for which the time period required has not lapsed;
  - g. On two (2) or more occasions within a twelve (12) month period, a person or persons committed in or on, or solicited for or on the licensed premises, or an outcall employee solicited or committed on or off the premises, an offense which would be grounds for denial of a license for which a conviction has been obtained, and the person or persons were employees, whether or not licensed of the sexually-oriented business at the time the offenses were committed;
  - h. A licensee is delinquent in payment to the City for ad valorem taxes, or sales taxes related to the sexually-oriented business.
2. **Time Effective:** Suspension or revocation shall take effect within fifteen (15) days of the issuance of notice, unless an appeal is filed as provided by this Chapter.
  3. **Appeal No Effect:** The fact that a conviction is being appealed shall have no effect on the revocation of this license.
  4. **Effect of License Revocation:** When a license issued pursuant to this Chapter is revoked, the revocation shall continue for one year from its effective date, and the licensee shall not be issued a sexually-oriented business or employee license for one year from the date of revocation. (Ord., 6-9-1 999)

3-7-22: Appeal

The denial, suspension or revocation of any license issued pursuant to this Chapter may be appealed as set forth in this Code. (Ord., 6-9-1 999)

3-7-23: Penalty

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 Recorder/Clerk, require the licensee to pay a civil penalty in the amount of five hundred dollars (\$500.00). Such fines shall be deducted from the cost bond posted pursuant to this Chapter, unless paid within ten (10) days of the 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, subject to penalty as provided in Section 1-4-1 of this Code. Each day of a violation shall be considered a separate offense. (Ord., 6-9-1 999; amd. 2000 Code)

2. Every act or omission by an employee constituting a violation of the provisions of this Chapter shall be deemed the act or omission of the sexually-oriented business licensee and/or operator, if such act or omission occurs either with the authorization, knowledge or approval of the licensee and/or operator, or as a result of the licensee's and/or operator's negligent failure to supervise the conduct of the employee, and the sexually-oriented business licensee shall be punishable for such act or omission in the same manner as if the licensee committed the act or caused the omission.
3. A sexually-oriented business licensee and/or operator shall be responsible for the conduct of all employees while on the licensed premises, and any act or omission of any employee constituting a violation of the provisions of this Chapter shall be deemed the act or omission of the licensee and/or operator for the purposes of determining whether the licensee's license shall be revoked, suspended or renewed. (Ord., 6-9-1 999)