

CHAPTER 13a
SEXUALLY ORIENTED BUSINESS

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Section 13a-2-1 Title for Citation:

This chapter shall be known and may be referred as the Sexually Oriented business Licensing Ordinance.

Section 13a-2-2 Purpose:

It is the purpose and object of this chapter that the City establish reasonable and uniform regulations governing the time, place and manner of operations of Sexually Oriented business and their employees in Grantsville City. This chapter shall be construed to protect governmental interests recognized by this chapter in a manner consistent with constitutional protections provided by the United States and Utah Constitutions.

Section 13a-2-4 Definitions:

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

1. ADULT BUSINESS – an Adult Theater, Adult Motion Picture Theater, Adult Bookstore or Adult Video store.
2. ADULT BOOKSTORE OR ADULT VIDEO STORE – a commercial establishment which:

- a. Holds itself out to be such a business; or
- b. Excludes minors from more than 30% percent of the retail floor or shelf space of the premises; or
- c. 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, video cassettes or video reproductions, slides or other visual representations the central theme of which depicts or describes "specified sexual activities" or "specified anatomical areas", or instruments, devices or paraphernalia which are designated for use in connection with specified sexual activities, except for legitimate medically recognized contraceptives.

3. ADULT MOTION PICTURE THEATER – a commercial establishment which;

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

4. ADULT THEATER –a commercial establishment which:

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

5. NUDITY or STATE OF 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.

6. OPERATOR – the manager or other natural person principally in charge of a Sexually Oriented business.

7. SEMI-NUDE – a state of dress in which a person wears opaque clothing covering

- a. Only the male or female genitals, pubic region, anus or;
- b. The nipple and areola of the female breast, by an opaque cover that is four inches wide in the front and five inches wide in the back tapering to one inch at the narrowest point.

8. 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 dance for performance or appearance at a business licensed pursuant to City Ordinances.

9. SEMI-NUDE ENTERTAINMENT BUSINESS – a business, including an 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.

10. SEXUALLY ORIENTED BUSINESS – Semi Nude Entertainment Businesses, Adult Business, and Semi-Nude Dancing Agencies as defined by this chapter.
11. SPECIFIED ANATOMICAL AREAS – the human male or female pubic area or anus with less than a full opaque covering or the human female breast from the beginning of the areola, papilla or nipple to the end thereof with less than full opaque covering.
12. SPECIFIED SEXUAL ACTIVITIES means:
 - a. Acts of:
 - masturbation;
 - Human sexual intercourse; or
 - Sodomy
 - b. manipulating, caressing or fondling by any person of:
 - the genitals of a human;
 - the pubic area of a human; or
 - 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 be fettered, bound or otherwise physically restrained on the part of one so clothed.

Section 13a-2-5 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.

Notwithstanding, anything contained in this chapter, nothing in this Chapter shall be deemed to permit or allow conduct or the showing or display of any matter, which is contrary to the provisions of the Utah criminal Code, concerning "Lewdness".

Section 13a-2-6 Location and Zoning Restrictions:

It shall be unlawful for any Sexually Oriented business to do business at any location within the city not zoned for such business. Sexually Oriented Business licensed pursuant to this chapter shall only be allowed in areas zoned for their use pursuant to the Land Use Development and Management code of Grantsville City.

Section 13a-2-7 Business license Required:

It shall be unlawful for any person to operate a sexually Orientated business, as specified herein, without first obtaining a Sexually Orientated Business license from the City license officer, with the approval by the Police Chief. The business license shall specify the type of Sexually Orientated Business for which it is obtained.

Section 13a-2-8 Exemptions from License Requirements:

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

Section 13a-2-9 Artistic Modeling

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.

Section 13a-2-10 Business Categories; Single License:

It is unlawful for any business premises to operate or be licensed for more than one category of Sexually Oriented business. The categories of Sexually Oriented businesses are:

1. Adult businesses.
2. Semi-Nude entertainment businesses.
3. Semi-Nude dancing agency.

Section 13a-2-11 License Application; Disclosure:

Before any applicant may be licensed to operate a Sexually Oriented business pursuant to this Chapter, the applicant shall submit, on a form to be supplied by the city Business License Officer, the following:

1. The correct legal name of each applicant, corporation, partnership, limited partnership or entity doing business under an assumed name.
2. If the applicant is a corporation, partnership or limited partnership 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 or director. Any holding company, or any entity holding more than ten percent of an applicant, shall be considered an applicant for purposes of disclosure under this chapter.
3. 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 the checks for such corporation, partnership or non-corporate entity.
4. For all applicants the application must also state:
 - a. any other names or aliases used by the individual;
 - b. present business address and telephone number;
 - c. present residence and telephone number;
 - d. Utah drivers license or identification number; and
 - e. Social security number.
5. Acceptable written proof that any individual is at least 21 years of age;
6. The applicants' fingerprints on a form provided by the city Police Department. For persons not residing in the City, the fingerprints shall be on a form from the law enforcement jurisdiction where the person resides. Fees for the fingerprints shall be paid by the applicant directly to the issuing agency.
7. A statement detailing the license or permit history of the applicant for the five year period immediately preceding the date of the filing of the application, including whether such applicant possesses or previously possessed any liquor licenses. The statement shall list all other jurisdictions in which the applicant owned or operated a Sexually Oriented business. The statement shall also state whether the applicant has ever had a license, permit, or authorization to do business denied, revoked or suspended in this or any other county, city, state, or territory. In the event of any such denial, revocation or suspension, state the date, the name or issuing or denying jurisdiction and state in full the reasons for denial, revocation or suspension. A copy of any order of denial, revocation or suspension shall be attached to the application.

8. All criminal convictions or pleas of no contest except those, which have been expunged and the disposition of all such arrests for the applicant, individual or entity subject to disclosure under this chapter for five years prior to the date of the application. This disclosure shall include identification of all ordinance violations, excepting minor traffic offenses (any traffic offense designated as a felony or Class A misdemeanor shall not be construed as a minor traffic offense); stating the date, place nature of each conviction and plea of no contest and sentence of each conviction or other disposition; identifying the convicting jurisdiction an sentencing court and providing the court identifying case numbers or docket numbers. Application for a Sexually Oriented business shall constitute a waiver of disclosure of any criminal conviction or plea of no contest for the purposes of any proceeding involving the business or employee license;
9. 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 the 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;
10. A description of the services to be provided by the business, with sufficient detail to allow reviewing authorities to determine what business will be transacted on the premises, together with a schedule of usual fees for services to be charged by the licensee and any rules, regulations or employment guidelines under or by which the Sexually Oriented business intends to operate This description shall also include:
 - a. the hours that the business or service will be open to the public and the methods of promoting the health and safety of employees and patrons and preventing them from engaging in illegal activity;
 - b. the methods of supervision preventing the employees from engaging in acts of prostitution or other related criminal activities;
 - c. the methods of supervising employees and patrons to prevent employees and patrons from charging or receiving fees for services or acts prohibited by this Chapter or other statutes or ordinances;
 - d. the methods of screening employees and customers in order to promote the health and safety of employees and customers and prevent the transmission of disease, and prevent the commission of acts of prostitution or other criminal activity.

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 license.

Section 13a-2-12 License Fees:

Each applicant for a Sexually Oriented business license shall be required to pay a license fee pursuant to the schedule established by resolution or ordinance of the city council.

Section 13a-2-13 Single Location and Name:

1. It is unlawful to conduct business under a license issued pursuant to this chapter at any location other than the licensed premises.
2. It is unlawful for any sexually Oriented business to do business under any name other than the business name specified in the application.

Section 13a-2-14 License – Issuance Conditions:

The Police Chief of his designee shall approve the issuance of a license to the applicant within thirty days of receipt of a completed application, unless the official finds one or more of the following:

1. the applicant is under twenty-one years of age;
2. the applicant is overdue in payment to the city of taxes, fees, fines, or penalties assessed against the applicant or imposed upon the applicant in relation to a Sexually Oriented business;
3. the applicant has falsely answered a material question or request for information as authorized by this chapter;
4. the applicant has violated a provision of this Chapter or similar provisions found in statutes or ordinances from any jurisdiction within two years immediately preceding the application; a criminal conviction for a violation of a provision of this chapter or similar provisions from any jurisdiction, whether or not being appealed, is conclusive evidence of a violation, but a conviction is not necessary to prove a violation;
5. the premises to be used for the business have been disapproved by the Tooele 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-day approval or denial period, the agency or department may obtain an extension of time of not more than fifteen days for their review. The total time for the City to approve or deny a license shall not exceed forty-five days from the receipt of a completed application and payment of all fees.
6. The required license fees have not been paid;
7. All applicable sales and use taxes have not been paid;
8. And applicant for the proposed business is in violation of or not in compliance with this Chapter or similar provisions found in state statutes or ordinances from any jurisdiction;
9. An applicant has been convicted or pled no contest to a crime involving;
 - a. Prostitution; exploitation of prostitution; aggravated promotion of prostitution; aggravated exploitation of prostitution; solicitation of sex acts; sex acts for hire; compelling prostitution; aiding prostitution; sale, distribution, or display of material harmful to minors; sexual performance by minors; possession of child pornography; lewdness; indecent exposure; any crime involving sexual abuse or exploitation of a child; sexual assault or aggravated sexual assault; rape; forcible sodomy; forcible sexual abuse; incest; harboring a runaway child; criminal attempt, conspiracy, or solicitation to commit any of the foregoing offenses or offenses involving similar elements from any jurisdiction, regardless of the exact title of the offense; for which:
 - i. less than two years have elapsed from the date of conviction, if the conviction is of misdemeanor offense, or less than five years if the convictions are of two or more misdemeanors within the five years; or
 - ii. less than five years have elapsed from the date of conviction if the offense is a felony;

10. the fact that conviction is being appealed shall have no effect on the disqualification pursuant to this Chapter.

Section 13a-2-15 Changes in Information

Any change in information required to be submitted under this Chapter for a Sexually Oriented Business license shall be given, in writing, to the Police Department, within fourteen days after such change.

Section 13-2-16 Transfer Limitations

Sexually Oriented Business Licenses granted under this chapter are not transferable. It is unlawful for an individual to transfer a Sexually Oriented Business license. It shall be unlawful for a Sexually Oriented Business license held by a corporation, partnership or other non-corporate entity to transfer any part in excess of 10% thereof, without filing a new application and obtaining prior City approval. If any transfer of the controlling interest in a Sexually Oriented Business licensee occurs, the license is immediately null and void and the Sexually Oriented business shall not operate until a separate new license has been properly issued by the city as herein provided.

Section 13a-2-17 General Regulations

It is unlawful for any Sexually Oriented Business to:

1. Allow persons under the age of eighteen years on the licensed premises, except that in Adult businesses which exclude minors from less than all of the business premises, minors shall not be permitted in excluded areas;
2. Allow, offer to agree to allow any alcohol being stored, used or consumed on or in the licensed premises;
3. Allow the outside door to the premises to be locked while any customer is in the premises;
4. Allow, offer or agree to gambling on the licensed premise;
5. Allow, offer or agree to any employee of a Sexually Oriented business touching any patron or customer;
6. Allow, offer or agree to illegal possession, use, sale or distribution of controlled substances on the licensed premises;
7. Allow Sexually Oriented Business employees to possess, use sell or distribute controlled substances, while engaged in the activities of the business;
8. 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;
9. Allow, offer, commit or agree to any specified sexual activity as validly defined by the City ordinances or state statute in the presence of any customer or patron;
10. Allow, offer or agree to allow a patron or customer to masturbate in the presence of an employee or on the premises of a Sexually Oriented business;
11. Allow, offer, or agree to commit an act of lewdness as defined in the Utah Code; or
12. Not permit the police Department or other City official to have access at all times to all premises licensed or applying for a license under this chapter, or to make periodic inspection of said premises whether the officer or official is in uniform or plain clothes.

Section 13a-2-18 Adult Business, Design of Premises

1. In addition to the general requirements of disclosure for a Sexually Oriented business, any applicant for a license as an Adult business shall also submit a diagram, drawn to scale, of the premises of the

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

- a. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms;
 - b. Restrooms may not contain any video reproduction equipment or any of the business merchandise. Signs shall be posted requiring only one person be allowed in the restroom per stall and only one person in any stall at a time and requiring that patrons shall not be allowed access to manager's station areas;
 - c. For businesses which exclude minors from the entire premises all windows, doors and other apertures to the premises shall be darkened or otherwise constructed to prevent anyone outside the premises from seeing the inside of the premises. Businesses which exclude minors from less than all of the premise shall be designed and constructed so that minors may not see into the area from which they are excluded;
 - d. The diagram required shall not necessarily be a professional engineer's or architect's blueprint; however, the diagram must show marked internal dimensions, all overhead lighting fixtures and ratings for illumination capacity.
2. It shall be the duty of license and licensee's employees to insure that the views from the manager's station of all areas specified in section (a) above remain unobstructed by any doors, walls, merchandise, display racks or any other material, at all times that any patron is present in the premise, and to insure that no patron is permitted to any area of the premise which has been designated as an area in which patrons will not be permitted.
 3. The premises shall at all times be equipped and operated with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one foot candle measured at floor level. It shall be the duty of licensee and licensee's employee present on the premises to insure that the illumination described above is maintained at all times that any patron is present in the premises.

Section 13a-2-19 Semi-Nude Entertainment Business; Interior Design

Adult Theaters shall require that the performance area shall be separated from the patrons by a minimum of three feet, which separation shall be delineated by a physical barrier at least three feet high. It is unlawful for business premises licensed for Semi-Nude Entertainment to:

1. 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;
2. 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;
3. Provide any room in which the employee or employees and the patron or patrons are alone together without a separation by a solid physical barrier at least three feet high and six inches wide. The patron or patrons shall remain on one side of the barriers and the employee or employees shall remain on the other side of the barrier;

Section 13a-2-20 Alcohol Prohibited

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. It is unlawful for any person to possess or consume any alcoholic beverage on the premises of any

Sexually Oriented Business.

Section 13a-2-21 Semi-Nude Dancing Agency

1. It is unlawful for any individual or entity to furnish, book or other wise engage the services of a professional dance, model or performer to appear in a state of semi-nudity for pecuniary compensation in, or for, any Semi-Nude Entertainment Business or Adult Theater Licensed pursuant to this Chapter unless such agency is licensed pursuant to this chapter.
2. It is unlawful for any individual or entity to furnish, book or otherwise engage or permit any person to perform as a professional dance, model or performer in a state of semi-nudity either gratuitously or for compensation, in, or for, any business licensed pursuant to this Chapter unless such person is employed by a Semi-Nude Dancing Agency licensed pursuant to this Chapter.

Section 13a-2-22 Nudity-Defense to Prosecution

It is a defense to prosecution or violation under this Chapter that a person appearing in a state of nudity did so in a modeling class operated:

1. By a proprietary school licensed by the State of Utah 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.

** Ordinance adopted 18th day of February 1998.

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