

STAFF REPORT

To: Mayor Westergard, City Council Members

From: Curtis Poole, Community Development Director
Bonnie Craig, Business License Official

Date: October 6, 2026

Re: Code Text Amendment – Business Regulations



Background

Title 6, *Business Regulations*, of the Woods Cross Municipal Code establishes the city's regulations for business licensing, including general licensing requirements, fees, license denial or revocation procedures, beer licenses, and regulations for sexually oriented businesses. Much of the existing language within Title 6 has been in place for a number of years and contains provisions that no longer reflect how the city currently administers its business licensing program.

Staff has reviewed Title 6 and is proposing a number of amendments intended primarily to update, clarify, and simplify the existing regulations. The proposed amendment is not intended to substantially change the city's overall business licensing policies. Rather, the majority of the proposed changes are technical in nature and are intended to remove outdated provisions, clarify responsibilities, eliminate inconsistencies, and make the requirements easier for both businesses and staff to understand and administer.

The proposed amendment also updates several provisions that were written around a more traditional paper-based licensing process. Business license applications, departmental reviews, payments, recordkeeping, and other administrative functions have changed significantly since many of these provisions were originally adopted. The proposed amendment provides greater flexibility for the city to administer these processes using current methods without requiring procedures that are no longer necessary or practical.

The existing code, for example, contains specific requirements regarding written approvals, preparation and signing of license certificates, payment at the time an application is submitted, and other procedural steps. The proposed amendments simplify several of these requirements and better align the ordinance with the city's current administrative practices.

Proposed Amendment

The following are highlights of the more significant changes proposed to Title 6:

- Business License Renewals and Late Fees. (New Policy Change) The proposed amendment simplifies the business license renewal timeline and changes the penalties associated with late renewals. Under the existing code, business license renewal fees are due January 1. A 50 percent penalty is assessed if the license is not paid by January 31, a 75 percent penalty is assessed if it remains unpaid by February 28, and a 100 percent penalty is assessed if it remains unpaid by March 31.

Under the proposed amendment, renewal fees would continue to be due January 1; however, a 100 percent penalty would be assessed if the license is not paid by January 15. The intermediate 50 and 75 percent penalties would be eliminated. If the license remains unpaid as of April 30, the license would expire. A business wishing to continue or reestablish operations after expiration would be required to follow the application and fee requirements of Title 6 and may also be responsible for any unpaid penalty fees.

This change establishes a more straightforward renewal process with a single late penalty and a clearly defined date when an unpaid license expires. Considering applicants are provided with multiple notifications prior to the January 1 deadline and can be renewed within a few minutes online, staff feels this proposed change is reasonable.

- Business License Administration. Several sections are being revised to better identify the responsibilities of the Community Development Director, Business License Official, and other city staff involved in reviewing and administering business licenses. The existing code assigns a number of specific administrative responsibilities to individual positions and, in some instances, contains outdated references to city departments or officials. The amendment updates these references and provides greater flexibility for the Community Development Director or designee to administer and enforce the ordinance. For example, inspection authority is clarified to reference the Community Development Director or designee rather than the broader and less-defined term "authorized officers."
- Application and Approval Process. The amendment updates the application and approval process to better reflect the manner in which business licenses are currently reviewed. Existing language requires applications to be returned with payment and requires signed, written approvals from reviewing departments before a license certificate may be prepared. The proposed language allows the application review to be completed before the applicable license fee is collected, while still requiring all fees to be paid before a business license is issued. These changes provide greater flexibility for applications and departmental approvals to be processed through the city's current administrative systems.
- License Fees. Specific dollar amounts contained within the ordinance are being removed where appropriate so that fees may instead be established through the city's consolidated fee schedule. This avoids the need to amend the ordinance each time an administrative fee is adjusted. The amendment also clarifies when application fees may be retained if an application is withdrawn or denied.
- Home Occupations. The proposed amendment clarifies that a license fee is not required for a home occupation having little to no impact on surrounding properties, as defined elsewhere in the city code. This provision addresses the distinction between the requirement to obtain a business license and whether a fee is assessed for that license.
- License Name and Location Changes. Existing provisions governing changes to a licensed business name or location are being simplified. Specific fees currently included in the ordinance are removed, and administrative authority for reviewing these changes is updated from the Mayor to the Community Development Director. The existing ordinance currently contains separate dollar amounts depending upon the type of license involved.
- Denial, Suspension, and Revocation. Chapter 6-06 is being updated primarily to clarify administrative responsibilities and remove outdated references. References to the Board of Adjustment and other former processes are updated to reflect the city's current

organizational structure, including the Hearings Officer. The existing grounds for denying, suspending, or revoking a license generally remain in place, including violations of city, State, or federal requirements, failure to pay required fees, false information, and failure to comply with applicable approvals.

- Beer Licensing. Chapter 6-09 contains a number of provisions that duplicate or are inconsistent with current State alcohol regulations. The proposed amendment updates references to State agencies and relies more directly upon applicable State requirements rather than restating requirements that may change over time. One example is the proposed change to the separation requirement for Class B licenses, which would reference the distance required by the State of Utah rather than maintaining a separate city distance standard.
- Removal of Outdated Beer License Procedures. Several existing Class B beer license provisions are proposed for removal, including the city's separate variance process for proximity requirements. The existing process includes a City Council public hearing, newspaper publication, mailed notice, and a petition of surrounding property owners. Removing these provisions reduces the possibility of the city providing a variance from State law and allows the city's requirements to more closely correspond with applicable State licensing requirements rather than maintaining a separate local process.
- Beer License Renewal. The separate renewal deadlines and late-fee provisions currently applicable to beer licenses would be consolidated with the general requirements of Title 6. The amendment therefore removes separate February and March penalty deadlines and provides that Class A and Class B licenses expire and are subject to late fees as otherwise provided within Title 6.
- Technical and Organizational Changes. Throughout Title 6, staff is proposing additional revisions to correct outdated department and agency names, update references to city officials, correct cross-references, remove unnecessary or duplicative language, and provide more consistent terminology. For example, references to the former South Davis County Fire Department are updated to Metro Fire Agency, and other outdated departmental references are similarly revised.

The proposed amendment appears relatively extensive when viewed as a redline because Title 6 has not received a comprehensive administrative update for some time. However, the amount of amended language should not necessarily be viewed as a corresponding change in city policy. A significant portion of the amendment consists of technical corrections, removal of outdated procedures, and revisions intended to allow the City's business licensing regulations to function more effectively with current administrative practices.

Planning Commission Recommendation

The Planning Commission reviewed the proposed amendment, held a public hearing, and has forwarded its recommendation to the City Council to approve the changes to Title 6, with one modification to the proposed business license renewal timeline. Staff proposed that a 100 percent late penalty be assessed if a business license renewal is not paid by January 15. The Commission recommended extending that date to January 31, allowing the full month before the late penalty is assessed considering the business license renewal period has two major holidays.

Staff is not opposed to the Commission recommendation and recognizes that extending the penalty date to the end of January would provide businesses with additional time to complete their renewal. However, business license renewal is an ongoing annual process, and businesses receive multiple email notifications before the December 31 renewal deadline as well as follow-up notifications after the deadline. Renewals can also generally be completed online within a few minutes. For these reasons, Staff believes the proposed January 15 penalty date provides sufficient time for businesses to renew while also establishing a clear and timely renewal process.

Staff Review

Staff believes the proposed amendment will provide a clearer and more practical framework for administering business licenses. The existing ordinance contains several procedures that were appropriate when applications, payments, approvals, and license records were primarily handled through physical documents and individual departmental signatures. Updating these provisions allows the code to focus more on the requirements that must be satisfied rather than prescribing administrative steps that may change as the city's processes and technologies change.

The proposed amendment also provides an opportunity to remove conflicting or duplicative requirements and establish greater consistency between the general business licensing provisions and the more specialized licensing chapters. The intent is to retain the city's existing regulatory authority while making Title 6 easier to administer and easier for businesses to understand.

Staff Recommendation

Staff recommends the City Council review and adopt the proposed ordinance amending Title 6, *Business Regulations*.

THE CITY OF WOODS CROSS,

UTAH ORDINANCE NO. 646

AN ORDINANCE OF THE WOODS CROSS CITY COUNCIL AMENDING TITLE 6, BUSINESS REGULATIONS, OF THE WOODS CROSS CITY CODE TO UPDATE, CLARIFY, AND SIMPLIFY BUSINESS LICENSING AND RELATED REGULATIONS.

WHEREAS, the City is authorized to license and regulate businesses operating within Woods Cross City as provided by applicable law; and

WHEREAS, Title 6, Business Regulations, of the Woods Cross City Code establishes regulations governing business licensing, license fees, renewals, denial and revocation procedures, beer licensing, and other business-related requirements; and

WHEREAS, the City Council finds that portions of Title 6 should be updated to better reflect current administrative practices, clarify the responsibilities of City officials and staff, remove outdated or duplicative procedures, and provide more consistent and understandable business licensing requirements; and

WHEREAS, the Planning Commission reviewed the proposed amendments, held a public hearing, and forwarded a recommendation to the City Council to approve the amendments.

NOW THEREFORE, BE IT ORDAINED by the City Council of Woods Cross City, Utah, as follows:

Section 1. Amendment of Ordinance. Title 6, Business Regulations, of the Woods Cross City Code is amended as provided in Exhibit "A," attached hereto and incorporated herein by this reference.

Section 2. Repeal of Prior Ordinance. All prior versions of the provisions amended by this Ordinance are repealed to the extent they conflict with the amendments adopted herein.

Section 3. Severability. If any section, part or provision of this Ordinance, which shall include all exhibits, is held invalid or unenforceable, such invalidity or unenforceability shall not affect any other portion of this Ordinance; all sections, parts and provisions of this Ordinance shall be severable and enforced to the fullest lawful extent to meet the purposes hereof.

Section 4. Penalty. Violations of this Ordinance shall be established in Section 14-01-080 and Fines per Section 14-01-090 of the Woods Cross Municipal Code and Utah State Code.

Section 5. Effective Date. This Ordinance shall become effective immediately upon approval of the City Council and recording with the City.

PASSED AND ADOPTED BY THE CITY COUNCIL OF WOODS CROSS, UTAH ON THIS 6th DAY OF OCTOBER 2026.

THE CITY OF WOODS CROSS, UTAH

By: _____


RYAN WESTERGARD, MAYOR

Voting:

Julie Checketts	Yea ☒
Jim Grover	Yea ☒
Eric Jones	Yea ☒
Wallace Larrabee	Yea ☒
Rachel Peterson	Yea ☒
Ryan Westergard	Yea ☐

Nay ☐
Nay ☐
Nay ☐
Nay ☐
Nay ☐
Nay ☐

[tie vote only]

ATTEST:

SEAL:


Annette Hanson
City Recorder



RECORDED in the office of the City Recorder this 6th day of October 2026.

TITLE 6

BUSINESS REGULATIONS

CHAPTER 6-01:	GENERAL PROVISIONS
CHAPTER 6-03:	ASSESSMENTS AND LICENSE FEES
CHAPTER 6-06:	REVOCATION, SUSPENSION OR DENIAL OF LICENSES
CHAPTER 6-09:	BEER LICENSES
CHAPTER 6-12:	SEXUALLY ORIENTED BUSINESSES

CHAPTER 6-01: GENERAL PROVISIONS

6-01-010.	Definitions.
6-01-020.	Business License Required.
6-01-030.	Business License Official - Duties and Responsibilities.
6-01-040.	License - Application Requirements.
6-01-050.	Issuance of a Business License.
6-01-060.	Renewals of Business Licenses.
6-01-070.	Inspections.
6-01-080.	Payment Dates of Business License Fees.
6-01-090.	Term of Business Licenses.
6-01-100.	License - Transfer of Name or Location - Fee.
6-01-110.	License - Transfer to Other Persons Prohibited.
6-01-120.	License - Posting and Display Required.
6-01-130.	Reciprocal Recognition of Business Licenses.
6-01-140.	Constructive Notice of Time Periods.
6-01-150.	Penalty.

6-01-010. Definitions.

The following definitions shall be applicable throughout this Title unless a different meaning is clearly intended:

(a) "Alcoholic Beverage Licenses" means Class 'A,' Class 'B,' or Class 'C' beer licenses, nonprofit club licenses or liquor consumption licenses as defined in Chapter 6-12 of this Title.

(b) "Applicant" means any person applying for any license provided for in this Title. If the person is a partnership or corporation, then each partner, officer or director is considered an applicant and must qualify accordingly.

(c) "Application" means a formal written request for the issuance of any license permitted under this Title.

(d) "Authorized Officers" means those persons authorized by the City or other entities to inspect businesses and enforce the provisions of this Title or other applicable regulations, including peace officers, ordinance enforcement officers, and employees of the Health Department, Fire District, Community Development Department, Building Inspection Division, City Attorney's Office or the City ~~Administrator~~Manager.

(e) "Business" means and includes all trades, occupations, professions or activities engaged in within Woods Cross 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.

(f) "Business License Official" or "License Official" shall mean the Community Development Director of Woods Cross City.

(g) "Consolidated Fee Schedule" means the schedule of fees adopted each year by resolution of the Woods Cross City Council setting forth the various fees charged by the City.

(h) "Employee" means all individuals who work for an employer for salary or commission or wages and who are subject to the direction and control of such employer.

(i) "Engaging in Business" includes, but is not limited to, the sale of real or personal property at retail or wholesale, the bartering or trading of property or services, 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.

(j) "Fire Department" means the South Davis ~~County Fire Department~~ Metro Fire Agency.

(k) "Health Department" means the Davis County Health Department.

(l) "Licensee" means the person who has obtained any type of license provided for in this Title. The term shall also include any employee or agent of the licensee.

(m) "Person" means an individual, partnership, corporation, association or other legal entity.

(n) "Place of Business" means each separate location maintained or operated by the licensee, whether or not under the same name, within the City from which business is engaged in.

(o) "Violated" or "Violating" means that there exists reasonable cause to believe that any ordinance, code, statute or law has been or is being violated and is not limited to pleas of guilty or convictions for violating said ordinances, codes, statutes or laws.

6-01-020. Business License Required.

Unless otherwise provided, it shall be unlawful for any person to engage in any business within the City without first having obtained a business license pursuant to this Title or to continue doing business after a previously issued business license has expired without renewing said license and paying any applicable fees and penalties. A separate license shall be required for each type of business defined herein and for each place of business. Each day of noncompliance shall constitute a separate violation.

6-01-030. Business License Official - Duties and Responsibilities.

~~It shall be~~ Under the direction of the Community Development Director, the duty and responsibility ~~the duties and responsibilities~~ of the Business License Official are to:

- (a) Enforce the provisions of this Title;
- (b) Collect all business license fees and all alcoholic beverage license fees;
- (c) Process all applications and renewals of all licenses provided for in this Title;

(d) Obtain any necessary approvals from the various City departments and divisions before issuing any business licenses or alcoholic beverage licenses; and

(e) Deny, suspend or revoke licenses as provided in Chapter 6-06 of this Title.

6-01-040. License - Application Requirements.

(a) Applications for licenses and permits required by this Title shall be made ~~in writing~~ to the License Official in the absence of provision to the contrary, which applications shall be ~~made upon forms~~ provided by the City. The application shall show:

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

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

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

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

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

(6) That the proposed use of any premises by the applicant will not be in violation of City zoning regulations, that the principals of the applicant's business are properly bonded if bonding is required, and that the applicant will otherwise be in full compliance with all applicable City, State and federal laws and ordinances;

(7) Such additional information as may reasonably be required by the City as needed for the proper guidance of City officials in issuing the permit or license applied for.

(b) The truthfulness, completeness and accuracy of all of said information provided by applicant shall be attested to by an authorized representative of the business.

(c) Failure to provide all required information or providing false or misleading information in the application shall constitute grounds for denial of the application or revocation of a permit or license which was granted in reliance on the information provided, and shall constitute a misdemeanor, if such is done wilfully with the intent to mislead the City. If after 90 days all required information for the application has not been received the Business License Official may consider the application to be administratively withdrawn.

6-01-050. Issuance of a Business License.

(a) An applicant for a business license shall fill out the application in full and sign it as verification, under penalty of law, that all information contained therein is true.

(b) The application shall be returned to the Business License Official along with full payment of all business license fees.

(c) If required by separate ordinance, the Business License Official shall submit copies to other departments, divisions or agencies of the City for their review.

(d) Only after signed, written approvals from any required department, division or agency are obtained, the Business License Official shall be authorized to prepare a certificate of license for issuance.

(e) The certificate of license shall be signed by the ~~Mayer~~ Business License Official and shall contain the following information:

- (1) The person's name to whom the certificate is issued;
- (2) The business name;
- (3) The type of business licensed;
- (4) The date the license was issued;
- (5) The expiration date of the license;
- (6) The address of the place of business licensed; and
- (7) The business license number.

6-01-060. Renewals of Business Licenses.

(a) Each year, licensees shall renew their business licenses ~~by reviewing and signing by completing~~ an application for a license renewal signed under penalty of law that all information contained therein is true and returning it, along with the proper fees, to the Business License Official within the time period set forth in Section 6-01-080(b) below. Renewal applications for businesses which required police ~~checks-review~~ of the licensees under the original license application shall be submitted to the Police Department to determine whether the licensee still meets the necessary qualifications.

(b) Upon receipt of the application fees, and Police Department approval, if applicable, the Business License Official shall be authorized to prepare a certificate of license as provided in this Chapter.

6-01-070. Inspections.

(a) ~~Authorized officers~~ The Community Development Director or designee shall be permitted to make an inspection to enforce any of the provisions of this Title or any other applicable statute or ordinance, and may enter any building or may enter upon any premises during regular business hours; or, if there are no regular business hours, the ~~officers or their authorized representatives~~ Community Development Director or designee shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry.

(b) No owner, occupant or any other person having charge, care or control of any building or premises shall fail or neglect, after proper request is made as herein provided, to properly permit entry therein by the ~~authorized officer or his representative(s)~~ Community Development Director or designee for the purpose of inspection and examination to ensure compliance with this Title.

6-01-080. Payment Dates of Business License Fees.

(a) Upon completion of the application review, the applicant shall be notified of the applicable license fee. No business license shall be issued until the application review is complete and all required fees have been paid. Business license fees for new businesses shall be due and payable upon making application to the Business License Official. The application shall not be processed until the fee is paid.

(b) Business license fees for renewal businesses shall be due and payable on or before the first day of January each year. If the license is not paid by January 31, a ~~fifty one hundred~~ percent (~~50~~100%) penalty of the amount of the fee shall be added to the original amount due. If the fee is not paid by April 30 the license will expire. If the fee is still not paid by February 28, a seventy five percent (75%) penalty of the amount of the fee shall be added to the original amount due. If the fee is still not paid by March 31, a one hundred percent (100%) penalty of the amount of the fee shall be added to the original amount. Businesses that desire to reestablish an expired license shall follow the application and fee procedures of this Title and may be subject to any unpaid penalty fees.

(c) Penalty fees may be appealed to the Community Development Director who may, for good cause shown, refund all or part of the applicable penalty fee that has been paid. The decision of the Business License Official and the Community Development Director may be appealed to the City Council as set forth in Chapter 6-06 of this Title. The City Council may, upon good cause, recommend that all or part of the penalty fee be refunded.

6-01-090. Term of Business Licenses.

All business licenses shall expire each year on December 31.

6-01-100. License - Transfer of Name or Location - Fee.

(a) Any person to whom a business license has been issued to transact or carry on some business, calling, trade or profession at a definite location in the City may make application for the transfer of his/her business license for the sole purpose of transacting or carrying on the same business, calling, trade or profession as is therein mentioned at some other definite location in the City by himself or herself by filing said application with the License Official, ~~together with the sum of fifteen dollars (\$15).~~

(b) Any person who wishes to change his/her business name shall notify the License Official in writing also make application for the change of name of such person's business license, for the sole purpose of transacting or carrying on the same business, calling, trade or profession as is therein mentioned under a new name, by filing an application with the License Official, ~~along with the sum of fifteen dollars (\$15).~~

~~(c) If the business in question has any other licenses which are required under this Title, or its successor, the fee shall be thirty five dollars (\$35) for the change of address and thirty five dollars (\$35) for the change of name.~~

~~(d) The transfer fee shall be nonrefundable regardless of whether the application is granted or denied.~~ The MayerCommunity Development Director, after receiving reports which shall be furnished by the License Official, the Police Department or the Board of Health, when necessary, may ~~in his/her discretion~~, deny or grant the transfer of any or all of said licenses strictly within the above limitations.

6-01-110. License - Transfer to Other Persons Prohibited.

No license granted or issued under any of the provisions of any ordinance of the City shall be in any manner assignable, transferable or authorize any person other than the person named therein as the licensee to carry on or conduct the licensed business, except as may be otherwise specifically provided by ordinance.

6-01-120. License - Posting and Display Required.

Every certificate of license issued shall be posted by the licensee in a conspicuous place upon the wall of the building, room or office of the store or place in which such licensed business, calling, trade or profession is carried on, so that the same may be easily seen. When such certificate of license shall have 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, store, office or place of business after the period of such certificate or license has expired.

6-01-130. Reciprocal Recognition of Business Licenses.

(a) A business license shall not be required for operation of any vehicle or equipment in the City when:

- (1) Such vehicle is merely passing through the City; or
- (2) Such vehicle is used exclusively in interstate commerce.

(b) A business license shall not be required 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:

- (1) Such person's business is at the time of such delivery licensed by the Utah city or county in which such place of business is situated; and
- (2) 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
- (3) Neither the property delivered nor any of the facilities by which it was manufactured, produced or processed are subject to inspection by authority of the City for compliance with health or sanitary standards prescribed by the City; and
- (4) The truck or other conveyance by which such delivery is made prominently displays at all times a license plate or symbol issued by the licensing authority to evidence such business license. Such plate or symbol shall identify the licensing authority by which it is issued, shall indicate that it evidences a license issued thereby, and shall specify the year or term for which it is effective.

(c) Except as otherwise provided herein, a business license shall not be required of any person who is duly licensed in another county or another city in Utah, has no business location in the City, and the county or other licensing city would also reciprocate if the same business were located in the City.

(1) Before reciprocity is granted, the person must fill out a business license application and show proof of a valid business license in a qualifying city or county.

(2) Reciprocity shall not be granted to solicitors, ~~mobile food units~~ or any business requiring police checks or police I.D. cards.

(d) The City Recorder shall, at the request of any person, upon payment of copying and postage costs, certify a copy of this Section to any city or county of the State of Utah.

6-01-140. Constructive Notice of Time Periods.

(a) All businesses, owners, licensees, or applicants are obligated to be aware of and are deemed to have constructive notice of all time periods and/or deadlines and the effect of noncompliance with said time periods and/or deadlines as set forth in this Title relating to the application, issuance, renewal, expiration, appeal or other action relating to business licenses, alcohol licenses, or any other licensing matters set forth in this Title.

(b) Nothing in this Title shall be construed as requiring the City to take any affirmative action to notify businesses, owners, licensees, or applicants of any time periods and/or deadlines or the effect of noncompliance with said time periods and/or deadlines set forth in this Title relating to the application, issuance, renewal, expiration, appeal or other action relating to business licenses, alcohol licenses, or any other licensing matters as set forth in this Title.

6-01-150. Penalty.

(a) Any violations of this Title shall be a Class B misdemeanor.

(b) Each day of noncompliance ~~shall~~may constitute a separate violation.

CHAPTER 6-03: ASSESSMENTS AND LICENSE FEES

- 6-03-010. Definitions.**
- 6-03-020. Provisions as Regulatory Measure.**
- 6-03-030. License Fee - Required to do Business.**
- 6-03-040. License Fee - Not Required When.**
- 6-03-050. License Fee Additional to all Regulatory Licenses.**
- 6-03-060. Fee - No Undue Burden on Interstate Commerce.**
- 6-03-070. License Fees Levied.**
- 6-03-080. Joint Licenses.**
- 6-03-090. Branch Establishments.**
- 6-03-100. License Fees - Debt to City - Collection.**
- 6-03-110. Fees - Delinquent Payments - Penalty.**
- 6-03-120. Information Not to be Made Public.**
- 6-03-130. Recordkeeping Required.**
- 6-03-140. Filing False Return Prohibited.**

6-03-010. Definitions.

For the purpose of this Chapter, the following terms shall have the meanings herein prescribed:

(a) “Business” means and includes all activities engaged in within the corporate limits of Woods Cross City carried on for the business 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 prescribed.

(b) “Employee” means the operator, owner or manager of said place of business and any persons employed by such person in the operation of the place of business in any capacity, and also any salesman, agent or independent contractor engaged in the operation of said place of business in any capacity.

(c) “Engaging in Business” means and 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.

(d) “Person” means any individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, co-partnership, joint venture, club, company, joint stock company, business trust, corporation, association, society or other group of individuals acting as a unit, whether mutual, cooperative, fraternal, non-profit or otherwise.

(e) “Place of Business” means each separate location maintained or operated by the licensee within the City from which business activity is conducted or transacted.

6-03-020. Provisions as Regulatory Measure.

The ordinance codified in this Chapter is intended to serve as a means for the City to recoup the administrative costs associated with issuance and renewal of business licenses issued within the City.

6-03-030. License Fee - Required to do Business.

It is unlawful for any person to engage in business within the City without first submitting an application to the Business License Official, paying all license fees required by this Chapter, and any other City or State taxes, fees or assessments.

6-03-040. License Fee - Not Required When.

No license fee shall be imposed under this Chapter upon any person:

(a) Engaged in business for solely religious, charitable, eleemosynary or other types of strictly nonprofit purpose who is tax exempt in such activities under the laws of the United States and the state of Utah;

(b) Engaged in a business specifically exempted from municipal taxation and fees by the laws of the United States or the state; or

(1) 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, businesses domiciled in the City and doing business in such taxing unit.

(c) Engaged solely in a home occupation with little to no impact to surrounding property owners as defined in this Code.

6-03-050. License Fee Additional to all Regulatory Licenses.

The license fee imposed by this Chapter shall be in addition to any and all other taxes or license fees imposed by any other provisions of the ordinances of Woods Cross City.

6-03-060. Fee - No Undue Burden on Interstate Commerce.

None of the license fees provided for by this Chapter shall be applied so as to occasion an undue burden on interstate commerce. In any case where a license fee is believed by a licensee or applicant for license to place an undue burden upon such commerce, such person may apply to the City Council for an adjustment of the fee 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 fee. The applicant shall, by affidavit and supporting testimony, show the method of applicant's business, the gross volume or estimated gross volume of business, and such other information as the Council may deem necessary in order to determine the extent, if any, of such undue burden on such commerce. The Council may designate a person to conduct an investigation, comparing the applicant's business with other businesses of like nature. The Council or the Council's designee shall make findings of facts; shall determine whether the fee fixed by this Chapter is discriminatory, unreasonable or unfair as to applicant's business; and shall determine, or if investigated by the Council's designee, shall recommend to the Council, a license fee for the applicant in an amount that is nondiscriminatory, reasonable and fair. If the Council is satisfied that such license fee is the amount that the applicant should pay, the license fee shall be fixed in such amount. If the regular license fee has already been paid, the Council shall order a refund of the amount over and above the fee fixed by the Council. In fixing the fee to be charged, the Council shall have the power to use methods which will assure that the fee assessed shall be uniform with those assessed on businesses of like nature.

6-03-070. License Fees Levied.

(a) Fees for Businesses Located in the City. There is hereby levied upon the business of every person engaged in business in the City at a place of business within the City, an annual license fee as set forth in the City's Consolidated Fee Schedule.

(b) Fee for Applications filed after October 31st. The Business License Fee for any license application filed after October 31st of any year shall be one-half (½) the amount of the fee that would be payable for a full year license.

(c) Fee for Businesses Located Outside the City. There is levied upon every person engaged in business in the City, not having a place of business in the City, and not exempt as provided by Section 6-03-040 of this Chapter, or its successor, a license fee based upon the percentage of gross sales and/or services made or performed from a place of business outside the corporate limits of the City from which business within the City is transacted, and by applying such percentage to the fee which would otherwise be assessed for such place of business were it located within the corporate limits of Woods Cross City.

(d) ~~Nonrefundable Application Fee. In the event any initial or renewal business license application is denied by the City or is withdrawn by the applicant, the City shall be entitled to retain the sum of thirty-five dollars (\$35) as a nonrefundable business license application fee from any license fees paid or payable to the City, unless another nonrefundable business license application fee is otherwise provided for under the ordinances of the City.~~

6-03-080. Joint Licenses.

Whenever any person is engaged in two or more separate legal businesses at the same location within the City, such person or business 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 fee shall be computed as if all said businesses were one business being conducted at such location.~~ Where two or more persons conduct separate businesses at the same location, each such person shall obtain a license for such business and pay the required license tax for such business.

6-03-090. Branch Establishments.

A separate license must be obtained for each branch establishment or location of business engaged in, within the City, as if such branch establishment or location were a separate business, 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.

6-03-100. License Fees - Debt to City - Collection.

Any license fee due and unpaid under this Chapter and all penalties thereon shall constitute a debt to Woods Cross City, and shall be collected by court proceedings in the same manner as any other debt in like amount, which remedy shall be in addition to all other existing remedies.

6-03-110. Fees - Delinquent Payments - Penalty.

License fees for renewal of an existing business license shall be due on or before January 1 of each year. In the event any fee is not paid on or before such date, a penalty shall be assessed pursuant to the provisions of Section 6-01-080 of this Title, or its successor section, which penalty shall become part of the license fee imposed by this Chapter.

6-03-120. Information Not to be Made Public.

(a) Information furnished to the License Official, as required by this Chapter, shall not be made public nor shall it be subject to the inspection of any person except the City ~~Administrator~~Manager, Community Development Director, or his or her authorized agent, or to those persons first authorized to do so by order of the Mayor.

(b) It is unlawful for any person to make public or to inform any other person as to the content of any information provided in conjunction with a license application, or to permit the inspection of any such information, except as is authorized in this Section.

6-03-130. Recordkeeping Required.

It shall be the duty of every person liable for the payment of any license fee imposed by this Chapter to keep and preserve for a period of three (3) years such books and records as will accurately reflect the amount of any license fee for which he or she may be liable under the provisions of this Chapter.

6-03-140. Filing False Return Prohibited.

It is unlawful for any person to make a return that is false, knowing the same to be so.

CHAPTER 6-06: REVOCATION, SUSPENSION OR DENIAL OF LICENSES

- 6-06-010. Denial of a Business License.**
- 6-06-020. Reasons for Suspension or Revocation.**
- 6-06-030. Enforcement.**
- 6-06-040. Procedure for Suspension or Revocation.**
- 6-06-050. Appeal Procedure.**
- 6-06-060. Hearing.**
- 6-06-070. Decision of the City Council.**
- 6-06-080. Appeal of City Council Decision.**
- 6-06-090. Licensing After Revocation.**
- 6-06-100. Validity of Business License During Appeal.**

6-06-010. Denial of a Business License.

After a person has made application to the City for a business license, the application may be denied for any of the following reasons:

- (a) The applicant does not meet the qualifications for a license as provided under this Title.
- (b) ~~For a new application, nonpayment of a returned check for the required license fees at the time the application is made. For a business license renewal application, nonpayment of the required license fees plus penalty three (3) months after it is due.~~
- (c) Any reviewing department, division or agency of the City provided for in this Title has disapproved the application pursuant to any applicable provision of the City Code.
- (d) False or incomplete information given on the application.
- (e) Noncompliance with any requirement or condition set by the Planning Commission ~~or Planning and Zoning Division, if applicable, under a conditional use permit or by the Board of Adjustment or Planning and Zoning Division's Hearings Officer~~, if applicable, granting a variance or special exception.
- (f) Noncompliance with any City, State or federal statutes or any Health Department regulations governing the applicant's proposed business.
- (g) Any other reason expressly provided for in this Title.

6-06-020. Reasons for Suspension or Revocation.

An existing business license may be suspended or revoked for any of the following reasons:

- (a) The license does not now meet the qualifications for a license as provided under this Title.
- (b) False or incomplete information given on an application.
- (c) The licensee has violated or is violating any provision of this Title or provision of the City Code, State or federal statutes or regulations governing the licensee's business.
- (d) The licensee has obtained or aided another person to obtain a license by fraud or deceit.

(e) The licensee has failed to pay any taxes or fees to the City when due.

(f) The licensee has refused authorized representatives of the City access to the licensed premises for the purpose of an inspection or has interfered with such representatives while in the performance of their duty in making such inspection.

(g) The licensee is not complying with a requirement or condition set by the Planning Commission or Planning and Zoning Division, if applicable, under a conditional use permit; by the ~~Board of Adjustment or Planning and Zoning Division~~ Hearings Officer, if applicable, granting a variance or special exception; by the City Council, or by agreement.

(h) Violation of this Title by the agents or employees of a licensee and violations of any other laws by the agents or employees committed while acting as an agent or employee of the licensee; or

(i) Any other reason expressly provided for by ordinance.

6-06-030. Enforcement.

(a) The Business License Official, under the direction of the Community Development Director, shall have the authority without a hearing, to deny a license for the reasons provided for in this Chapter.

(b) The Business License Official, under the direction of the Community Development Director, shall have the authority to suspend or revoke a license without a hearing, for reasons provided for in this Chapter. However, the suspension or revocation shall not take effect until the time period for appealing the decision as set forth in this Chapter below has passed.

(c) The Community Development Director, Business License Official, or designee may, ~~on his/her~~ their own initiative or in response to complaints from the general public or any City department or division, investigate and gather evidence of violations of this Title or other circumstances which may give rise to a denial, suspension or revocation.

6-06-040. Procedure for Suspension or Revocation.

The Business License Official shall cause written notice to be given by personal service or registered mail to the licensee at the licensee's business address of his or her decision to suspend or revoke a license, the reason for such decision, that operation of a business after the effective date of the suspension or revocation is a Class B misdemeanor, the licensee's right to appeal the Community Development Director or Business License Official's decision and have a hearing, and the appeal procedure.

6-06-050. Appeal Procedure.

(a) Appeals of the Community Development Director or Business License Official's decision to deny, suspend or revoke a license may be made by filing a written notice of appeal with the City Council within fifteen (15) days of receipt of the notice of denial, suspension or revocation.

(b) The notice of appeal shall be in writing and shall set forth with specificity the reasons for which the appeal is taken.

6-06-060. Hearing.

(a) The hearing shall be at a time, place, and day set by the City Council, but not later than twenty-one (21) days after receipt of the notice of appeal.

(b) At the hearing, the Community Development Director, Business License Official or his or her designee shall present the reasons for the decision to deny, suspend or revoke the license.

(c) The applicant or licensee, in person or through his or her attorney, may then present any evidence showing reason why the decision was in error.

(d) All witnesses shall be sworn to testify truthfully. Either party is entitled to confront and cross-examine any witnesses.

(e) Any oral or documental evidence may be received, but the Council shall exclude all privileged, irrelevant, immaterial, or unduly repetitious evidence.

(f) If the denial, suspension, or revocation appealed from is based on a finding by the Building Department or Fire District that the business was or would be in violation of any Uniform Construction Codes or on a finding by the County Health Department that the business was or would be in violation of any County Health Department regulations, then that finding shall be conclusive on the City Council, and the Council's decision may be based only on whether the license was properly denied, suspended, or revoked because of the Building Department, Fire District or County Health Department finding.

(g) If the denial, suspension, or revocation appealed from is based on a determination by the Community Development Director or Business License Official that grounds existed pursuant to this Code, the City Council may examine the factual nature of the grounds and determine whether such grounds are sufficient to sustain the decision of the Community Development Director or Business License Official.

(h) The City Council does not have the authority to waive compliance with applicable provisions of the Business License ordinances, nor can the Council extend deadlines set forth in the ordinances or change the substance or form of the ordinances.

6-06-070. Decision of the City Council.

The City Council, after hearing all the evidence, shall announce its decision within fifteen (15) days from the date of hearing. The Council may affirm, reverse or modify the decision of the Community Development Director or Business License Official. The decision shall be in writing and shall be based upon findings of fact.

6-06-080. Appeal of City Council Decision.

Any decision of the City Council made pursuant to the provisions of this Title may be appealed by any aggrieved party to the District Court within thirty (30) days from when the written decision is made.

6-06-090. Licensing After Revocation.

A person, whose license has been revoked, may not be issued a license for a period of twelve (12) months after the revocation.

6-06-100. Validity of Business License During Appeal.

Throughout the administrative appeal process as outlined above, a licensee holding a suspended or revoked business license may continue to operate his or her business in accordance with federal, State and local laws pending final decision on the appeal, or until the time for appeal has passed, whichever occurs first.

CHAPTER 6-09: BEER LICENSES

- 6-09-010. Definitions.
- 6-09-020. License To Sell Beer At Retail.
- 6-09-030. Retail Licenses - Classification.
- 6-09-040. Class A Licenses.
- 6-09-050. Class B Licenses (Restaurant).
- 6-09-060. Class C Beer Licenses.
- 6-09-070. Renewal of Existing Licenses.
- 6-09-080. Fees.
- 6-09-090. Expiration and Renewal.

6-09-010. Definitions.

All words and phrases used in this Chapter shall have the following meanings, unless a different meaning clearly appears from the context:

(a) "Beer" ~~means all products that contain sixty three hundredths of one percent (.63%) of alcohol by volume or one half of one percent (.5%) of alcohol by weight, but not more than four percent (4%) of alcohol by volume or three and two tenths percent (3.2%) by weight and are obtained by fermentation, infusion, or decoction of any malted grain. Beer may or may not contain hops or other vegetable products. Beer includes products referred to as malt liquor, malted beverages or malt coolers as defined by the State of Utah.~~

(b) "Church" means a building set apart primarily for the purpose of worship in which religious services are held and with which clergy is associated, and the main body of which is kept for that use and not put to any other use inconsistent with its primary purpose and which is tax exempt under the laws of this State.

(c) "Club" and "Private Club" means any non-profit corporation operating as a social club, recreational, fraternal or athletic association, or kindred association organized primarily for the benefit of its stock holders or members.

(d) "Commission" means the State of Utah Alcoholic Beverage Control Commission.

(e) "Licensee" means any person(s) holding any beer, liquor or private club license in connection with the operation of a place of business or private club in the City. This term shall also include any employee of the Licensee.

(f) "Licensed Premises" means any room, house, building, structure or place occupied by any person licensed to sell beer on any premises under this Title; provided, that in any multi-roomed establishment, an applicant for a Class B, or Class C License shall designate a room or portion of the building of such business for the sale of beer, which portion so specifically designated in the application and in the license issued pursuant thereto shall be the licensed premises. Multiple dining facilities located in one building and owned or leased by one licensed applicant shall be deemed to be only one licensed premises.

(g) (1) "Liquor" ~~means: alcohol or any alcoholic spiritous, vinous, fermented, malt, or other liquid, or combination of liquids, a part of which is spiritous, vinous, or fermented, and all other drinks, or drinkable liquids that contain more than one half of one percent (.5%) of alcohol by volume and is suitable for use for beverage purposes as defined by the State of Utah.~~

(2) "Liquor" does not include any beverage defined as a beer, malt liquor, or malted beverage that has an alcohol content of less than four percent (4%) alcohol by volume.

(h) "Person" means any individual, partnership, firm, corporation, association, business, trust, or other form of business enterprise including the receiver or trustee, and the plural as well as the singular number, unless the intent to give a more limited meaning is disclosed by the context.

(i) "Restaurant" means any business establishment where a variety of foods are prepared and complete meals are served to the general public, located on a premises having adequate culinary fixtures for food preparation and dining accommodations, and that is engaged primarily in serving meals to the general public.

(j) "Retailer" means any person engaged in the sale or distribution of beer to the consumer.

(k) "Tavern" means any business establishment engaged primarily in the retail selling or distribution of beer to public patrons for consumption on the establishment's premises. "Tavern" includes beer bars, parlors, lounges, cabarets, and night clubs where the revenue from the sale of beer exceeds the revenue of the sale of food, although food need not be sold in such establishments.

(l) "Sell" or "To Sell" when used in this Title in any provision means any transaction, exchange, or barter whereby, for any consideration, an alcoholic beverage is either directly or indirectly transferred, solicited, ordered, delivered for value, or by any means or under any pretext is promised or obtained, whether done by a person as a principal, proprietor, or as an agent, servant, or employee, unless otherwise defined in this Title or the rules made by the commission.

6-09-020. License To Sell Beer At Retail.

(a) It shall be a Class B misdemeanor for any person to sell beer in bottles or draft without first having procured a license therefor from the City and paying the license fee required by this part.

(b) It shall be a Class B misdemeanor for any person to sell beer after the revocation of the license issued pursuant to this part.

(c) A separate license shall be required for each place of sale and the license shall at all times be conspicuously displayed in the place to which it shall refer or for which it shall be issued. It shall be unlawful for any licensee to violate any of the terms of his or her license.

(d) All licenses shall comply with the ~~Utah State Alcoholic Beverage Control Act and the regulations of the Utah State Alcoholic Beverage Control Commission.~~ laws of the State of Utah.

6-09-030. Retail Licenses - Classification.

(a) Retail licenses issued under the provisions of this Chapter shall be classified under the following types which shall carry the privileges and responsibilities hereinafter set forth in this Chapter: Class A, Class B and Class C.

(b) All licenses of each class shall be numbered numerically commencing with one (1).

6-09-040. Class A Licenses.

(a) A Class A retail license shall entitle the licensee to sell beer on the premises described therein, in original containers of a size not to exceed one (1) liter capacity, for consumption off premises.

(b) On Premises Consumption Prohibited. It shall be unlawful for a Class A licensee to permit the consumption of beer on any Class A licensed premises.

(c) Class A License Application. A person seeking a Class A License to sell alcoholic beverages within the City of Woods Cross shall provide a written application on forms provided by the City. The application shall be accompanied by:

- (1) The complete Class A license fee;
- (2) A copy of the applicant's business license;
- (3) Evidence of proximity to any school, church, public library, playground or park;
- (4) A floor plan of the business, including where the applicant proposes to keep, store and sell beer;
- (5) Any other information the City may require to accurately evaluate the merits of the application.

(d) Location Restrictions. No Class A license shall be issued to any person where the premises would be located within three hundred (300) feet of a school, church, public library, public playground or park as measured from the nearest entrance of the outlet by following the shortest route of either ordinary pedestrian traffic, or where applicable vehicular traffic along public thoroughfares, whichever is the closer, to the property boundary of a public or private school, church, public library, public playground or park.

(e) ~~Hours of Sale. A Class A licensee may sell beer beginning at the hour of 7:00 a.m. and ending at the hour of 1:00 a.m.~~

(f) Sales Restrictions. Beer may not be sold, delivered, or furnished to any:

- (1) Minor;
- (2) Person actually, apparently, or obviously under the influence of any intoxicating beverage or controlled substance;
- (3) Known habitual drunkard;
- (4) Known interdicted person.

(g) Employment of Minors. Provisions of this Chapter prohibiting possession of alcoholic beverages by minors shall not apply to persons under twenty-one (21) years of age who are bona fide employees in Class A licensed premises while under the supervision of a person twenty-one (21) years of age or older who is on the premises.

(h) Unlawful to Permit Intoxicated Person on Licensed Premises. It shall be unlawful for any person licensed to sell beer or for any of his agents or employees to allow intoxicated persons to remain in or about any licensed premises.

(i) Records Requirements. Holders of Class A licenses shall maintain records which shall disclose the gross sale of beer during each and every year. Such records shall be available for inspection and audit by an authorized City employee at any time following the end of each year and for eighteen (18) months thereafter. Failure of a licensee to properly maintain the required records or failure

to submit such records for inspection and audit shall be cause for suspension or revocation of a Class A license.

(j) Beer as a Percent of Sales. Each Class A licensee shall maintain at least eighty percent (80%) of its total business from the sale of products other than beer.

(k) Shoplifting Controls. A Class A licensee shall make every reasonable effort to limit the potential for theft of beer from licensed premises. A clear, unobstructed view of all portions of the interior shall be available at all times from a point within the licensed premises at or near the main public entrance. A beer inventory shrinkage record shall be kept by the licensee and made available at any time upon request to the Chief of Police or ~~City Planner~~ Community Development Director or designee for inspection or audit. Failure of a licensee to properly maintain the alcoholic beverage inventory shrinkage or failure to submit such records for inspection and audit shall be a Class B misdemeanor and shall be cause for suspension or revocation of a Class A license.

(l) Advertising Sale. It shall be unlawful for any Class A licensee to advertise the sale of beer in violation of the Utah Alcoholic Beverage Control Act.

(m) There shall be no transfer of a Class A license from one location to another.

(n) Monetary Value of License. A person having been granted a Class A license shall not sell, exchange, barter, give or attempt in any way to dispose of the license whether for monetary gain or not. A Class A beer license has no monetary value for the purpose of any type of disposition.

(o) Restriction on Number of Licenses. The total number of Class A beer licenses in the City of Woods Cross shall not exceed one (1) per each one thousand (1,000) residents of Woods Cross City. (e.g. if the population of Woods Cross is 8,000, the total number of Class A licenses allowed would be 8.)

6-09-050. Class B Licenses (Restaurant).

(a) Before any establishment may sell beer at retail for on-premises consumption, it must first obtain:

(1) A Class B license from the City of Woods Cross;

(2) An on-premises beer retailer license from the ~~Alcoholic Beverage Control Commission~~ State of Utah.

(b) Class B Licenses. A person seeking a Class B license to sell beer within the City of Woods Cross for consumption on the premises shall provide a written application on forms provided by the City. The application shall be accompanied by:

(1) The complete Class B license fee;

(2) A copy of the applicant's business license;

(3) Evidence of proximity to any school, church, public library, playground or park;

(4) A floor plan of the restaurant, including consumption areas and an area where the applicant proposes to keep, store and sell beer;

(5) A signed consent form stating that the restaurant will permit any authorized representative of the Commission, City, City Police Department or Health Department unrestricted right to enter the restaurant;

(6) Evidence that the business is carrying DRAM shop insurance coverage of at least five hundred thousand dollars (\$500,000.00) per occurrence and one million dollars (\$1,000,000.00) in the aggregate;

(7) Any other information the City may require to accurately evaluate the merits of the application.

(c) A Class B license shall not be granted to an established business located within ~~six hundred (600) feet~~ the distance outlined by the State of Utah of any public or private school, church, public library, playground or park, ~~as measured from the nearest entrance of the outlet by following the shortest route of either ordinary pedestrian traffic, or where applicable, vehicular traffic along public thoroughfares, whichever is the closer, to the property boundary of the public or private school, church, public library, public playground or park.~~

~~(d) The restrictions contained in Subsection (c) govern the issuance of a Class B restaurant license unless the City Council determines that compliance with the distance requirements would result in peculiar and exceptional practical difficulties or exceptional and undue hardships in the granting of a restaurant beer license. In that event, the City Council may, after giving full consideration of all attending circumstances and after compliance with public notice and public hearing requirements as specified in Subsection (e), authorize a variance from the distance requirements to relieve the difficulties or hardships, if the variance may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this Chapter.~~

~~(e) Class B restaurant license applicants wishing to request a variance by the City Council from the proximity distance requirement stated in Subsection (c) must comply with the following requirements:~~

~~(1) Payment of Fee. Any licensed applicant desiring variances provided in Subsection (d) for which a special public hearing is required shall pay a fee therefor set by resolution of the City Council before said hearing shall be set or advertised.~~

~~(2) Advertising. Notice of a public hearing shall be published once a week for three (3) consecutive weeks in a newspaper of general circulation. At a minimum, the advertisement shall state the date, time, location and reason for the public hearing.~~

~~(3) Notice to Property Owners. Letters of notice of public hearing shall be mailed at least ten (10) days in advance of the public hearing to all persons owning property within six hundred (600) feet of the licensed applicant's premises.~~

~~(4) Petition. The Class B restaurant license applicant shall circulate a petition to each person owning property within six hundred (600) feet of the applicant's business premises. Such petition shall allow the affected property owners to indicate a lack of opposition to such a license being granted to the applicant.~~

~~(5) Public Hearing. After satisfying the fee and notice requirements, the City Council shall hold a public hearing to consider the granting of a variance from the distance requirements stated in Subsection (c).~~

~~(f) Hours of Sale. A Class B licensee may sell beer beginning at the hour of 10:00 a.m. and ending at the hour of 1:00 a.m.~~

(eg) Operational Restrictions. Each person granted a Class B license and the employees, management and personnel of the restaurant shall abide by the following conditions and requirements. Failure to comply may result in suspension or revocation of the license or other disciplinary action taken against individual employees or management personnel.

(1) A Class B retail license shall entitle the licensee to sell beer, on the premises described therein, in any size containers not exceeding two (2) liters and on draft for consumption on the licensed premises. Only bona fide restaurants shall be entitled to Class B licenses.

(2) All holders of a Class B license shall maintain records which shall disclose the gross sales of beer and the gross sales of food served and any other items sold for consumption on or off the premises during the semi-annual periods ending June 30 and December 31 of each year. Such sales shall be shown separately.

(3) Each licensee shall retain all invoices, vouchers, sales slips, receipts and other records and other commodity purchases from all suppliers. Such records shall be available for inspection and audit by the City license official at any time following the close of the semi-annual period, and for eighteen (18) months thereafter. Failure to properly maintain such records for such inspection and audit shall be cause for revocation of the Class B license. If any audit or inspection discloses that the sales of beer on the licensed premises are in excess of twenty-five percent (25%) of the gross dollar volume of business for any semi-annual period, the Class B license shall then be immediately suspended and shall not be reinstated until the licensee is able to prove to the satisfaction of the City Council that in the future the sales of beer on the licensed premises will not exceed twenty-five percent (25%) of the gross dollar volume of business.

(4) No person under the age of twenty-one (21) years shall sell or serve beer under a Class B license.

(5) Beer purchased from the restaurant may not be removed from the restaurant premises.

(6) An employee of a Class B licensee, while on duty, may not consume any alcoholic beverage or be under the influence of alcoholic beverages.

(7) Each Class B licensee shall display in a prominent place in the restaurant:

(i) The Class B License issued by the City of Woods Cross and the restaurant liquor license issued by the Alcoholic Beverage Control Commission;

(ii) A sign in large letters stating: "WARNING, THE CONSUMPTION OF ALCOHOLIC BEVERAGES PURCHASED IN THIS ESTABLISHMENT MAY BE HAZARDOUS TO YOUR HEALTH AND THE SAFETY OF OTHERS."

(8) There shall be no transfer of a Class B license from one location to another without prior written approval from the Woods Cross City Council.

(9) Monetary Value of License.

(i) A person having been granted a Class B License shall not sell, exchange, barter, give or attempt in any way to dispose of the license whether for monetary gain or not.

(ii) A Class B beer license has no monetary value for the purpose of any type of disposition.

(10) A person's willingness to serve alcoholic beverages and/or beer shall not be made a condition of employment as a server with a restaurant that has a Class B beer license.

(11) Each Class B beer licensee shall post a cash or corporate or surety bond in the penal amount of ten thousand dollars (\$10,000.00) payable to the City which the licensee has procured and thus maintained for so long as the licensee continues to hold its Class B license.

(12) The bond shall be in a form approved by the City Attorney conditioned upon the licensee's faithful compliance with this Title and the rules of the Commission.

(13) If the ten thousand dollar (\$10,000.00) corporate surety bond is canceled due to the licensee's negligence, a three hundred dollar (\$300.00) reinstatement fee may be assessed by the City. No part of any cash or corporate bond so posted may be withdrawn during the period the license is in effect or while revocation proceedings are pending against the Licensee. A bond filed by the licensee may be forfeited if the license is finally revoked.

(fh) Sales Restrictions. Beer may not be sold, delivered, or furnished to any:

(1) Minor;

(2) Person actually, apparently, or obviously under the influence of any intoxicating beverage or controlled substance;

(3) Known habitual drunkard;

(4) Known interdicted person.

~~(gi) Restriction on Licenses. The total number of Class B beer licenses in the City of Woods Cross shall be one (1) per one thousand (1,000) population (e.g., if the population of Woods Cross is 8,000 persons the maximum number of Class B Beer Licenses would be eight).~~

6-09-060. Class C Beer Licenses.

(a) A Class C beer license shall be required for all premises where the primary or main business is that of selling beer for consumption on the licensed premises. A Class C license shall entitle the licensee to sell beer for consumption on the licensed premises in any sized container. No person under the age of twenty-one (21) years shall sell or serve beer under this license.

(b) The licensing and operation of a tavern as defined in Section 6-09-010 of the Woods Cross City Code is strictly prohibited within Woods Cross City. Therefore, no Class C beer licenses shall be issued within Woods Cross City.

6-09-070. Renewal of Existing Licenses.

All applications for renewal licenses filed by the holders of existing licenses shall be filed with the license official at least thirty (30) days prior to the expiration of the then issued license. Any person who

fails to file such application within the time limit shall close his licensed premises on or before the expiration date of the then license and shall keep the premises closed for any and all business for the sale of beer until the date his new license is issued by order of the Woods Cross City Council.

6-09-080. Fees.

Applications for retail beer licenses under this Chapter shall be accompanied by the fees established by the Woods Cross City Consolidated Fee Schedule as amended.

6-09-090. Expiration and Renewal.

(a) All Class A or B retail licenses issued pursuant to the provisions of this Title shall expire ~~as outlined in this Title with late fees as may be applicable. -on December 31 of each year and shall be issued for one (1) year. In the event renewal fees are not received at the office of the license official by February 15 of each year when due, the licensee must reapply for a beer license and pay a penalty of twenty five percent (25%) of the fees due as part of the reissuance fee, in addition to any applicable beer license fees. In the event the renewal fees are not received at the office of the license official by March 15 of each year when due, the licensee must reapply for a beer license and pay a penalty of one hundred percent (100%) of the fee due as part of the reissuance fee, in addition to any applicable beer license fees.~~

(b) Procedure when Business Purchased. If any licensee sells his or her place of business, the purchaser thereof may be granted a license to serve beer upon meeting all the requirements of this Chapter.

CHAPTER 6-12: SEXUALLY ORIENTED BUSINESSES

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6-12-010. Title for Citation.

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

6-12-020. Purpose and Findings.

(c) Purpose. It is the purpose of this ordinance to regulate sexually oriented businesses and related activities to promote the health, safety, morals, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the City. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene materials.

(d) Findings. Based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings and in reports made available to the City Council, and on findings incorporated in the cases of *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *City of Erie v. Pap's A.M.*, 529 U.S. 277 (2000); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Arcara v. Cloud Books, Inc.*, 478 U.S. 697, (1986); *Iacobucci v. City of Newport, Ky*, 479 U.S. 92 (1986); *Young v. American Mini Theatres*, 427 U.S. 50 (1976); *California v. LaRue*, 409 U.S. 109 (1972); *United States v. O'Brien*, 391 U.S. 367 (1968); *DLS, Inc. v. City of Chattanooga*, 107 F.3d 403 (6th Cir.1997); *Kev, Inc. v. Kitsap County*, 793 F.2d 1053 (9th Cir.1986); *Hang On, Inc. v. City of Arlington*, 65 F.3d 1248 (5th Cir.1995); *South Florida Free Beaches, Inc. v. City of Miami*, 734 F.2d 608 (11th Cir.1984); and *N.W. Enterprises v. City of Houston*, 27 F.Supp. 2d 754 (S.D. Tex.1998), as well as studies conducted in other cities including, but not limited to, Phoenix, Arizona; Minneapolis, Minnesota; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas; Seattle, Washington; Oklahoma City, Oklahoma; Cleveland, Ohio; and Beaumont, Texas; and findings reported in the Final Report of the Attorney General's Commission on Pornography (1986), the Report of the Attorney General's Working Group On the Regulation Of Sexually Oriented Businesses (June 6, 1989, State of Minnesota), and statistics obtained from the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, the City Council finds that:

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

(2) Crime statistics show that all types of crimes, especially sex-related crimes, occur with more frequency in neighborhoods where sexually oriented businesses are located.

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

(4) Offering and providing such booths and/or cubicles encourages such activities, which creates unhealthy conditions.

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

(6) At least 50 communicable diseases may be spread by activities occurring in sexually oriented businesses including, but not limited to, syphilis, gonorrhea, human

immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infections, and shigella infections.

(7) As of June, 2001, the total number of reported cases of AIDS in the United States caused by the immunodeficiency virus (HIV) was 793,025.

(8) The total number of cases of genital chlamydia trachomatis infections in the United States reported in 2000 was 702,093, a 6% increase over the year 1999.

(9) The total number of cases of early (less than one year) syphilis in the United States reported during the twelve year period 1996-2000 was 212,672.

(10) The number of cases of gonorrhea in the United States reported annually remains at a high level, with a total of 1,730,911 cases reported during the period 1996-2000.

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

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

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

(14) Numerous studies and reports have determined that bodily fluids, including semen and urine, are found in the areas of sexually oriented businesses where persons view "adult" oriented films.

(15) Nude dancing in adult establishments encourages prostitution, increases sexual assaults, and attracts other criminal activity.

(16) Nude dancing in adult establishments increases the likelihood of drug-dealing and drug use.

(17) Alcohol consumption in adult establishments increases the likelihood of crime, illegal drug use, and illegal sexual activity, and encourages undesirable behavior that is not in the interest of the public health, safety, and welfare.

(18) The findings noted in paragraphs numbered (1) through (17) raise substantial governmental concerns.

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

(20) A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and operators of sexually oriented businesses. Further, such licensing procedure will place a heretofore non-existent incentive on operators to see that the sexually oriented business is run in a manner consistent with the health, safety, and welfare of its patrons and employees, as well as the citizens of the City. It is

appropriate to require reasonable assurances that the licensee is the actual operator of the sexually oriented business, fully in possession and control of the premises and activities occurring therein.

(21) Removal of doors on adult booths and requiring sufficient lighting on the premises with adult booths advances a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in adult establishments.

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

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

(24) The fact that an applicant for a sexually oriented business license has been convicted of a sex-related crime leads to the rational assumption that the applicant may engage in that conduct in contravention to this ordinance.

(25) The barring of such individuals from operation or employment in sexually oriented businesses for a period of five (5) years for a previous felony conviction serves as a deterrent to further criminal conduct, and prevents conduct which leads to the transmission of sexually transmitted diseases.

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

(27) When more than one sexually oriented business use occupies the same location or business address, the secondary effects caused by such businesses are increased. Secondary effects are eliminated or controlled to a greater degree when only a single sexually oriented business use is allowed to occupy the same location.

6-4-030. 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 other chapters and provisions of the Business Regulations of the City.

6-12-040. Definitions.

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

(a) "Adult Arcade" means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, videos, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

(b) "Adult Bookstore" or "Adult Video Store" means a commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

- (1) Books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides, or other visual representations that are characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas"; or
- (2) Instruments, devices, or paraphernalia that are designed for use in connection with "specified sexual activities."

A principal business purpose exists if materials offered for sale or rental depicting or describing "specified sexual activities" or "specified anatomical areas" generate 20% or more of the business's income, or account for 20% or more of inventory, or occupy 20% or more of total floor space. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as "adult bookstore" or "adult video store." Such other business purposes will not serve to exempt such commercial establishments from being categorized as an "adult bookstore" or "adult video store" so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(3) "Adult Cabaret" means a nightclub, bar, restaurant, café or similar commercial establishment that regularly, commonly, habitually, or consistently features:

- (i) Persons who appear in a state of nudity or semi-nudity; or
- (ii) Live performances that are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or
- (iii) Films, motion pictures, video cassettes, slides, photographic reproductions, or other image producing devices that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; or
- (iv) persons who engage in "exotic" or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

(c) "Adult Motel" means a hotel, motel or similar commercial establishment that:

- (1) Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right of way that advertises the availability of this adult type of photographic reproductions; or
- (2) Offers a sleeping room for rent for a period of time that is less than twenty-four (24) hours; or
- (3) Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than twenty-four (24) hours.

(d) "Adult Motion Picture Theater" means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly, commonly, habitually, or consistently shown that are characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

(e) "Adult Theater" means a theater, concert hall, auditorium, or similar commercial establishment that regularly, commonly, habitually, or consistently features persons who appear, in person, in a state of nudity and/or semi-nudity, and/or live performances that are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

(f) "Director" means the Chief of Police and such employee(s) of the City Police Department as he or she may designate to perform the duties of the Director under this ordinance.

(g) "Employee" means a person who performs any service on the premises of a sexually oriented business on a full time, part time, contract basis, or independent basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise, and whether or not the said person is paid a salary, wage, or other compensation by the operator of said business. "Employee" does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises, nor does "employee" include a person exclusively on the premises as a patron or customer.

(h) "Escort" means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

(i) "Escort Agency" means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

(j) "Establishment" means and includes any of the following:

(1) The opening or commencement of any sexually oriented business as a new business;

(2) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;

(3) The additions of any sexually oriented business to any other existing sexually oriented business; or

(4) The relocation of any sexually oriented business; or

(5) A sexually oriented business or premises on which the sexually oriented business is located.

(k) "Licensed Day-Care Center" means a facility licensed by the State of Utah, whether situated within the City or not, that provides care, training, education, custody, treatment or supervision for more than twelve (12) children under fourteen (14) years of age, where such children are not related by blood, marriage or adoption to the owner or operator of the facility, for less than twenty-four (24) hours a day, regardless of whether or not the facility is operated for a profit or charges for the services it offers.

(l) "Licensee" means a person in whose name a license has been issued, as well as the individual listed as an applicant on the application for a license.

(m) "Live Theatrical Performance" means a play, skit, opera, ballet, concert, comedy, or musical drama.

(n) "Nude Model Studio" means any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons for consideration.

(o) "Nudity" or a "State of Nudity" means the appearance of a human bare buttock, anus, anal cleft or cleavage, pubic area, male genitals, female genitals, or vulva, with less than a fully opaque covering; or a female breast with less than a fully opaque covering of any part of the areola; or human male genitals in a discernibly turgid state even if completely and opaquely covered.

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

(q) "Person" means an individual, proprietorship, partnership, corporation, association, or other legal entity.

(r) "Premises" means the real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually oriented business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the licensee, as described in the application for a business license pursuant to Section 6-12-070 of this ordinance.

(s) "Semi-nude" means a state of dress in which opaque clothing covers no more than the female breast below a point immediately above the top of the areola; and the male or female genitals, pubic region, and anus shall be fully covered by an opaque covering no narrower than four inches wide in the front and five inches wide in the back, which shall not taper to less than one inch wide at the narrowest point.

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

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

(v) "Sexual Encounter Center" means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

(1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

(2) Activities between persons of the opposite sex and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity.

A principal business purpose exists if the services offered are intended to generate business income.

(w) "Sexually Oriented Business" means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center or semi-nude entertainment business.

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

(y) "Specified Anatomical Areas" means:

(1) The human male genitals in a discernibly turgid state, even if fully and opaquely covered;

(2) Less than completely and opaquely covered human genitals, pubic region, buttocks, or a female breast below a point immediately above the top of the areola.

(z) "Specified Criminal Activity" means any of the following offenses:

(1) Prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution, or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; sexual assault; molestation of a child; or any similar sex-related offenses to those described above under the criminal or penal code of this state, other states, or other countries;

(2) For which:

(i) Fewer than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;

(ii) Fewer than five (5) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a felony offense;

(iii) Fewer than five (5) years have elapsed since the date of the last conviction or the date of release from confinement imposed for the last conviction, whichever is the later date, if the convictions are for two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty-four (24) month period;

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

(aa) "Specified Sexual Activities" means:

(1) Acts of:

- (i) Masturbation,
- (ii) Human sexual intercourse,
- (iii) Sexual copulation between a person and a beast,
- (iv) Fellatio,
- (v) Cunnilingus,
- (vi) Bestiality,
- (vii) Pederasty,
- (viii) Buggery, or
- (ix) Any anal copulation between a human male and another human male, human female, or beast;

(2) Manipulating, caressing or fondling by any person of:

- (i) The genitals of a human,
- (ii) The pubic area of a human,
- (iii) The uncovered female nipple and areola;

(3) 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.

(bb) "Substantial Enlargement" of a sexually oriented business means the increase in floor areas occupied by the business by more than twenty-five (25%) percent, as the floor areas existed on January 1, 2004.

(cc) "Transfer of Ownership or Control" of a sexually oriented business means and includes any of the following:

- (1) The sale, lease, or sublease of the business;
- (2) The transfer of securities that form a controlling interest in the business, whether by sale, exchange, or similar means; or
- (3) The establishment of a trust, gift, or other similar legal device that transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

6-12-050. 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 the provisions of Title 13 of this Code, "lewdness" as defined in this Code, or other applicable federal or State statutes prohibiting obscenity.

6-12-060. 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 business or semi-nude entertainment businesses pursuant to this Chapter shall only be allowed in areas where they are specifically designated as permitted or conditional uses pursuant to Title 12 of the Woods Cross City Code.

6-12-070. Business License Required.

(a) It shall be unlawful:

(1) For any person to operate a sexually oriented business without a valid sexually oriented business operator's license ("operator's license") issued by the Director pursuant to this ordinance; or

(2) For any person who operates a sexually oriented business to employ a person to work and/or perform services on the premises of the sexually oriented business, if such employee is not in possession of a valid sexually oriented business employee license ("employee license") issued to such employee by the Director pursuant to this ordinance; or

(3) For any person to obtain employment with a sexually oriented business if such person is not in possession of a valid sexually oriented business employee license issued to such person by the Director pursuant to this ordinance.

(4) It shall be a defense to subsections (2) and (3) of this Section if the employment is of limited duration and for the sole purpose of repair and/or maintenance of machinery, equipment, or the premises.

(b) An application for a sexually oriented business operator's license must be made on a form provided by the City. The application must be accompanied by a sketch or a diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches. Prior to issuance of an operator's license, the premises must be inspected by the health department, building department, and zoning department. Prior inspection by the health department and building department shall be required only when the provisions set forth in Sections 6-12-250 and/or 6-12-240 are applicable.

(c) An application for a sexually oriented business employee license must be made on a form provided by the City.

(d) All applicants for a license must be qualified according to the provisions of this ordinance. The application may request, and the applicant shall provide, such information reasonably necessary (including fingerprints) to enable the City to determine whether the applicant meets the qualifications established under this ordinance. The applicant has an affirmative duty to supplement an application with new information received subsequent to the date the application was deemed completed.

(e) If a person who wishes to own or operate a sexually oriented business is an individual, he or she must sign the application for an operator's license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a ten (10%) percent or greater interest in the business must sign the application for an operator's license as applicant. If a corporation is listed as owner of a sexually oriented business or as the entity that wishes to operate such a business, all corporate officers and directors must sign the application for an operator's license as applicant.

(f) Applications for an operator's license, whether original or renewal, must be made to the Director by the intended operator of the enterprise. Applications must be submitted to the office of the Director or the Director's designee during regular working hours. Application forms shall be supplied by the Director. The following information shall be provided on the application form:

(1) The name, street address (and mailing address if different) of the applicant(s);

(2) The applicant's Social Security number and/or his/her state or federally issued tax identification number;

(3) The name under which the establishment is to be operated and a general description of the services to be provided. If the applicant intends to operate the sexually oriented business under a name other than that of the applicant; he or she must state: 1) the sexually oriented business's fictitious name; and 2) submit the required registration documents;

(4) Whether the applicant has been convicted, or is awaiting trial on pending charges, of a "specified criminal activity" as defined herein, and, if so, the "specified criminal activity" involved, the date, place, and jurisdiction of each;

(5) Whether the applicant has had a previous license under this ordinance or other similar sexually oriented business ordinance from another city or county denied, suspended or revoked, including the name and location of the sexually oriented business for which the business license was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant is or has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is or was licensed under a sexually oriented business ordinance whose business license has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the business license was denied, suspended or revoked as well as the date of denial, suspension or revocation;

(6) Whether the applicant holds any other licenses under this ordinance or other similar sexually oriented business ordinance from another city or county and, if so, the names and locations of such other licensed businesses;

(7) The single classification of license, as found in Section 6-12-080, for which the applicant is filing;

(8) The telephone number of the establishment;

(9) The address and legal description of the tract of land on which the establishment is to be located;

(10) If the establishment is in operation, the date on which the owner(s) acquired the establishment for which the business license is sought, and the date on which the establishment began operations as a sexually oriented business at the location for which the business license is sought;

(11) If the establishment is not in operation, the expected startup date (which shall be expressed in number of days from the date of issuance of the business license). If the expected startup date is to be more than ten (10) days following the date of issuance of the business license, then a detailed explanation of the construction, repair or remodeling work or other cause of the expected delay and a statement of the owner's time schedule and plan for accomplishing the same;

(12) If an applicant wishes to operate a sexually oriented business, other than an adult motel, which shall exhibit on the premises, in a viewing room or booth of less than one hundred fifty (150) square feet of floor space, films, video cassettes, other video reproductions, or live entertainment which depict specified sexual activities or specified anatomical areas, then the applicant shall comply with the application requirements set forth in Section 6-12-250 hereunder.

(g) Each application for an operator's license shall be accompanied by the following:

- (1) Payment of the application fee in full;
 - (2) If the establishment is a State of Utah corporation, a certified copy of the articles of incorporation, together with all amendments thereto;
 - (3) If the establishment is a foreign corporation, a certified copy of the certificate of authority to transact business in this state, together with all amendments thereto;
 - (4) If the establishment is a limited partnership or limited liability company formed under the laws of the State of Utah, a certified copy of the certificate of limited partnership or limited liability company, together with all amendments thereto;
 - (5) If the establishment is a foreign limited partnership or limited liability company, a certified copy of the certificate of limited partnership or limited liability company and the qualification documents, together with all amendments thereto;
 - (6) Proof of the current fee ownership of the tract of land on which the establishment is to be situated in the form of a copy of the recorded deed;
 - (7) If the persons identified as the fee owner(s) of the tract of land in item (6) is not also the owner of the sexually oriented business, then the lease, purchase contract, purchase option contract, lease option contract or other document(s) evidencing the legally enforceable right of the owner(s) or proposed owner(s) of the sexually oriented business to have or obtain the use and possession of the tract or portion thereof that is to be used for the sexually oriented business;
 - (8) A current certificate and straight-line drawing prepared within thirty (30) days prior to application by a registered land surveyor depicting the property lines and the structures containing any existing sexually oriented businesses within 1,000 feet of the property to be certified; and the property lines of any established religious institution/synagogue, school, public park or recreation area within 1,000 feet of the property to be certified. For purposes of this Section, a use shall be considered existing or established if it is in existence at the time an application is submitted;
 - (9) Any of items (2) through (8) above shall not be required for a renewal application if the applicant states that the documents previously furnished to the Director with the original application or previous renewals thereof remain correct and current.
- (h) Applications for an employee license to work and/or perform services in a sexually oriented business, whether original or renewal, must be made to the Director by the person to whom the employee license shall issue. Each application for an employee license shall be accompanied by payment of the application fee in full. Application forms shall be supplied by the Director. Applications must be submitted to the office of the Director or the Director's designee during regular working hours. Each applicant shall be required to give the following information on the application form:
- (1) The applicant's given name, and any other names by which the applicant is or has been known, including "stage" names and/or aliases;
 - (2) Age, and date and place of birth;
 - (3) Height, weight, hair color, and eye color;

- (4) Present residence address and telephone number;
- (5) Present business address and telephone number;
- (6) Date, issuing state, and number of photo driver's license, or other state issued identification card information;
- (7) Social Security Number; and
- (8) Proof that the individual is at least eighteen (18) years old.

The personal information provided in this subsection shall be confidential, and shall not be disclosed to the public except to the extent required by state or federal law.

(i) Attached to the application form for any license under this ordinance shall be the following:

(1) A color photograph of the applicant clearly showing the applicant's face, and the applicant's fingerprints on a form provided by the Police Department. Any fees for the photographs and fingerprints shall be paid by the applicant.

(2) A statement detailing the license history of the applicant for the five (5) years immediately preceding the date of the filing of the application, including whether such applicant, in this or any other city, county, state, or country, has ever had any license, permit, or authorization to do business denied, revoked, or suspended, or had any professional or vocational license or permit denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the name(s) under which the license was sought and/or issued, the name(s) of the issuing or denying jurisdiction, and describe in full the reason(s) for the denial, revocation, or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application.

(3) A statement whether the applicant has, within the past five (5) years, been convicted, or is awaiting trial on pending charges, of a "specified criminal activity" as defined herein and, if so, the "specified criminal activity" involved, the date, place and jurisdiction of each.

(j) Every application for a license under this ordinance shall contain a statement under oath that:

(1) The applicant has personal knowledge of the information contained in the application, and that the information contained therein and furnished therewith is true and correct; and

(2) The applicant has read the provisions of this Chapter.

(k) A separate application and operator's license shall be required for each sexually oriented business classification as set forth in Section 6-12-080.

(l) The fact that a person possesses other types of state or city permits and/or licenses does not exempt him/her from the requirement of obtaining a sexually oriented business operator or employee license.

6-12-080. Business Categories - Number of Licenses.

(a) 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.

(b) The categories of sexually oriented businesses are:

- (1) Outcall services;
- (2) Adult businesses;
- (3) Semi-nude entertainment businesses;
- (4) Semi-nude dancing agency.

6-12-090. License - Fees.

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.

6-12-100. License - Bond.

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

6-12-110. License - Premises Location and Name.

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

(b) It is unlawful for any sexually oriented business to do business in the City under any name other than the business name specified in the application.

6-12-120. Issuance of License.

(a) Upon the filing of an application for a sexually oriented business employee license, the Director shall issue a temporary license to said applicant. The application shall then be referred to the appropriate City departments for investigation to be made on the information contained in the application. The application process shall be completed within thirty (30) days from the date of the completed application. After the investigation, the Director shall issue an employee license, unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

- (1) The applicant has failed to provide the information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;
- (2) The applicant is under the age of eighteen (18) years; or
- (3) The applicant has been convicted of a "specified criminal activity" as defined herein; or

(4) The sexually oriented business employee license is to be used for employment in a business prohibited by local or state law, statute, rule, or regulation, or prohibited by a particular provision of this ordinance; or

(5) The applicant has had a sexually oriented business employee license revoked by the City within two (2) years of the date of the current application.

If the sexually oriented business employee license is denied, the temporary license previously issued is immediately rendered null and void. Denial, suspension, or revocation of a license issued pursuant to this subsection shall be subject to appeal as forth in subsection (i) of this Section.

(b) A license issued pursuant to subsection (a) of this Section, if granted, shall state on its face the name of the person to whom it is granted, the expiration date, and the address of the sexually oriented business. While engaged in employment or performing services on the sexually oriented business premises, an employee shall, at all times, possess the license in such manner as to be available for immediate inspection upon lawful request.

(c) A license issued pursuant to subsection (a) of this Section shall be subject to annual renewal upon the written application of the applicant and a finding by the Director that the applicant has not been convicted of any "specified criminal activity" as defined in this ordinance, or committed any act during the existence of the previous license which would be grounds to deny the initial license application. The decision whether to renew a license shall be made within thirty (30) days of the completed application. The renewal of a license shall be subject to the fee as set forth in Section 6-12-090. Non-renewal of a license shall be subject to appeal as set forth in subsection (i) of this Section.

(d) If application is made for a sexually oriented business operator's license, the Director shall approve or deny issuance of the license within thirty (30) days of receipt of the completed application. The Director shall issue a license to an applicant unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

(1) An applicant has failed to provide the information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;

(2) An applicant is under the age of eighteen (18) years;

(3) An applicant has been denied a license by the City to operate a sexually oriented business within the preceding twelve (12) months, or whose license to operate a sexually oriented business has been revoked within the preceding twelve (12) months;

(4) An applicant is overdue in payment to the City for taxes, fees, fines, or penalties assessed against or imposed upon him/her in relation to the sexually oriented business for which license is sought, or the property on which the sexually oriented business is located or will be located;

(5) An applicant has been convicted of a "specified criminal activity" as defined herein;

(6) The premises to be used for the sexually oriented business have not been approved by the health department, building department, and zoning department as being in compliance with applicable laws and ordinances, if such approval is required under other sections of this ordinance;

(7) The license fee required under this ordinance has not been paid;

(8) An applicant of the proposed establishment is in violation of or is not in compliance with one or more of the provisions of this ordinance.

(e) A license issued pursuant to subsection (d) of this Section, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the sexually oriented business, and the business classification as set forth in Section 6-12-080 for which the license is issued. The license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.

(f) If so required under other sections of this ordinance, the health department, building department, and zoning department shall complete their certification that the premises are in compliance or not in compliance within twenty (20) days of receipt of the completed application by the Director. The certification shall be promptly presented to the Director. Failure of an appropriate department to timely certify its inspection shall not be grounds for refusing to issue a license within the mandatory time period prescribed in subsection (d). In the event the Director fails to render a decision on the application within the time specified herein, the operator shall be permitted to commence operation of the business.

(g) A sexually oriented business license shall be issued for only one business classification, as set forth in Section 6-12-080.

(h) In the event that the Director determines that an applicant is not eligible for a sexually oriented operator's license, the applicant shall be given notice in writing of the reasons for the denial within thirty (30) days of the receipt of the completed application by the Director, provided that the applicant may request, in writing at any time before the notice is issued, that such period be extended for an additional period of not more than ten (10) days in order to make modifications necessary to comply with this ordinance. Notice of denial shall be sent to the applicant in accordance with the notice provisions set forth in Section 6-12-370.

(i) An applicant may appeal the decision of the Director regarding a denial to the City Council by filing a written notice of appeal with the City Recorder within ten (10) days from receipt of the notice of denial. The notice of appeal shall be accompanied by a memorandum or other writing setting out fully the grounds for such appeal and all arguments in support thereof. The Director may, within fifteen (15) days from the date of filing of the notice of appeal, submit a responsive memorandum to the City Council. After reviewing such memoranda, as well as the Director's written decision, if any, and exhibits submitted to the Director, the City Council shall vote either to uphold or overrule the Director's decision. Such vote shall be taken within twenty-one (21) calendar days after the date on which the City Recorder receives the notice of appeal. The status quo immediately prior to denial of the license shall be maintained during the pendency of the appeal. Judicial review of a denial by the Director and City Council may be made pursuant to Section 6-12-170 of this ordinance. The status quo shall continue to be maintained during the pendency of judicial review.

(j) A license issued pursuant to this Section shall be subject to annual renewal upon the written application of the applicant and a finding by the Director that the applicant has not been convicted of any "specified criminal activity" as defined in this ordinance, or committed any act during the existence of the previous license which would be grounds to deny the initial license application. The decision whether to renew a license shall be made within thirty (30) days of the completed application. The renewal of a license shall be subject to the fee as set forth in Section 6-12-090 .

6-12-130. Inspection.

The City shall regularly inspect the premises of the sexually oriented business in order to ensure compliance with the provisions of this ordinance. An applicant or licensee shall permit representatives of the Police Department and/or Health Department to inspect the premises at any time the establishment is open for business. Such inspection shall be limited to visual assessment of the activities conducted in areas to which patrons have access or are allowed access; to requests for inspection of the licenses required under this ordinance; and to requests for identification of those individuals who reasonably appear to be under the age of 18.

6-12-140. Expiration of License; Denial of Renewal.

(a) Each license shall expire one year from the date of issuance and may be renewed only by making application as provided in Section 6-12-070. Application for renewal should be made at least thirty (30) days before the expiration date. When application is made less than thirty (30) days before the expiration date, the expiration of the license will not be affected.

(b) When the Director denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. Notwithstanding the provisions of this section, in the event a licensee appeals the non-renewal of a license, the status quo immediately prior to non-renewal shall be maintained throughout the pendency of the appeal, up to and including judicial review on the merits as set forth in Section 6-12-170.

6-12-150. Suspension.

The Director shall suspend a license for a period not to exceed thirty (30) days if he or she determines that licensee or an employee of licensee has:

- (a) Violated or is not in compliance with any section of this ordinance;
- (b) Operated or performed services in a sexually oriented business while intoxicated by the use of alcoholic beverages or controlled substances;
- (c) Refused to allow prompt inspection of the sexually oriented business premises as authorized by this ordinance;
- (d) With knowledge, permitted gambling by any person on the sexually oriented business premises.

A licensee may appeal the suspension of a license to the City Council in accordance with the procedure set forth in Section 6-12-120 . Notwithstanding any other provisions of this section, in the event a licensee appeals the suspension of a license, the status quo immediately prior to suspension shall be maintained throughout the pendency of the appeal, up to and including judicial review on the merits as set forth in Section 6-4-170.

6-12-160. Revocation.

(a) The Director shall revoke a license if a cause of suspension in Section 6-12-150 occurs and the license has been suspended within the proceeding twelve (12) months.

(b) The Director shall revoke a license if he or she determines that:

- (1) A licensee gave materially false or misleading information in the material submitted during the application process;

(2) A licensee was convicted of a "specified criminal activity" on a charge that was pending prior to the issuance of the license;

(3) A licensee has, with knowledge, permitted the possession, use, or sale of controlled substances on the premises;

(4) A licensee has, with knowledge, permitted the sale, use, or consumption of alcoholic beverages on the premises;

(5) A licensee has, with knowledge, permitted prostitution on the premises;

(6) A licensee has, with knowledge, operated the sexually oriented business during a period of time when the licensee's license was suspended;

(7) A licensee has, with knowledge, permitted any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sexual conduct to occur in or on the licensed premises;

(8) A licensee is delinquent in payment to the City or State for any taxes, fees, fines, or penalties relating to the sexually oriented business or the premises thereon;

(9) A licensee has, with knowledge, permitted a person under eighteen (18) years of age to enter or remain in the establishment; or

(10) A licensee has attempted to sell his business license, or has sold, assigned, or transferred ownership or control of the sexually oriented business to a non-licensee of the establishment;

(11) A licensee has, with knowledge, permitted a person or persons to engage in specified sexual activities on the premises of the sexually oriented business.

(c) When the Director revokes a license, the revocation shall continue for one (1) year, and the licensee shall not be issued a license for one (1) year from the date revocation became effective. A licensee may appeal the revocation of a license to the City Council in accordance with the procedure set forth in Section 6-12-120. Notwithstanding any other provision of this Section, in the event the licensee appeals the revocation of a license, the status quo immediately prior to revocation shall be maintained throughout the pendency of the appeal, up to and including judicial review on the merits as set forth in Section 6-12-170.

6-12-170. Judicial Review.

Within thirty (30) days of a denial of an initial or renewal application by the Director and City Council, or suspension or revocation of a license by the Director, the applicant or licensee may seek prompt judicial review of such administrative action in any court of competent jurisdiction.

6-12-180. No Transfer of License.

(a) A licensee shall not transfer his/her employee license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application and set forth in the operator's license.

(b) An operator's license shall not be transferable from one location to another.

6-12-190. License - Display.

It is unlawful for any sexually oriented business location within the boundaries of the City to fail to display the license granted pursuant to this Chapter in a prominent location within the business premises. It is unlawful for any individual licensed pursuant to this Chapter to fail to carry, at all times while engaged in licensed activities within the corporate boundaries of the City, their employee license on their person. If the individual is semi-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.

6-12-200. License - 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.

6-12-210. Regulations and Unlawful Activities.

It is unlawful for any sexually oriented business or sexually oriented business employee to:

- (a) 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;
- (b) Allow, offer, or agree to conduct any outcall business with persons under the age of eighteen years;
- (c) To 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 any patron or customer; except that outcall employees and customers may touch, except that any touching of specified anatomical area, 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 sex act as validly defined by City ordinances or State statute in the presence of any customer or patron;

(k) Allow, offer, or agree to any 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 a sexually oriented business employee or on the premises of a sexually oriented business.

(m) Appear in a state of nudity before a patron on the premises of a sexually oriented business.

6-12-220. Outcall Services - Operation Requirements.

It is unlawful for any business or employee to provide outcall services contracted for in the City to fail to comply with the following requirements:

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

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

(c) 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.

(d) 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.

6-12-230. Additional Regulations for Adult Motels.

(a) Evidence that a sleeping room in a hotel, motel, or a similar commercial enterprise has been rented and vacated two or more times in a period of time that is less than ten (10) hours creates a rebuttable presumption that the enterprise is an adult motel as that term is defined in this Chapter.

(b) It is unlawful if a person, as the person in control of a sleeping room in a hotel, motel, or similar commercial enterprise that does not have a sexually oriented business license, rents or subrents a sleeping room to a person and, within ten (10) hours from the time the room is rented, he rents or subrents the same sleeping room again.

(c) For purposes of subsection (b) of this Section, the terms "rent" or "subrent" mean the act of permitting a room to be occupied for any form of consideration.

(d) Violation of subsection (b) of this Section shall constitute a misdemeanor.

6-12-240. Adult Business - Design of Premises.

(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:

(1) The interior of the premises shall be configured in such a manner that there is an unobstructed view from the manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms.

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

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

(4) 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 insure that the views from the manager's station in subsection (1) of this Section remain unobstructed by any doors, walls, merchandise, display racks, or any other materials at all times that any patron is present in the premises, and to insure 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 to which patrons are permitted access at an illumination of not less than one footcandle, measured at floor level. It shall be the duty of the licensee and the licensee's employees present on the premises to insure that the illumination described above is maintained at all times that any patron is present in the premises.

6-12-250. Regulations Pertaining to Exhibition of Sexually Explicit Films and Videos.

(a) A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, or other video reproduction, that depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

(1) Upon application for a sexually oriented business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area. The diagram shall also designate the place at which the business license will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however,

each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six (6") inches. The Director may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since said diagram was prepared.

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

(3) No alteration in the configuration or location of a manager's station may be made without the prior approval of the Director or his designee.

(4) It is the duty of the owners and operator of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

(5) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of the entire area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of the entire area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

(6) It shall be the duty of the operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that the view area specified in subsection (5) of this Section remains unobstructed at all times. No doors, walls, partitions, curtains, merchandise, display racks, or other object(s) shall obstruct from view of the manager's station any portion of the premises to which patrons have access. It shall be the duty of the operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that no patron is permitted access to any area of the premises that has been designated as an area in which patrons will not be permitted, as designated in the application filed pursuant to subsection (1) of this Section.

(7) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5) foot-candle as measured at the floor level.

(8) It shall be the duty of the operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

(9) No viewing room or booth may be occupied by more than one person at any time.

(10) No opening of any kind shall exist between viewing rooms or booths.

(11) It shall be the duty of the operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that no more than one person at a time occupies a viewing booths or rooms, and to ensure that no person attempts to make an opening of any kind between the viewing booths or rooms.

(12) The operator of the sexually oriented business shall, each business day, inspect the walls between the viewing booths to determine if any openings or holes exist.

(13) The operator of the sexually oriented business shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.

(14) The operator of the sexually oriented business shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used within forty eight (48") inches of the floor.

(b) A person having a duty under Subsections (1) through (14) of this Section is in violation of this Chapter if he/she, with knowledge, fails to fulfill that duty.

6-12-260. Semi-Nude Entertainment Business - Design of Premises.

(a) 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 barrier and the employee or employees shall remain on the other side of the barrier.

(b) Adult theaters shall also 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.

6-12-270. Semi-Nude Entertainment Business - Location Restriction.

It is unlawful for any business licensed for semi-nude entertainment to be located within five hundred (500) feet of a business licensed for the sale or consumption of alcohol.

6-12-280. 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.

6-12-290. Performers - Prohibited Activities.

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

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

6-12-300. Patrons - Prohibited Activities.

It is unlawful for any person or any patron of any business to touch in any manner any performer; to place any money or object on or within the costume or person of any performer; or to give or offer to give 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.

6-12-310. Existing Businesses - Compliance Time Limits.

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

- (a) All such persons and businesses requiring outcall service licenses shall have forty-five days (45) from the effective date of the ordinance codified in this Chapter, or until their current license expires, whichever is first in time, to comply with the provisions of this Chapter.
- (b) All semi-nude dancing agency licenses shall have seventy-five (75) days from the effective date of the ordinance codified in this Chapter, or until their license must be renewed, whichever is first, to comply with the provisions of this Chapter.
- (c) All adult businesses and semi-nude entertainment businesses shall have one hundred thirty-five (135) days from the effective date of the ordinance codified in this Chapter, or until their current license must be renewed, whichever is first, to comply with the provisions of this Chapter.

6-12-320. Exterior Portions of Sexually Oriented Businesses.

- (a) It shall be unlawful for an owner or operator of a sexually oriented business to allow the merchandise or activities of the establishment to be visible from a point outside the establishment.
- (b) It shall be unlawful for the owner or operator of a sexually oriented business to allow the exterior portion of the sexually oriented business to have flashing lights, or any words, lettering,

photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent permitted by the provisions of this ordinance.

(c) It shall be unlawful for the owner or operator of a sexually oriented business to allow exterior portions of the establishment to be painted any color other than a single achromatic color. This provision shall not apply to a sexually oriented business if the following conditions are met:

(1) The establishment is a part of a commercial multi-unit center; and

(2) The exterior portions of each individual unit in the commercial multi-unit center, including the exterior portions of the business, are painted the same color as one another or are painted in such a way so as to be a component of the overall architectural style or pattern of the commercial multi-unit center.

(d) Nothing in this article shall be construed to require the painting of an otherwise unpainted exterior portion of a sexually oriented business.

6-12-330. Signage.

(a) In addition to applicable City ordinances regarding signs, the following sign regulations shall apply to all sexually oriented businesses within the City. In the event of conflict between the provisions of this Section and the provisions of the City sign ordinances, the more restrictive provisions shall apply. Notwithstanding any other city ordinance, code, or regulation to the contrary, it shall be unlawful for the operator of any sexually oriented business or any other person to erect, construct, or maintain any sign for the sexually oriented business other than the one (1) primary sign and one (1) secondary sign, as provided herein.

(b) Primary signs shall have no more than two (2) display surfaces. Each such display surface shall:

- (1) Not contain any flashing lights;
- (2) Be a flat plane, rectangular in shape;
- (3) Not exceed seventy-five (75) square feet in area; and
- (4) Not exceed ten (10) feet in height or ten (10) feet in length.

(c) Primary signs shall contain no photographs, silhouettes, drawings or pictorial representations in any manner, and may contain only the name of the enterprise.

(d) Each letter forming a word on a primary sign shall be of solid color, and each such letter shall be the same print-type, size and color. The background behind such lettering on the display surface of a primary sign shall be of a uniform and solid color.

(e) Secondary signs shall have only one (1) display surface. Such display surface shall:

- (1) Be a flat plane, rectangular in shape;
- (2) Not exceed twenty (20) square feet in area;
- (3) Not exceed five (5) feet in height and four (4) feet in width; and

(4) Be affixed or attached to any wall or door of the enterprise.

(f) The provisions of item (1) of subsection (b) and subsections (c) and (d) shall also apply to secondary signs.

6-12-340. Messages or Baths Administered by Person of Opposite Sex.

It shall be unlawful for any sexually oriented business, regardless of whether in a public or private facility, to operate as a massage salon, massage parlor or any similar type business where any physical contact with the recipient of such services is provided by a person of the opposite sex.

6-12-350. Hours of Operation.

No sexually oriented business, except for an adult motel, may remain open at any time between the hours of one o'clock (1:00) a.m. and eleven o'clock (11:00) a.m. on weekdays and Saturdays. No sexually oriented business shall open for business or remain open for business on Sunday or any legal holiday recognized by the State of Utah.

6-12-360. Exemptions.

(a) It is a defense to prosecution under this ordinance 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, a college, junior college, or university supported entirely or partly by taxation;

(2) By a private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.

(b) Notwithstanding any other provision in this ordinance, movies rated G, PG, PG-13, or R, by the Motion Picture Association of America (MPAA), or live theatrical performances with serious artistic, social, or political value, that depict or describe specified anatomical areas or specified sexual activities, are expressly exempted from regulation under this ordinance.

6-12-370. Notices.

(a) Any notice required or permitted to be given by the Director or any other City office, division, department or other agency under this ordinance to any applicant, operator or owner of a sexually oriented business may be given either by personal delivery or by certified United States mail, postage prepaid, return receipt requested, addressed to the most recent address as specified in the application for the license, or any notice of address change that has been received by the Director. Notices mailed as above shall be deemed given upon signature for receipt. In the event that any notice given by mail is returned by the postal service, the Director or his designee shall cause it to be posted at the principal entrance to the establishment. Notice by posting shall be deemed given twenty-four (24) hours from time of posting.

(b) Any notice required or permitted to be given to the Director by any person under this ordinance shall not be deemed given until and unless it is received in the office of the Director.

(c) It shall be the duty of each owner who is designated on the license application and each operator to furnish notice to the Director in writing of any change of residence or mailing address.

6-12-380. Injunction.

A person who operates or causes to be operated a sexually oriented business without a valid operator's license, or in violation of Section 6-12-060 of this ordinance, is subject to a suit for injunction as well as prosecution for criminal violations. Each day a sexually oriented business so operates is a separate offense or violation.

6-12-390. Severability.

If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

6-12-400. Penalty.

Unless otherwise specifically provided herein or provided by law, any person who violates any provision of this Chapter shall be guilty of a class B misdemeanor, subject to fines, forfeitures, penalties and/or imprisonment as provided by law.