

Sexually Oriented Businesses and Employee Licensing  
Salt Lake County,  
Utah

## Chapter 5.136

### SEXUALLY ORIENTED BUSINESSES AND EMPLOYEE LICENSING

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5.136.010 Tilde for citation.

The ordinance codified in this chapter shall be known and may be referred to as the "Sexually Oriented Businesses and Employee Licensing Ordinance." (Ord. 1157 § 2 (part), 1991: Ord. 1136 § 2 (part). 1990)

5.136.020 Purposes of provisions.

It is the purpose and intent of this chapter to establish reasonable and uniform regulations governing the time, place and manner of operation of sexually oriented businesses and their employees in the unincorporated area of Salt Lake County that will reduce the adverse secondary effect that such businesses have upon communities, including the county, and to protect the health, safety and general welfare of the residents of the county This chapter shall be construed to protect the governmental interests recognized by this chapter in a manner consistent with constitutional protections provided by the constitutions the United States and the state of Utah. (Ord. 1157 § 2 (part), 1991: 1136 § 2 (part). 1990)

5.136.030 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 Chapter 5.04. Title 10, and Title 19 of this code. (Ord. 1157 § 2 (past), 1991: Ord. 1136 5 2 (part), 1990)

5.136.040 Definitions.

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

A. "Adult bookstore" or "adult video store" means a commercial establishment which sells or offers adult material for sale or rent or any other form of consideration unless the individual items of adult material comprise less than ten percent of the individual items as stock in trade and less than ten percent of gross sales, are not publicly displayed, and are not accessible to minors at the establishment.

B. Adult business" means an adult theater, adult motion picture theater, adult bookstore, adult video store or any other business which has as one of its principal purposes the offering of a product or service which is intended to provide sexual stimulation or sexual

gratification to patrons and is characterized by an emphasis on nudity, seminudity or specified anatomies areas This definition shall not apply to private clubs or Class C retail beer establishments which are not required to have a seminude dancing bar license.

C. "Adult material" means any one or more of the following, regardless of whether it is new or used:

1. Book, magazines, periodicals or other printed matter, photographs, films, motion pictures, video cassettes, slides or other visual representations, recordings or audio matter, the central theme of which depicts or describes specified sexual activities or specified anatomical areas; or

2. Instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities, except for legitimate, medically recognized contraception.

D. "Adult theater" means a theater, concert hall, auditorium or portion thereof or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified anatomical areas.

E. "Adult motion picture theater" means a commercial establishment which regularly features films, motion pictures, video cassettes, slides or similar photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas." "Adult arcades" and "adult booths" are included within this definition..

F. "Business license authority" means the county's business license manager or designee.

G. "County" means for purposes of this chapter the unincorporated area of the county.

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

1. "Escort" means any person who, for pecuniary compensation, dates, socializes, visits, consorts with or accompanies or offers to date, consort, socialize, visit or accompany another or others to or about social affairs, entertainment or places of amusement or within any place of public or private resort or any business or commercial establishment or any private quarters. "Escort" shall not be construed to include persons who provide business or personal services such as licensed private nurses, aides for the elderly or handicapped, social secretaries or similar service personnel whose relationship with their patron is characterized by a bona fide contractual relationship having a duration of more than twelve hours and who a service not principally characterized as dating or socializing.

J. "Escort service" means an individual or entity who, for pecuniary compensation, furnishes or offers to furnish escorts or provides or offers to introduce patrons to escorts.

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

L, "Nude and seminude 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 model, dancer or similar person licensed pursuant to this chapter for performance or appearance at a business licensed for nude entertainment, seminude dancing hall or adult theaters.

M. "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 nudity or seminudity. A business shall also be presumed to be a nude entertainment business if the business holds itself out as such a business.

N. "Nudity" or "state of nudity" means a state of dress in which the nipple and areola of the female breast or male or female genitals, pubic region, buttocks or anus are covered by less than the covering required in the definition of seminude or the displaying of any identified anatomical area.

O. "Outcall services" means escorts and businesses which provide, as any portion of their business, nude or seminude services outside of the premises in any place of private resort or private quarters by models, dancers or other similar employees.

P. "Patron" means any person who contracts with or employs any outcall services or the customer of any business licensed pursuant to this chapter.

Q. "Pecuniary compensation" means any commission fee, salary, tip, gratuity, hire, profit, reward or any other form of consideration.

R. "Person" means any person, unincorporated association, corporation, partnership or other legal entity.

S. "Seminude" means a state of dress in which opaque clothing covers no more than the genitals, pubic region, anus and the nipple and areola of the female breast. in accordance with the above, at a minimum, the 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. "Seminude dancing bars" means any business licensed as a private club or which holds a Class C retail beer license and offers its customers live entertainment involving seminudity, or live entertainment which is distinguished by or characterized by an emphasis on the displaying of any portion of human Buttocks or the female breast with less than a fully opaque covering.

U. "Sexually oriented business" means nude entertainment businesses, outcall services, adult businesses, seminude dancing bars and nude and seminude dancing agencies as defined by this chapter.

V. "Sexually oriented business employees" means those employees who work on the premises of the 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 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. bartenders and similar employees except where they may be managers or supervisors of the business. All persons employed by an outcall service making outcall meetings under this chapter, including dancers, escorts, models, guards, escort runners, drivers and other similar employees, regardless of the employee's state of dress, shall be considered sexually oriented business employees.

W. "Specified anatomical areas" means less than completely and opaquely covered:

1. Human male and female genitals, pubic area and anus, or
2. The human female breast from the beginning of the areola papilla or nipple to the end thereof, or
3. The cleavage of the human buttocks, or
4. Human male genitals in a discernibly turgid state.

X. "Specified sexual activities" means:

1. Acts of:
  - a. Masturbation,
  - b. Human sexual intercourse,
  - c. Sexual copulation between a person and a beast,
  - d. Fellatio,

- e. Cunnilingus,
  - f. Bestiality,
  - g. Pederasty,
  - h. Buggery, or
  - i. Any anal copulation between a human male and another human male, human female or beast;
2. Simulated acts of those activities set forth in subsection I performed while in a state of nudity or seminudity.
  3. Manipulating, caressing or fondling by any person of the human genitals, pubic area, anus, buttocks or the female breast for the purpose of arousing or gratifying the sexual desire of a person.
  4. Flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of the one so clothed. (Ord. 1204 §§ 2, §, 4, 1992; Ord. 1157 § 2 (part), 1991: Ord. 1136 § 2 (part), 1990)

#### 5.136.050 Obscenity—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 Chapter 10.28 of this code or other applicable federal or state statutes prohibiting obscenity. (Ord. 1157 § 2 (part), 1991: Ord. 1136 § 2 (part), 1990)

#### 5.136.060 Location and zoning restrictions.

It is unlawful for any sexually oriented business to do business at any location within the unincorporated county not zoned for such business. Sexually oriented businesses shall only be allowed in areas zoned for their use pursuant to Title 19 of this code. (Ord. 1204 § 5, 1992: Ord. 1157 § 2 (part), 1991: Ord. 1136 § 2 (part), 1990)

#### 5.136.070 License required.

It is unlawful for any person to operate a sexually oriented business, as specified below, in the unincorporated area of the county without first obtaining a sexually oriented business regulatory license. The license shall specify the type of business for which it is obtained. (Ord. 1157 § 2 (part), 1991: Ord. 1136 § 2 (part), 1990)

#### 5.136.080 Exemptions from license requirements.

The provisions of this chapter shall not apply to any sex therapist or similar individual licensed by the state to provide bona fide sexual therapy or counseling, licensed medical practitioner, licensed nurse, psychiatrist or psychologist, nor shall it apply to any educator licensed by the state for nativities in the classroom. (Ord. 1157 § 2 (part), 1991; Ord. 1136 § 2 (part), 1990)

#### 5.136.085 Legitimate artistic modeling.

The county does not intend to unreasonably or improperly prohibit legitimate modeling which may occur in a state of nudity for purposes protected by the First Amendment or similar state protections. The county does intend to prohibit prostitution and related offenses occurring under the guise of nude modeling. Notwithstanding the provisions of subsection K of Section 5.136.210, a licensed outcall employee may appear in a state of nudity before a customer or patron proving that a written contract for such appearance was entered into between the customer or patron and the employee at least twenty-four hours before the nude appearance in accordance with the provisions of Section 5.136.220. All of the other applicable provisions of this chapter shall still apply to such nude appearance. (Ord. 1157 § 2 (part), 1991; Ord. 1136 § 2 (part), 1990)

#### 5.136.090 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 nude and seminude dance agency may be located on the same premises of a seminude dancing bar or the same premises of an outcall services business.

B. The categories of sexually oriented businesses are:

1. Outcall services;
2. Adult businesses;
3. Nude entertainment businesses;
4. Seminude dancing bars;
5. Nude and seminude dancing agency. (Ord. 1281 § 2, 1994; Ord. 1157 § 2 (part), 1991; Ord. 1136 § 2 (part), 1990)

#### 5.136.100 Employee licenses.

A. It is unlawful for any sexually oriented business to employ or for any individual to be employed by a sexually oriented business in the capacity of a sexually oriented business employee in the unincorporated area of the county unless that employee first obtains a sexually oriented business employee license from the county.



B. It is unlawful for any person performing outcall services or any person performing in a state of nudity or seminudity to work or perform in the county unless such person is employed by an outcall service business, nude or seminude dancing agency licensed by the county or said person is licensed by the county as an outfall service business or a nude or seminude dancing agency. (Ord. 1204 § 6, 1992; Ord. 1157 § 2 (part), 1991; Ord. 1136 § 2 (part), 1990)

#### 5.136.110 License—Application—Disclosures required.

Before any applicant may be licensed to operate a sexually oriented business or as a sexually oriented business employee pursuant to this chapter, the applicant shall submit in writing, on a form to be supplied by the county business license manager, the following:

A. The correct legal name of each applicant, corporation, partnership, limited partnership or entity doing business under an assumed name;

B. If the applicant is a corporation, partnership or limited partnership, or individual or entity doing business under an assumed name, the information required below for individual applicants shall be submitted for each partner and each principal of an applicant and for each officer and director. If the sexually oriented business application is for outcast services, the applicant, in addition to the above, must also submit the required information for any shareholder (corporate or personal) of more than ten percent of the stock of any applicant. Any holding company or any entity holding more than ten percent of an applicant shall be considered an applicant for purposes of disclosure under this chapter,

C. All corporations, partnerships or noncorporate entities included on the application shall also identify each individual authorized by the corporation, partnership or noncorporate entity to sign the check for such corporation, partnership or noncorporate entity;

D. For all applicants or individuals, the application must also state:

1. Any other names or aliases used by the individual,
2. The age, date and place of birth,
3. Height,
4. Weight,
5. Color of hair,
6. Color of eyes,

7. Present business address and telephone number,

8. Present residence and telephone number,

9. Utah driver's license or identification number, and

10. Social security number;

E. Acceptable written proof that any individual is at least eighteen years of age or, in the case of employees to be employed in businesses where a different age is required, proof of the required age;

F. Attached to the form as provided above, two color photographs of the applicant clearly showing the individual's face, and the individual's fingerprints on a form provided by the county sheriff's office. For persons not residing in the county, the photographs and fingerprints shall be on a form from the law enforcement jurisdiction where the person resides. Fees for the photographs and fingerprints shall be paid by the applicant directly to the issuing agency;

G. For any individual applicant required to obtain a sexually oriented business employee license for outfall services as a model, dancer or other similar employee or escort, or as a nude or seminude entertainer employed by a nude entertainment business, a certificate from the city-county health department, stating that the individual has, within thirty days immediately preceding the date of the application, been examined and found to be free of the following contagious diseases: gonorrhea, syphilis, and chlamydia, and is negative for the AIDS antibody.

Said certificate shall be updated quarterly during the license term by the applicant and submitted to the county license manager. -Said certificate shall also be required for the renewal of such license;

H. A statement of the business, occupation or employment history of the applicant for five years immediately preceding the date of the filing of the application;

I. A statement detailing the license or permit history of the applicant for the five-year period immediately preceding the date of the filing of the application, including whether such applicant previously operating or shelling to operate in this or any other comity, city, state or territory has ever had a license, permit or authorization to do business denied, revoked or suspended, or has had any professional or vocational license or permit denied, revoked or suspended. In the event of any such denial, revocation or suspension, state the date, the name of the acting jurisdiction, and state in fun the reasons for the denial, revocation or suspension. A copy of any order of denial revocation or suspension shall be attached to the application;

J. All criminal convictions or pleas of nolo contendere, except those which have been expunged, and the disposition of all such arrests for the applicant, individual or other entity subject to disclosure under this chapter, for five years prior to the date of the application. This disclosure shall include identification of all ordinance violations, excepting minor traffic offenses (any traffic offense designated as a felony shall not be construed as a minor traffic offense), stating the date, place, nature of each conviction or plea of nolo contendere and sentence of each conviction or other disposition; identifying the convicting jurisdiction and sentencing court and providing the court identifying case numbers or docket numbers. Application for a sexually oriented business or employee license shall constitute a waiver of disclosure of any criminal conviction or plea of nolo contendere for the purposes of any proceeding involving the business or employee license;

K. In the event the applicant is not the owner of record of the real property upon which the business or proposed business is or is to be located, the application must be accompanied by a notarized statement from the legal or equitable owner of the possessory interest in the property specifically acknowledging the type of business for which the applicant seeks a license for the property. In addition to furnishing such notarized statement, the applicant shall furnish the name, address and phone number of the owner of record of the property as well as the copy of the lease or rental agreement pertaining to the premises in which the service is or will be located;

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

1. The hours that the business or service will be open to the public, and the methods of promoting the health and safety of the employees and patrons and preventing them from engaging in illegal activities,
2. The methods of supervision preventing the employees from engaging in acts of prostitution or other related criminal activities,
3. The methods of supervising employees and patrons to prevent employees and patrons from charging or receiving fees for services or acts prohibited by this chapter or other statutes or ordinances,
4. The methods of screening employees and customers in order to promote the health and safety of employees and customers, prevent the transmission of disease and prevent the commission of acts of prostitution or other criminal activity. (Ord. 1157 § 2 (part), 1991; Ord. 1136 § 2 (part), 1990)

5.136.120 License—Fees.

A. Each initial application shall be accompanied by a nonrefundable fee of three hundred dollars to defray the costs of processing and investigating the application. If the application for sexually oriented business is approved and a license is granted, one-half of the application fee shall be applied as credit towards the annual license fee required for the first year.

B. Each applicant for a sexually oriented business or employee license shall be recaptured to pay regulatory license fees pursuant to the following schedule:

1. Yearly business regulatory license fees:

a Adult businesses and seminude dancing bars, three hundred dollars,

b. Outcall service businesses, five hundred dollars,

c. Nude and seminude dancing agencies and nude entertainment businesses, three hundred dollars;

2. For each business applicant, an initial nonrefundable investigation fee of one hundred dollars for each applicant required to submit a separate disclosure application;

3. Yearly sexually oriented business employee license fees:

a Any employee providing outcall services away from the premises of an outcall services business, as an escorts model, dancer or similar employee, two hundred fifty dollars,

b. Adult business employees, outcall business employees requiring a license but not performing services as a model, dancer or similar Cavities or escort outside the licensed premises; nude entertainment business employees requiring a license but not individually providing nude or seminude entertainment services to patrons; seminude dancing bar employees requiring a license but who are not performers; and employees of nude and seminude dancing agencies requiring licenses, but who are not performers, fifty dollars,

c. Employees of nude entertainment businesses personally providing nude or seminude entertainment to patrons, two hundred fifty dollars,

d. Dancers, models, and similar persons furnished by a nude and seminude dancing agency performing in seminude dancing bars, one hundred Rife dollars.

C. Any individual applying for more than one license at the same time shall pay the higher of all applicable fees and an additional fifty dollars for each additional license requested.

D. These fees are regulatory fees and shall be in addition to the other licenses and fees refigured to do business in the county. (Ord. 1204 § 7, 1992; Ord. 1157 § 2 (part), 1991; Ord. 1136 § 2 (part), 1990)

#### 5.136.130 License—Bond.

Each application for a sexually oriented business license shall post with the county's business license manager a cash or corporate surety bond payable to the county in the amount of two thousand dollars. Any fines assessed against the business, officers or managers for violations of county 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 of the date of notice of any draw against it. (Ord. 1157 § 2 (part), 1991; Ord. 1136 § 2 (part), 1990)

#### 5.136.140 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 premise 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 county under any name other than the business name specified in the application. (Ord. 1157 § 2 (part), 1991; Ord. 1136 § 2 (part), 1990)

#### 5.136.150 License—Issuance conditions.

A. The County business license manager shall submit to the county commission for approval the issuance of a license to the applicant within thirty days after receipt of a complete application unless the official finds one or more of the following:

1. The applicant is under eighteen years of age or any higher age if the license sought requires a higher age;
2. The applicant is overdue in payment to the county of taxes, fees, fines or penalties assessed against the applicant or imposed on the applicant in relation to a sexually oriented business;
3. The applicant has falsely answered a material question or request for information as authorized by this chapter;
4. The applicant has been convicted of a violation of a provision of this chapter within two years immediately preceding the application (the fact that a conviction is being appealed shall have no effect on the denial);

5. The premises to be used for the business have been disapproved by the city-county health department, the county fire department, the county sheriffs office, the county building official or the county zoning officials as not being in compliance With applicable laws and ordinances of the county;

6. The license fees required by this chapter or by other ordinances have not been paid;

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

8. An applicant for the proposed business is in violation of or not in compliance with this chapter;

9. An applicant has been convicted of or has pled nolo contendere to a crime:

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

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

u. Less than five years have elapsed from the date of conviction, if the offense is of a felony;

b. The fact that a convict on is being appealed shall have no effect on the disqualification pursuant to this section

B. If any of the reviewing departments of the county specified above cannot complete their review of an application for a sexually oriented business within the thirty day period, the agency or department may obtain from the county business license manager an extension of time for their review of no more than fifteen days. The total time for the county departments to recommend the issuance or denial of a license for a sexually oriented business shall not exceed forty-five days from the receipt of a completed application. Businesses located outside of the unincorporated boundaries of the county but requiring a regulatory license under this chapter may be denied a license pursuant to this chapter if the business does not have a valid business license to conduct business at the business location from the appropriate jurisdiction for that location.

1. Upon receipt of an application all departments required to review the application shall determine within seven days whether or not the application is incomplete in items needed for processing. Incomplete applications shall immediately be returned to the applicant specifying which items are incomplete.

2. The time for processing applications specified in this section shall begin to run from the receipt of a complete application.

3. In the event that a license for a sexually oriented business or an employee of a sexually oriented business has not been disapproved based on a complete application within thirty days, or forty-five days if an extension has been granted for the review of an application for a sexually oriented business, the county shall issue the license pending -completion of the county's review.

4. Any license issued pursuant to subparagraph 3 above may be revoked by the county pursuant to the revocation procedures of Sections 5.136.370 through 5.136.390 if the completed review determines that the license application should have been denied.

C. Every sexually oriented business requiring conditional use approval shall be required to obtain such approval before a sexually oriented business license application will be accepted or processed by the business licensing authority. (Ord. 1157 § 2 (part). 1991: Ord. 1136 § 2 (part). 1990)

5.136.160 License—Term.

Sexually oriented business and employee licenses issued pursuant to this chapter shall be valid from the date of issuance through January 1st of the next calendar year. (Ord. 1157 i 2 (part). 1991: Ord. 1136 § 2 (part). 1990)

5.136.170 License—Notice of change of information.

Any change in the information required to be submitted under this chapter for either a sexually oriented business license or sexually oriented business employee license shall be given, in writing, to the business license authority and the sheriff's office within fourteen days after such change. (Ord. 1157 § 2 (part), 1991: Ord. 1136 § 2 (part), 1990)

5.136.180 License—Transfer limitations.

A. Sexually oriented business licenses granted under this chapter shall not be transferable to a new location or to a new owner except as provided in Chapter 5.12 of this title. It is unlawful for a corporation, partnership or other noncorporate business entity holding a sexually oriented business regulatory license to transfer any part of its business interest or ownership in excess of ten percent thereof without filing a new license application and obtaining a new sexually oriented business regulatory license from the county. If any transfer of the controlling interest in a business licensee occurs.

the license is immediately null and void and the business shall not operate until a separate new license application has been submitted with all applicable fees and a new regulatory license has been issued by the county as provided in this chapter.

8. It is unlawful for a sexually oriented business employee to transfer such license to another. Any such transfer or attempted transfer shall render the license null and void.

C. Outcall services employees and nude and seminude dancers may transfer their employee license from one outcall service business or from a nude or seminude dancing agency to another upon submitting a letter of employment from the new business or agency and upon payment of a twenty-five dollar transfer fee.

D. It shall be unlawful for the holder of a sexually oriented business license to sell, transfer the business ownership or location, or otherwise cease operating the business without notifying the county licensing manager and surrendering the licensee's sexually oriented business license. (Order 1204 § 8, 1992: Ord. 1157 § 2 (part), 1991: Ord. 1136 § 2 (part), 1990)

#### 5.136.190 License—Display.

It is unlawful for any sexually oriented business located within the unincorporated boundaries of the county 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 their employee license on their person, at all times while engaged in licensed activities within the unincorporated boundaries of the county. If the individual is nude, such license shall be visibly displayed within the same room as the employee is performing. It is unlawful to fail to carry or show the appropriate licenses while engaged in licensed activities within the unincorporated boundaries of the county upon request of the sheriff, county licensing or other enforcement personnel or health official. (Ord. 1157 § 2 (part), 1991: Ord. 1136 § 2 (part), 1990)

#### 5.136.200 License—Statement in advertisements.

It is unlawful for any advertisement by the sexually oriented business or employee to fail to include the county license number. (Ord. 1157 § 2 (part), 1991: Ord. 1136 § 2 (part), 1990)

#### 5.136.210 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, or the age of twenty-one years if required by applicable liquor ordinance, 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. Except for seminude dancing bars, to allow, offer or agree to allow any alcohol Wine 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 touching between a sexually oriented business employee and any patron or customer during a performance, except that employees of outcall services and patrons may touch provided that such touching does not violate the provisions of Section 5.136.220(D) of this chapter. It is further provided that specified sexual activities between patrons and employees are also prohibited;

G. Allow, offer or agree to or engage in the illegal possession, use, sale or distribution of controlled substances on the licensed premises;

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

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

J. Allow, offer, commit or agree to any specified sexual activity or sex act as validly defined by county ordinances or state statute;

K. Allow, offer or agree to any outcall services employee appearing before any customer or patron in a state of nudity without first complying with the provision of Section 5.136.085. (Ord. 1204 § 9, 1992; Ord. 1157 §, 2 (part), 1991; Ord. 1136 § 2 (part), 1990)

5.136.220 Outcall services—Operation requirements.

It is unlawful for any business or employee providing outcall services contracted for in Salt Lake County 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 address where the services are to be performed, the type of services to be performed, the length of time such services shall be performed, the total amount such services shall cost me patron, and any special terms or conditions relating to the services to be performed.

The contract need not include the name of the patron. However, the contract shall clearly provide the patron the opportunity to give the patron s name and address to the business for purposes of contact tracing by the city-county health department. if the patron so desires, in the event the outcall services employee contracted for subsequently tests positive for a sexually transmitted disease on a quarterly test required pursuant to the provisions of Section 5.136.110(G). The contract shall clearly state whether the patron accepted or declined said opportunity.

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, which shall also be kept for one year listing the contract number. date, names of all employees involved in the contract. and pecuniary compensation paid. The register shall be made available to the sheriff and city-county health officials for inspection during normal operating hours.

B. All outcall businesses licensed pursuant to this chapter shall maintain an open office 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. Outcall businesses with premises licensed and located within the county shall not provide or allow private rooms or booths where the patrons may meet with outcall employees either at the licensed premises or at any other location, nor shall patrons meet outcast 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 provides would be performed by the outcall employee.

D. During an outcall appearance, it is unlawful:

1. To appear nude or seminude in the presence of persons under the age of eighteen;
2. To allow, offer or agree to any touching of the outcall employee appearing nude or seminude by the patron or other persons present to view said performance:
3. To allow, offer or agree to commit prostitution, solicitation of prostitution, solicitation of a minor or committing activities harmful to a minor;

4. To allow, offer, commit, permit or agree to any specified sexual activity or any other sex act as validly defined by court ordinances or state statute or to remain in the presence of or continue an outcall performance if a patron or other person engages in any specified sexual activity or sex act;

5. For an outcall employee to be within five feet of an; other person while nude or seminude. (Ord. 1157 § 2 (part). 1991: Ord. 1136 § 2 (part). 1990)

#### 5.136.230 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 comply with all applicable building code requirements including the obtaining of applicable building permit and 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 a 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 ensure that the manager's station is manned during all operating hours and ensure that the views from the manager's station in subsection A of this section remain unobstructed by any doors, walls, merchandise, display racks or any other materials, at all times that any patron is present in the premises and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.

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 ensure that the illumination described above is maintained at all times that any patron is present in the premises. (Ord. 1204 § 10. 1992; Ord. 1157 § 2 (part), 1991: Ord. 1136 § 2 (part), 1990)

#### 5.136.240 Nude entertainment business—Design of premises.

A. It is unlawful for business premises licensed for 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 done together without a separation by a solid physical barrier at least three feet high and eighteen 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 five feet, which separation shall be delineated by a physical barrier at least three feet high. (Ord. 1157 § 2 (part), 1991: Ord. 1136 § 2 (part), 1990)

#### 5.136.150 Nude entertainment business—Location restriction.

It is unlawful for any business licensed for nude entertainment to be located within three hundred thirty feet of a business licensed for the sale or consumption of alcohol. (Ord. 1157 § 2 (part). 1991: Ord. 1136 § 2 (part), 1990)

#### 5.136.260 Seminude dancing bar—Operation prerequisites.

It is unlawful for any business licensed for the sale or consumption of alcohol pursuant to county ordinances to:

- A. Allow any person on the premises to dance, model or be or perform in a state of seminudity without first obtaining a license pursuant to this chapter,
- B. Allow any person on the premises to dance, model or be or perform in a state of nudity or expose any specified anatomical area.

In establishments licensed to sell, store or consume alcoholic beverages, seminude dancing shall be allowed only in Class C private clubs and Class C taverns. (Ord. 1157 § 2 (part), 1991; Ord. 1136 § 2 (part), 1990)

#### 5.136.270 Seminude dancing bar— Performer restrictions.

It is unlawful for any person to perform or appear in a state of seminudity as a dancer, model, performer or otherwise on the premises of a business licensed as a seminude dancing bar, Other gratuitously or for compensation, unless that person is licensed as a sexually oriented business employee. (Ord. 1204 § 11, 1992; Ord. 1157 § 2 (part), 1991; Ord. 1136 § 2 (part), 1990)

#### 5.136.280 Nude and seminude dancing agencies,

A. It is unlawful for any person to furnish, book or otherwise engage the services of a dancer, model or performer to appear in a state of seminudity or nudity for pecuniary compensation in, or for, any nude entertainment business, adult theater or seminude dancing bar licensed pursuant to this chapter unless such person is licensed as a nude and seminude dancing agency 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 seminudity or nudity, either gratuitously or for compensation, in or for any business licensed or required to be licensed pursuant to this chapter unless such person is licensed pursuant to this chapter. (Ord. 1204 § 12, 1992; Ord. 1157 § 2 (part), 1991; Ord. 1136 § 2 (part), 1990)

#### 5.13 6.290 Performers—Prohibited activities.

It is unlawful for any dancer, model or performer during a performance in any establishment requiring a license as a seminude dancing bar pursuant to this chapter:

A. To touch in any manner any other person;

B. To throw any object or clothing off the stage area

C. To accept any money, drink or any other object directly from any person;

D. To 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;

E. For the performer to place anything within the costume or adjust or move the costume while performing so as to render the performer in a state of nudity; or

F. To engage in any specified sexual activity. (Ord. 1204 § 13, 1992; Ord. 1157 § 2 (part), 1991; Ord. 1136 § 2 (part), 1990)

#### 5.136.300 Performers—Costume requirements.

It is unlawful for performers in seminude dancing bars to fail to comply with the following costume requirements:

A. Performers shall at all times be costumed during performances in a manner not to violate any county ordinance concerning disorderly or obscene conduct, and such performers shall not perform or conduct themselves in such a manner as to violate the provision of any county ordinance. No performer shall appear in any business required to be licensed as a seminude dancing bar during a performance or appearance in a state of nudity and, in the case of a female performer, the areola and nipple of such performer shall be completely covered with opaque clothing in a shape and color other than the natural shape and color of the nipple and areola

B. While on the portion of a business licensed as a seminude dancing bar used by patrons, performers shall be dressed in opaque clothing covering the performer's buttocks and pubic area and, in the case of a female, the breast and nipples. (Ord. 1204 § 14, 1992; Ord. 1157 § 2 (part), 1991; Ord. 1136 § 2 (part), 1990)

#### 5.136.310 Stage requirements.

It is unlawful for any performer in a business licensed as a seminude dancing bar to appear in costume other than on a stage which shall be at least three feet from the portion of the premises on which patrons are allowed and which shall be separated from the patrons by a solid barrier or railing the top of which shall be at least two and one-half feet from the floor. (Ord. 1157 § 2 (part), 1991; Ord. 1136 § 2 (part), 1990)

#### 5.136.320 Patrons—Prohibited activities.

It is unlawful for any person or any patron of any seminude dancing bar or nude entertainment business during a performance to touch in any manner a model, dancer or performer to place any money or object on or within the costume or person of any performer; or to give or offer to give to any such performer any drinks, money or object, except that money may be placed on the barrier which shall not be picked up by the performer except by hand after the performance. (Ord. 1157 § 2 (part), 1991; Ord. 1136 § 2 (part), 1990)

#### 5.136.330 Nudity—Defenses to prosecution.

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

A. By a proprietary school licensed by the state or a college, junior college or university supported entirely or partly by taxation;

B. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation. (Ord. 1157 § 2 (part), 1991: Ord. 1136 § 2 (part), 1990)

#### 5.136.340 Existing businesses—Compliance time limits.

A. 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 ordinance codified in this chapter and regardless of whether such persons and businesses are currently licensed to do business in the county.

1. All such persons and businesses requiring outcall service licenses shall have thirty days from the effective date of the ordinance codified in this chapter or until their current license expires, whichever is first in time, to comply with the provisions of this chapter.

2. All seminude dancing bars and employees thereof requiring licenses and nude and seminude dancing agency licenses shall have sixty 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 the chapter.

3. All nude entertainment businesses shall have sixty 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.

4. All adult businesses shall have sixty days from the effective date of the ordinance codified in this chapter or until their current license must be renewed, whichever is first in time, to comply with the provisions of this chapter.

B. For the year 1990, each business required by this chapter to be licensed as a sexually oriented business shall be credited against the fees required by this chapter with the regulatory license fees paid for the current 1990 license. (Ord. 1157 § 2 (part), 1991: Ord. 1136 § 2 (part), 1990)

#### 5.136.350 Hours of operation.

A. It is unlawful for the premises of an adult business, nude entertainment business, outcall services or nude and seminude dancing agency to remain open to make a sale, or to solicit a sale, a performance, or a service, or where otherwise allowed, permit patrons on the premises, between the hours of one a.m. and eight a.m. of any day. The operating hours for seminude dancing bars shall be governed by the provisions of Chapter 6.20 of this code.

B. It is unlawful for any employee of a nude entertainment business, adult theater, seminude dancing bar or nude and seminude dancing agency to engage in a

performance between the hours of one a.m. add ten a m. of my day. (Ord. 1204 § IS. 1992: 1157 § 2 (part). 1991: Ord. 1136 § 2 (part). 1990)

#### 5.136.360 Violation—Injunction when.

An entity or individual who operates or causes to be operated a sexually oriented business without a valid license or who employs or is employed as an employee of a sexually oriented business or who operates such a business or functions as such an employee in violation of the provisions of this chapter is subject to a suit for injunction in addition to the civil and criminal violations provided herein and any other remedy available at law or in equity. (Ord. 1157 § 2 (part), 1991: Ord. 1136 § 2 (part), 1990)

#### 5.136.370 Violation—License suspension or revocation.

A. In the event a licensed sexually oriented business is operating in violation of a building, fire, health, or zoning statute, code, ordinance or regulation, whether federal, state or local, the county shall notify the licensee of the violation and shall allow the licensee ten calendar days to correct that violation. If the licensee fails to correct the violation within ten calendar days, the county shall schedule a license hearing. If it is determined that a licensed establishment is in violation of a building, fire, health or zoning statute, code, ordinance or regulation, whether federal, state or local, the county shall forthwith suspend the license and shall notify the licensee of the suspension. The suspension shall remain in effect until the department or division responsible for enforcing the applicable ordinance giving rise to the suspension notifies the license manager in writing that the violation of the provision in question has been corrected.

B. The county may issue a notice suspending, placing on probation or revoking a sexually oriented business or employee license granted under this chapter if a licensee or an employee of a licensee has:

1. Violated or is not in compliance with the provisions of this chapter;
2. Refused to allow any inspection of the premises of the sexually oriented business specifically authorized by this chapter or by any other statute or ordinance;
3. Failed to replenish the cost bond as provided in this chapter (such a suspension shall extend until the bond has been replenished);
4. Given materially false or misleading information in obtaining the license;
5. Knowingly operated the sexually oriented business or worked under the employee license during the period when the business or employee license was suspended;
6. Committed an offense which would be grounds for denial of a license for which the period of civil disability has not elapsed;



7. Become delinquent in payment to the county for ad valorem taxes or sales taxes related to the sexually oriented business.

C. Suspension or revocation shall take effect within ten days of the issuance of notice, unless an appeal is filed as provided by this chapter.

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

E. Upon violation of any provision of subsection (B), a sexually oriented business license, if not revoked, shall be suspended for a minimum of sixty days. Upon a second violation of any of the provisions of subsection (B) within twenty-four months of the initial violation, the license, if not revoked, shall be suspended for a minimum period of ninety days. Upon a third violation within thirty-six months of the original violation of subsection (B), the sexually oriented business license shall be revoked for a period of one year. Notwithstanding the foregoing, nothing in this section requires that a sexually oriented business license be suspended before it can be revoked by the county. (Ord. 1157 § 2 (part), 1991; Ord. 1136 §, 2 (part), 1990)

#### 5.136.380 Effect of license revocation.

A. If a license issued pursuant to this chapter is suspended, all operations within the licensed establishment shall cease for the period of the suspension, and no other person shall be allowed to operate at that location during the suspension period.

B. When a license issued pursuant to this chapter is revoked the revocation shall continue for one year from its effective date, and the licensee shall not be issued a sexually oriented business or employee license for one year from the date of such revocation. The premises may be relicensed for a business activity during the one-year revocation, but no other sexually oriented business license shall be issued for the premises during the period of revocation. (Ord. 1157 § 2 (part), 1991; Ord. 1136 § 2 (part), 1990)

#### 5.136.390 Appeal procedures.

A. If the license is denied or is approved with qualifications, or if a notice of suspension, revocation or citation of a civil fine is imposed, the applicant or licensee may file an appeal with the business licensing authority.

B. Filing of an appeal must be within ten days of the date of service of the notice of any denial, qualified approval, suspension, revocation or civil fine. Upon receiving the notice of such appeal, the business licensing authority shall schedule a hearing before a designated hearing officer within twenty days from the date of the appeal unless such time shall be extended for good cause.

C. The hearing officer shall hold a public hearing on the record and take such facts and evidence as necessary to determine whether the denial, qualified approval, suspension, revocation or civil fine was proper under the law.

D. The burden of proof shall be on the county.

E. After the hearing, the hearing officer shall have seven working days, unless extended for good cause, in which to render findings of fact, conclusions of law and a recommended decision to the board of county commissioners.

F. Either party may object to the recommendation of the hearing officer by filing the party's objection and reasons, in writing, to the board of county commissioners within seven days following the recommendation. In the event the hearing officer recommends upholding a denial, suspension or revocation, the license shall be immediately suspended and shall remain suspended until any subsequent appeal is decided. If no objections are received within the seven days, the commission may immediately adopt the recommendation of the hearing officer.

G. If objections are received the board of county commissioners shall have ten working days to consider such objections before issuing its final decision. The commission may, in its discretion, take additional evidence or require written memorandum on issues of fact or law. The standard by which the commission shall review the decision of the hearing officer is whether substantial evidence exists in the record to support the hearing officer's recommendation.

H. An applicant aggrieved by the decision of the county commission shall have judicial review of such decision pursuant to Rule 65(b), Utah Rules of Civil Procedure, or any other applicable ordinance, statute or rule providing for such review. (Ord. 1157 I 2 (part), 1991; Ord. 1136 § 2 (part), 1990)

#### 5.136.400 Violation—Penalty.

A. In addition to revocation or suspension of a license as provided in this chapter, each violation of this chapter shall, upon citation by the county, require the licensee to pay a civil penalty in the amount of five hundred dollars. Such fines shall be deducted from the cost bond posted pursuant to this chapter unless paid within ten days of notice of the fine or the final determination after any appeal. In addition to the civil fines provided in this chapter, the violation of any provision of this chapter shall be a Class B misdemeanor. Each day of a violation shall be considered a separate offense.

B. Any person or business operating as a sexually oriented business, or any individual performing or rendering services as a sexually oriented business employee without a license therefor, shall, upon citation by the county for any violation of this chapter, be required to pay a civil penalty of five hundred dollars, which shall be in addition to any other administrative sanctions or criminal penalties. (Ord. 1204 §, 16, 1992; Ord. 1157 § 2 (part), 1991; Ord. 1136 51 2 (part), 1990)

#### 5.136.410 Severability.

If any provision or clause of this chapter or the application thereof in any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other sections, provisions, clauses or applications hereof which can be implemented without the invalid provision, clause or application hereof. To this end, the provisions and clauses of this chapter are declared to be severable. (Ord. 1157 § 2 (part), 1991; Ord. 1136 § 2 (part), 1990)