

**Chapter 9**  
**ADULT/SEX ORIENTED FACILITIES AND BUSINESSES**

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**10-9-1 PURPOSE**

The purpose and objective of this provision is to establish reasonable and uniform regulations and guidelines to approve conditional uses for adult/sex oriented facilities and businesses in order to prevent the concentration of such facilities and businesses or their location in areas deleterious to the Town, and prevent inappropriate exposure of such facilities and businesses to the community. This provision is to be construed as a regulation of time, place and manner of the operation of these facilities and businesses to protect legitimate governmental interests and mitigate the secondary effects of such businesses in a manner consistent with the constitutional protections provided by the United States and Utah Constitutions.

Adult/sex oriented facilities and business shall be a conditional use within the Light Industrial (LI) Zoning District and are prohibited in all other zoning districts. The following provisions are adopted governing the granting of conditional use permits for adult/sex oriented facilities and businesses and regulating the conduct of such businesses.

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## 10-9-2 DEFINITIONS

**Adult Business.** An Adult Theater, Adult Cabaret, Adult Motion Picture Theater, Adult Escort Services, Outcall Services, Adult Bookstore, Adult Video Store, Adult Boutique, Adult Novelty Shop or Adult Clothing/Lingerie Store.

**Adult Bookstores, Adult Novelty Store, Adult Video Store.** A business establishment which has a significant or substantial portion of its stock in trade, or derives a significant or substantial portion of its revenues, or devotes a significant or substantial portion of its interior business or advertising, or maintains a substantial section of its sales or display space for the sale or rental, for any form of consideration, of any one or more of the following

- a. Books, magazines, periodicals or other printed matter; photographs, films, motion pictures, video cassettes or video reproductions, slides or other visual representations; clothing of any type; the central theme of which depicts, describes, or encourages "specified sexual activities" or "specified anatomical areas,"
- b. Instruments, devices or paraphernalia which are designated for use or marketed primarily in connection with specified sexual activities, except for legitimate medically recognized contraceptives.

**Adult Cabaret.** An establishment which features as a principal use of its business, waiters, waitresses, or bartenders who are in a state of nudity or semi-nudity, and/or which features on a regular basis entertainers who perform in a state of nudity or semi-nudity.

**Adult Motion Picture Theater.** A business establishment which:

- a. Holds itself out as such a business; or
- b. As its principal business, regularly shows, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions which are primarily characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

**Adult/Sex Oriented Facility or Business.** Nude or Semi-Nude Entertainment Businesses and Adult Businesses as defined in this Ordinance.

**Adult Theater.** A theater, concert hall, auditorium, or similar business establishment which:

- a. Holds itself out as such a business; or
- b. As its principal business, regularly features persons who appear in live performance in a state of nudity or semi-nudity or which are characterized

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by the exposure of "specified anatomical areas" or by "specific sexual activities."

**Distance.** All distances discussed herein as they pertain to buffers from other SOBs, churches, schools, parks, and residential zone districts are measured as follows:

In a straight line, without regard to intervening structures, from the nearest property line of the school, park, church, residential zone district or other SOB to the nearest property line of the SOB.

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

**Escort Service.** An establishment which features as a principal use of its business, for pecuniary compensation, furnishing or offering to furnish escorts, or provides or offers to introduce patrons to escorts.

**Nude or Semi-Nude Entertainment Business.** A business, including an Adult Theater, where employees/entertainers perform or appear in the presence of patrons of the business in a state of nudity or semi-nudity. A business shall also be presumed to be a Nude or Semi-Nude Entertainment Business if the business holds itself out as such a business.

**Nudity or State of Nudity.** A state of dress in which the areola of the female breast, or male or female genitals, pubic region, or anus are covered by less than the covering required in the definition of semi-nude.

**Obscene.** Any material for performance is Obscene if:

- a. The average person, applying contemporary community standards, finds that, taken as a whole, it is intended, implied, or conceivably sexually oriented.
- b. It is patently offensive in the description or depiction of Nudity, sexual conduct, sexual excitement, sado-masochistic abuse, or excretion; and
- c. Taken as a whole, it does not have serious literary, artistic, political or scientific value.

**Operator.** The manager or other natural person principally in charge of an Adult/Sex Oriented Facility or Business.

**Outcall Services.** Escorts and businesses which provide, as any portion of their business, nude or semi-nude services outside of the premises in any place of private resort or private

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quarters by models, dancers or other similar employees.

**Semi-Nude.** A state of dress in which a person wears opaque clothing covering (1) only the male or female genitals, pubic region, and anus, by an opaque cover that is four inches wide in the front and five inches wide in the back tapering to one inch at the narrowest point, and (2) only the nipple and areola of the female breast, if applicable.

**Sexually-oriented Business Employees.** Those employees who work on the premises of the Adult/sex oriented facility or 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. All persons employed by an outcall service making outcall meetings under this Ordinance, including dancers, escorts, models, guards, drivers, and other similar employees, regardless of the employee's state of dress, shall be considered sexually-oriented business employees.

**Specified Anatomical Areas.** The human male or female pubic area or anus with less than a full opaque covering, or the human female breast from the beginning of the areola, papilla or nipple to the-end -thereof with less than full opaque covering.

**Specified Sexual Activities.** Means:

- a. Acts of masturbation, human sexual intercourse, or sodomy; or
- b. Manipulating, caressing or fondling by any person of the genitals of a human, the pubic area of a human, or the breast of a human female; or
- c. 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.
- d. Bestiality in any form.

### **10-9-3 CONFORMING CRITERIA**

Adult/sex oriented facilities and businesses shall conform to the following criteria:

- A. Adult/sex oriented facilities and businesses may be constructed or operated as conditional uses within the Light Industrial Zoning District.
- B. Adult/sex oriented facilities and businesses shall not be located within five hundred (500) feet of any other adult/sex-oriented facility and business.
- C. Adult/sex oriented facilities and businesses shall not be located within five hundred (500) feet of a church, public park or public or private school accredited by the State of Utah, or within three hundred (300) feet of any residential zone district, residential

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dwelling or use.

- D. All applicants for a conditional use must provide the following information, in addition to any other requirements required under this Code:
1. The correct legal name of each applicant, corporation, partnership, limited partnership or entity doing business under an assumed name that is making application for a conditional use permit hereunder.
    - a. If the applicant is a corporation, partnership or limited partnership or individual or entity doing business under an assumed name, the information required below shall be submitted for each partner and each principal of an applicant and for each officer or director. Any holding company or entity holding more than ten percent of an ownership shall be considered an applicant for purposes of disclosure under this provision.
    - b. All corporations, partnerships or non-corporate entities included on the application shall also identify each individual authorized by the corporation, partnership, or non-corporate entity to sign checks for such corporation, partnership or non-corporate entity.
  2. All applicants must provide any other names or aliases used by that individual, present physical and mailing business address and telephone number, present mailing, as well as physical, residential addresses and telephone number, Utah driver's license or identification number and social security number with appropriate proof that the individual is at least twenty-one (21) years of age. Where an applicant is a non-resident of the State of Utah, that applicant must provide an agent resident within the State to act on its behalf.
  3. The applicant's fingerprints on a form provided by the Rich County Sheriff's Department. For persons not residing in Rich County, the fingerprints shall be on a form from the law enforcement jurisdiction where the person resides. Fees for fingerprints shall be paid by the applicant directly to the issuing agency.
  4. A statement detailing the license or permit history of the applicant for the five year period immediately preceding the date of the filing of the application, including whether such applicant possesses or previously possessed any liquor licenses. The statement shall list all other jurisdictions in which the applicant owned or operated an adult/sex-oriented facility or business. The statement shall also state whether the applicant has ever had a license, permit, or authorization to do business denied, revoked or suspended in this or any other county, Town city, state, or territory. In the event of any such denial, revocation or suspension, state the date, the name of the issuing or denying jurisdiction and state in full the reasons for the denial, revocation or suspension. A copy of any order of denial, revocation or suspension shall be attached to the application for a conditional use permit.
  5. In the event the applicant is not the owner of record of the real property upon which the business or proposed business is to be located, the application must be accompanied by a

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notarized statement from the legal or equitable owner of 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 a copy of the lease or rental agreement pertaining to the premises in which the service is or will be located.

6. 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 adult/sex oriented facility or business intends to operate. This description shall also include:
  - a. the hours that the business or service will be open to the public and the methods of promoting the health and safety of employees and patrons and preventing them from engaging in illegal activity,
  - b. the methods of supervision preventing the employees from engaging in acts of prostitution or other related criminal activities,
  - c. the methods of supervising employees and patrons to prevent employees and patrons from charging or receiving fees for services or acts prohibited by other statutes and ordinances, and
  - d. the methods of screening employees and customers in order to promote the health and safety of employees and customers and prevent the transmission of disease, and prevent the commission of acts of prostitution or other criminal activity.
7. 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 entity subject to disclosure hereunder 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, plea, and sentence or other disposition; identifying the convicting jurisdiction and sentencing court and providing the court identifying case numbers or docket numbers. Application for a Conditional Use Permit for an Adult/Sex Oriented Facility or Business shall constitute a waiver of disclosure of any criminal conviction or plea of nolo contendere for the purposes of any proceeding to grant a permit for such business.
8. No applicant who has been convicted or pled nolo contendere to a crime involving prostitution, exploitation of prostitution, solicitation of sex acts, sex acts for hire, compelling prostitution, aiding prostitution, sale, distribution or display of material harmful to minors, sexual performance by minors, possession of child pornography, lewdness, indecent exposure, any crime involving sexual abuse or exploitation of a child, sexual assault or aggravated sexual assault, rape, forcible sodomy, forcible sexual abuse, incest, harboring a runaway child, criminal attempt, conspiracy, or solicitation to commit

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any of the foregoing offenses or offenses involving similar elements from any jurisdiction, regardless of the exact title of the offense for which less than two years have lapsed 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 previous five years, or if less than five years have elapsed from the date of conviction when the offense is a felony, shall be entitled to receive a conditional use permit to operate an adult/sex oriented facility or business in Randolph Town. The fact that a conviction is being appealed shall have no effect on the disqualification provide for in this subpart.

### **10-9-4 MANDATORY GENERAL CONDITIONS**

All conditional use permits for adult/sex oriented facilities and businesses shall include conditions which prohibit such facilities and businesses from:

- A. Allowing persons under the age of eighteen (18) years on the 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. Allowing, offering or agreeing to allow any alcohol to be stored, used, sold, or consumed on or in the premises,
- C. Allowing the outside or interior door to the premises to be locked while any customer or employee is in the premises, except that management may lock interior offices for security purposes,
- D. Allowing, offering or agreeing to gambling on the premises,
- E. Allowing, offering or agreeing to any employee of an adult/sex oriented facility or business touching any patron or customer in a sexually enticing, explicit, or arousing manner,
- F. Allowing, offering or agreeing to illegal possession, use, sale or distribution of controlled substances on the premises,
- G. Allowing, offering, or agreeing to commit prostitution, solicitation of prostitution, solicitation of a minor or committing activities harmful to a minor to occur on the premises,
- H. Allowing, offering, or agreeing to any specified sexual activity as validly defined by Randolph Town ordinances or state statute in the presence of any customer or patron,
- I. Allowing, offering, or agreeing to allow a patron or customer to masturbate in the presence of an employee or on the premises of an adult/sex oriented facility or business,
- J. Allowing, offering, or agreeing to commit an act of lewdness as defined in Utah State law, and
- K. Forbidding or prohibiting the Police Department or other County official from having

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access during the hours of operation to all premises covered by a conditional use permit for an adult/sex oriented facility or business or to make periodic inspection of said premises whether the officer or official is in uniform or plain clothes.

- L. Allowing a dancer, model or performer, while performing in any business licensed/permitted pursuant to this Ordinance:
  - 1. To touch in any manner any other person;
  - 2. To throw any object or clothing off the stage area;
  - 3. To accept or solicit any gratuity, money, drink, or any other object directly or indirectly from any patron;
  - 4. 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 in violation of State Indecency/Lewdness laws.
  
- M. Allowing a patron to touch in any manner any dancer, model, or performer; to place any money or object on or within the costume or person of any dancer, model, or performer; or to give or offer to give to any such dancer, model, or performer any drinks, money, or object.
  
- N. Allowing operation of the business from 11 p.m. to 10 a.m.

### **10-9-5 MANDATORY DESIGN OF PREMISES**

#### A. Adult Business.

- 1. In addition to all other requirements under this Ordinance, any applicant for a conditional use permit as an Adult Business shall also submit a diagram, drawn to scale, of the premises. The design and construction shall conform to the following:
  - a. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms;
  - b. Restrooms may not contain any video reproduction equipment or any of the business merchandise. Signs shall be posted requiring only one person be allowed in the restroom per stall and only one person in any stall at a time and requiring that patrons shall not be allowed access to-manager's station areas;
  - c. For businesses which exclude minors from the entire premises all windows, doors and other apertures to the premises shall be darkened or otherwise constructed to prevent anyone outside the premises from seeing the inside of the premises. Businesses which exclude minors from less than all of the premises shall be designed and constructed so that minors may not see into the area from which they are excluded;

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- d. The diagram must show marked internal dimensions, all overhead lighting fixtures and ratings for illumination.
2. It shall be the duty of the permit holder and its employees to insure that the views from the manager's station of all areas specified in section (1) (a) above 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.
3. The premises shall at all times be equipped and operated with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one foot-candle measured at floor level. It shall be the duty of the permit holder and its 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. Further, there shall be adequate outside lighting in such intensity to illuminate the parking lot which services the facility or business.
4. There shall be no outside neon lighting or spotlighting of the building or facility.
5. Outside signage shall be limited to signs which are affixed to the building or facility. Free standing signs or offsite signs are prohibited.

### B. Nude and Semi-Nude Entertainment Business.

1. Adult Theaters shall require that the performance area shall be separated from the patrons by a minimum of six feet, which separation shall be delineated by a physical barrier at least three feet high.
2. It is unlawful for business premises operating under a conditional use permit for Nude or Semi-Nude Entertainment to:
  - a. Permit a bed, sofa, mattress or similar item in any room on the premises, except that a sofa may be placed in a reception room open to the public or in any office to which patrons are not admitted, and except that in an Adult Theater such items may be on the stage as part of a performance;
  - b. Allow any door on any room used for the business, except for the door to an office to which patrons shall not be admitted, outside doors and restrooms to be lockable from the inside;
  - c. Provide any room in which the employee or employees and the patron or patrons are alone together without a separation by a solid physical barrier at least three feet high and six inches wide. The patron or patrons shall remain on one side of the barrier and the employee or employees shall remain on the other side of the barrier;

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3. All illumination at the business premises must be sufficient so that all objects are plainly visible at all times.

### **10-9-6 CONDITIONAL USE PERMIT REQUIRED**

Adult/sex oriented facilities and businesses are conditional uses in the Light Industrial Zone and must be approved in accordance with the provisions of this Ordinance. In all cases a site plan diagramming the premises shall be provided as part of the application process. A public hearing shall be required in all cases prior to conditional use approval. The procedures for conditional use approval, as described in the development code, shall be followed in all cases. A final decision by the Town as to the approval of a conditional use for a SOB shall be made within 90 days of receipt of a completed application unless a delay is requested or agreed upon by the applicant.

### **10-9-7 LOCATION AND ZONING RESTRICTIONS**

It shall be unlawful for any Adult/Sex Oriented Facility or Business to do business at any location within the Town not zoned for such business and where the necessary conditional use has not been approved.

### **10-9-8 BUSINESS LICENSE REQUIRED**

It shall be unlawful for any person to operate an Adult/Sex Oriented Facility or Business without first obtaining a business license from the Town. Said licenses shall be issued in accordance with Randolph Town Ordinance R93-1 July 1993, or its successor ordinance, after conditional use approval has been granted, and under the time limits therein provided.

### **10-9-9 SINGLE LOCATION AND NAME**

It is unlawful to conduct business under a business license and conditional use approval pursuant to this Ordinance at any location other than the licensed/permitted premises. It is further unlawful for any Adult/Sex Oriented Facility or Business to do business under any name other than the business name specified in the license or project applications.

### **10-9-10 TRANSFER LIMITATIONS**

Conditional Use Approvals and Business Licenses granted hereunder are not transferable. It shall be unlawful for an individual to transfer such approvals or licenses. It shall be unlawful for an adult/sex oriented facility or business conditional use approval held by a corporation, partnership or other non-corporate entity to transfer any part in excess of 10% thereof, without filing a new application and obtaining prior to Town approval. If any transfer of the controlling interest in an Adult/Sex Oriented Facility or Business occurs, the conditional use approval is immediately null and void and the business shall not operate until a new conditional use approval has been properly granted by the Town as herein provided.

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### **10-9-11 OBSCENITY AND LEWDNESS**

This provision shall not be construed as permitting any use or act which is otherwise prohibited or made punishable by law.

### **10-9-12 ALCOHOL PROHIBITED**

It is unlawful for any business licensed or permitted pursuant to this Ordinance to allow the sale, storage, supply or consumption of alcoholic beverages on the premises. It is unlawful for any person to possess or consume any alcoholic beverage on the premises of any Adult/Sex Oriented Facility or Business.

### **10-9-13 PROFESSIONAL SERVICE EXEMPTION**

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

### **10-9-14 NUDE MODELING/ESCORT SERVICES**

This Ordinance is not intended 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 Town does intend to prohibit prostitution and related offenses occurring under the guise of nude modeling or escorting. A contract for nude modeling or escort services must be signed by the parties at least twenty-four (24) hours in advance of such activity. During such nude modeling or escort services it shall be unlawful to:

- A. Appear nude or semi-nude in the presence of persons under the age of eighteen (18);
- B. Allow, offer or agree to any touching of the contracting party or other person by the individual appearing nude;
- C. Allow, offer or agree to commit prostitution, solicitation of prostitution, solicitation of a minor, or committing activities harmful to a minor;
- D. Allow, offer, commit, or agree to any sex act as validly defined by Town ordinance or state statute;
- E. Allow, offer, agree or permit the contracting party or other person to masturbate in the presence of the individual contracted to appear nude; or
- F. Allow, offer, or agree for the individual appearing nude to be within five feet of any other person while performing or while nude or semi-nude.

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### **10-9-15 NONCONFORMING USES**

Adult/Sex Oriented Facilities and Businesses already existing within the Town shall have the right to continue in their businesses without a conditional use permit. However, all such businesses shall be subject to compliance with the criteria, mandatory general conditions, and mandatory design of premise's conditions herein within ninety (90) days of the adoption of this Ordinance. A time extension may be granted where the Town Council determines, on a case-by-case basis, that a hardship exists for a business owner/operator.

### **10-9-16 CHANGE OR EXTENSION/ENLARGEMENT OF USE**

Any nonconforming use herein may not be materially changed, nor extended/enlarged unless it comes into compliance with the then existing Development Code.

### **10-9-17 CESSATION OF USE**

If active and continuous operations are not carried on in a nonconforming use during a continuous period of one (1) year, the building or land where such nonconforming use previously existed shall thereafter be occupied and used only for a conforming use. Intent to resume active operations shall not affect the foregoing.

### **10-9-18 DRAMATIC WORKS EXCEPTION**

This Ordinance shall not be construed so as to prohibit:

- A. Plays, operas, musicals, films, or other dramatic works which are not obscene;
- B. Classes, seminars, and lectures held for serious scientific or educational purposes;  
or
- C. Exhibitions, dances, or works of art which are not obscene.

### **10-9-19 EMPLOYEE LICENSES**

- A. It is unlawful for any sexually-oriented business to employ or for any individual to be employed by an adult/sex-oriented facility or business in Randolph Town unless that employee first obtains a sexually-oriented business license from the Town.
- B. Before any applicant may be licensed as a sexually-oriented business employee, the applicant shall submit in writing to the Town Recorder the following:
  - 1. The correct legal name of the applicant and any other names or aliases used by the individual;
  - 2. The applicants age, date and place of birth, height, weight, color of hair, color of eyes, present address and phone number, driver's license or identification number, and social

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security number;

3. Acceptable written proof that the applicant is at least eighteen years of age or, in the case of employees to be employed in businesses where a different age is required by law, proof of the required age;
  4. Two color photographs of the applicant clearly showing the individual's face, and the individual's fingerprints on forms provided by the Rich County Sheriff's Office. For persons not residing in Rich County, the photographs and fingerprints shall be on forms 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;
  5. For any applicant who works as a model, dancer, or escort, a certificate from the Rich 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;
  6. 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; and
  7. All criminal convictions or pleas of nolo contendere, except those which have been expunged, 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 nolo contendere and sentence of each conviction; identifying the convicting jurisdiction and sentencing court and providing the court identifying case numbers or docket-numbers. Application for a sexually-oriented business 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 employee license.
- C. Each initial application shall be accompanied by a nonrefundable fee as fixed by the Town to defray the costs of processing and investigating the application. Each applicant shall be required to pay regulatory license fees as fixed by the Town on a yearly basis. These fees are regulatory fees and shall be in addition to the other licenses and fees required to do business in the Town.
- D. The Town Recorder shall issue a license to the applicant within thirty days after receipt of a complete application unless he or she 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 Town of taxes, fees, fines or penalties assessed against the applicant or imposed on the applicant in relation to an adult/sex oriented facility or business;

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3. The applicant has falsely answered a material question or request for information as authorized by this Ordinance;
  4. The applicant has been convicted of a violation of a provision of this Ordinance or a similar ordinance from another jurisdiction within two years immediately preceding the application (the fact that a conviction is being appealed shall have no effect on the denial);
  5. The license fees required by this Ordinance have not been paid;
  6. An applicant has been convicted of or has pled nolo contendere to a crime:
    - a. involving prostitution; exploitation of prostitution; aggravated promotion 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
      - ii. less than five years have elapsed from the date of conviction, if the offense is a felony.
    - b. The fact that a conviction is being appealed shall have no effect on the disqualification pursuant to this Ordinance.
- E. Sexually-oriented business employee licenses issued pursuant to this Ordinance shall be valid from the date of issuance through July 1st of the next calendar year.
- F. Any change in the information required to be submitted by this Ordinance shall be given, in writing, to the Town Recorder within fourteen days after such change.
- G. Sexually-oriented business employee licenses shall not be transferable. 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. If such license is void, the employee may not reapply for a new license for one year.
- H. It is unlawful for any individual licensed pursuant to this Ordinance to fail to carry their employee license on their person, at all times while engaged in licensed activities within the Town limits. If the individual is nude, such license shall be visibly displayed within the same

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room as the employee is performing. It is unlawful to fail to show the appropriate licenses while engaged in licensed activities within the Town limits upon request by the Rich County Sheriff's Office or other enforcement personnel or health official.

### **10-9-20 PENALTIES**

- A. Violations of any of the provisions of this Ordinance shall subject the offender to the penalties as provided for in the Randolph Town Development Code, other applicable State law, or where no penalty is otherwise provided, a fine of not more than \$750 and a 90 day jail sentence.
- B. Businesses in violation of this Ordinance shall be subject to license revocation. Such business shall also be subject to conditional use approval revocation. Where revocations occur, those businesses which are nonconforming under the current development code shall thereafter cease to be legal nonconforming uses within Randolph Town.
- C. Sexually-oriented Business Employees in violation of this Ordinance shall be subject to license revocation proceedings wherein a hearing by the Town Council, or by an official whom the Council may designate, shall be afforded to the individual. The individual shall be given written notice of the violation and an opportunity to be heard before the Council or designated hearing official.
- D. It shall be unlawful to submit false or materially misleading information on or with a Conditional Use Approval Application for an Adult/Sex Oriented Facility or Business or to fail to disclose or omit information for the purpose of obtaining said approval.
- E. Prior to any approval or license revocation hearing, as provided for by the Development Code, Town Business License Ordinance, or this Ordinance, a stay of enforcement action shall be granted, pending the outcome of the hearing and subsequent appeals, upon written application to the Town by the approval or license holder.

### **10-9-21 RIGHT OF APPEAL**

- A. All appeals from denials by the Town Council of conditional use approvals shall all be as provided in Chapter 3 herein of the Randolph Town Development Code and application section of the Utah Code Annotated to the District Court within thirty (30) days of the Planning Commission/ Town Council's final action.
- B. All appeals from denials by the Town Recorder of sexually-oriented business employee

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licenses shall be directed to the Town Council.

### **10-9-22 NO RIGHTS CREATED IN THIRD PARTIES**

This Ordinance is not intended to, nor shall it be construed to create any rights, claims, or causes of action in third parties.

### **10-9-23 SAVINGS CLAUSE**

In the event one or more of the provisions of this Ordinance shall, for any reason, be held to be unenforceable or invalid in any respect under any applicable laws, such unenforceability or invalidity shall not affect any other provision; and in such an event, this Ordinance shall be construed as if such unenforceable or invalid provision had never been contained herein.

### **10-9-24 CONFLICT**

Any Ordinance, Resolution, or any provision of the Randolph Town Development Code which is inconsistent with this Ordinance is hereby repealed to the extent of that inconsistency.