

ORDINANCE NO. 2002- 01

AN ORDINANCE ADOPTING WASATCH COUNTY ORDINANCE NO. 01-25 A COUNTY-WIDE ORDINANCE REGULATING SEXUALLY-ORIENTED BUSINESSES

BE IT ORDAINED BY THE HEBER CITY COUNCIL AS FOLLOWS: There is hereby added to the Heber City Municipal Code Chapter 18.46 which reads as follows:

18.46.010 County-Wide Sexually-Oriented Businesses Ordinance

All sexually-oriented businesses within Heber City and the unincorporated and possibly other incorporated areas, are prohibited, regulated, allowed, and limited as the case may be pursuant to Chapter 5.40 of the Heber City Municipal Code relating to licensing and pursuant to the County Ordinance No. 01-25 passed by Wasatch County and accepted and adopted by Heber City pursuant to Heber City Resolution Number 2002-01 and the Interlocal Agreement for County-Wide Zoning of Sexually-Oriented Businesses approved by said resolution. Wasatch County Ordinance No. 01-25 reads as follows:

ORDINANCE NO. 01-25

AN ORDINANCE REGULATING SEXUALLY-ORIENTED BUSINESSES TO HELP PROTECT PROPERTY VALUES AND THE HEALTH, SAFETY AND GENERAL WELFARE OF THE CITIZENS OF WASATCH COUNTY AND ITS INCORPORATED CITIES AND TOWNSHIPS

BE IT ORDAINED by the County Commission of Wasatch County, Utah, that Ordinance Number 01-08, enacted as Wasatch County Code chapter 16, at Section 16.02.500 is hereby repealed and;

IT IS ALSO ORDAINED, that the within ordinance is enacted as Wasatch County Code, Chapter 16 at Section 16.02.501, which is to read as follows:

16.02.501 SEXUALLY-ORIENTED BUSINESSES

(1) INCORPORATION

The provisions of Section 11.04 of the Wasatch County Code relating to the purpose of this ordinance, findings and definitions are incorporated herein by reference thereto as though fully set forth hereat.

(2) DEFINITIONS: The term "sexually-oriented business" means an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motion picture theater, adult theater, nude model studio, or sexual encounter center, more specifically defined as follows:

- A. "Adult Arcade" means any place to which the public is permitted or invited where either or both (a) motion picture machine, projectors, video or laser disc players, or (b) other video or image-producing devices are available, run via coin, token, or any form of consideration, to show images to five or fewer persons at one time; and where the images shown and/or live entertainment presented are characterized by the depiction or description of specified sexual activities or specified anatomical areas.
- B. "Adult Bookstore" means a commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:
 - i. books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video reproductions, slides, or other representations that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; or

- ii. instruments, devices, or paraphernalia, other than prophylactics, that are designed for use in connection with specified sexual activities.
- C. "Adult Cabaret" means a nightclub, bar, restaurant, or similar commercial establishment that regularly features:
 - i. persons who appear in a state of semi-nudity;
 - ii. live entertainment characterized by the depiction or description of specified anatomical areas or specified sexual activities;
 - iii. live entertainment of an erotic nature including exotic dancers, strippers, male or female impersonators, or similar entertainment; or
 - iv. films, motion pictures, video cassettes, slides or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.
- D. "Adult Motion Picture Theater" means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.
- E. "Adult Theater" means a theater, concert hall, auditorium, or similar commercial establishment that regularly features persons who appear in a state of semi-nudity, live performances which are characterized by the depiction or description of specified anatomical areas specified sexual activities, or live entertainment of an erotic nature including exotic dancers, strippers, male or female impersonators, or similar entertainment.
- F. "Nude Model Studio" means any place where a person who appears semi-nude or who displays specified anatomical areas is provide to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. Nude Model Studio shall not include:
 - i. a proprietary school license by the State of Utah, or a college, junior college or university supported entirely or in part by public taxation;
 - ii. a private college or university that offers educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
 - iii. an establishment holding classes in a structure that has no sign visible from the exterior of the structure and no other advertising that indicates a seminude person is available for viewing; where in order to participate in a class a student must enroll at least three days in advance of the class; and where no more than one semi-nude model is on the premises at any one time.
- G. "Sexual Encounter Center" means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:
 - i. physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

- ii. activities between male and female person and/or persons of the same sex when one or more of the persons is semi-nude.

(3) LOCATION OF BUSINESSES - RESTRICTIONS.

- A. Adult/Sexually-oriented facilities and businesses, may be constructed or operated as a permitted use within any areas zoned I-1 or I-2 within the unincorporated county or any of the incorporated municipalities, subject to the following additional restrictions: No sexually-oriented business shall be located:
 - i. Within 1,000 feet of any public or private school, public building, public or private recreation facilities, day care centers, public park, hospital, public library, or religious institution. Public buildings for the purpose of this Section relates to a building frequented by the public and not a public building that is designed primarily for the workmen and employees, such as a public works facility or animal control shelter, nor does it include any public buildings located on the Heber City Airport property.
 - ii. Within 600 feet of any residential use (excepting homes that were established or approved as industrial caretaker's dwellings) or any residential/agricultural zoning boundary.
 - iii. Within 600 feet of any other sexually-oriented business, except outcall services.
 - iv. Within 350 feet of any gateway corridor. A "gateway corridor" is defined as including any State or Federal Highway entering into the Heber Valley, and the main entrance to the Heber Airport, known as "Airport Road". The distance shall be measured from the right-of-way boundary.
 - v. On the premises of the Heber Airport.
- B. Distance requirements between structures and uses specified in this Section shall be measured in a straight line, without regard to intervening structures or zoning districts, from the property boundaries of the school, public park, religious or cultural activity, residential use, or other sexually-oriented business, or from the right-of-way line of a gateway to the structure of the sexually-oriented business.
- C. Distance requirements from zoning districts for this Section shall be measured in a straight line, without regard to intervening structures or zoning districts, from the closest zoning boundary of a residential or agricultural district to the sexually-oriented business structure.

(4) EFFECT ON NON-CONFORMING BUSINESSES.

All existing legal, non-conforming sexually-oriented businesses, as of the effective date of the ordinance codified in this Chapter, or any amendment hereto, shall comply with the provisions of this Chapter within nine months from the date this ordinance is enacted.

(5) SIGNS.

Notwithstanding anything contrary contained in the Wasatch County Code or the code of any of its incorporated cities involved, the more restrictive requirements for signs shall prevail. Signs for sexually-oriented businesses shall be limited as follows:

- A. Signs for such business shall require a permit as outlined in the Wasatch County Sign ordinance.

- B. No descriptive art or designs depicting any activity related to or inferring the nature of the business shall be allowed on any sign. Said signs shall contain alphanumeric copy only.
- C. Other than the signs specifically allowed by this Chapter and the applicable City or County Sign Ordinances, the sexually-oriented business shall not attach, construct, or allow to be attached or constructed any temporary sign, banner, light, or other device designed to draw attention to the business location, without a permit approved by the Zoning Administrator or such other body or staff member as designated by the governing body.
- D. The location of such signs must be located on the premises of the actual business itself, and under no circumstances are they allowed to be erected within any of the protection zones outlined above in Section 3A (i through v).

(6) LOCATION AND ZONING RESTRICTIONS.

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

APPROVED and PASSED this _____ day of _____, 2001

ATTEST:

**BOARD OF COUNTY
COMMISSIONERS OF
THE COUNTY OF WASATCH**

Brent R. Titcomb
Wasatch County Clerk / Auditor

T. LaRen Provost, Chairman

VOTE

T. LaRen Provost, Chairman _____
Michael L. Kohler, Commissioner _____
Ralph L. Duke, Commissioner _____

18.65.020 Interlocal Agreement

In the event the interlocal agreement for County-wide zoning of Sexually-Oriented Businesses is terminated this ordinance with respect to Heber City shall survive the termination with a six month temporary regulation being imposed prohibiting the establishment of any such new businesses pending an evaluation of the effect of such termination upon this ordinance.

This ordinance shall take effect and be in force from and after (a) Its adoption, (b) a copy has been deposited in the office of the City Recorder, and (c) a short summary of it has been published in the Wasatch Wave or a complete copy has been posted in three public places within Heber City.

ADOPTED AND PASSED by the City Council of Heber City, Utah this 17th day of January, 2002, by the following vote:

	AYE	NAY
Councilman Terry Wm. Lange	X	_____

Councilman Jerry W. Smith

Absent

Councilman Vaun Shelton

X

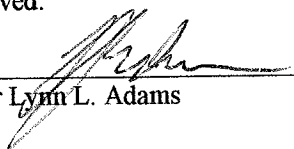
Councilman David R. Phillips

X

Councilman John Burns

X

Approved:



Mayor Lynn L. Adams

ATTEST:



RECORDER

(Seal)

Date of First Publishing

7-06-02