CITY OF LOGAN, UTAH
ORDINANCE NO. 13-55

AN ORDINANCE AMENDING SECTION 5.29.020 OF THE LOGAN MUNICIPAL CODE REGARDING SEXUALLY ORIENTED BUSINESSES

WHEREAS, the state legislature has granted general welfare power to the City Council, independent, apart from, and in addition to, its specific grants of legislative authority, which enables the City of Logan to pass ordinances as are necessary and proper to provide for the safety, promote the prosperity, improve the peace and good order, comfort, and convenience of the City and its inhabitants, and for the protection of property in the City; and

WHEREAS, sexually oriented businesses require special supervision from the public safety agencies of the City in order to protect and preserve the health, safety, morals and welfare of the patrons of such businesses as well as the citizens of the City; and

WHEREAS, the City Council finds that sexually oriented businesses are frequently used for unlawful sexual activities, including prostitution and sexual liaisons of a casual nature; and

WHEREAS, the concern over sexually transmitted diseases is a legitimate health concern of the City which demands reasonable regulation of sexually oriented businesses in order to protect the health and well-being of the citizens; and

WHEREAS, licensing is a legitimate and reasonable means of accountability to ensure that operators of sexually oriented businesses comply with reasonable regulations and to ensure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation; and

WHEREAS, there is convincing documented evidence that sexually oriented businesses, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, causing increased crime and the downgrading of property values; and

WHEREAS, it is recognized that sexually oriented businesses, due to their nature, have serious objectionable operational characteristics, particularly when they are located in close proximity to each other, thereby contributing to urban blight and downgrading the quality of life in the adjacent area; and

WHEREAS, underage performers have been used in depictions, both in films and live performances; and

WHEREAS, the City Council desires to minimize and control these adverse effects and thereby protect the health, safety, and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life; preserve the property
values and character of surrounding neighborhoods and deter the spread of urban blight; and

WHEREAS, the City Council has determined that location criteria alone do not adequately protect the health, safety, and general welfare of the people of this City; and

WHEREAS, it is not the intent of the City Council to condone or legitimize the distribution of obscene material, and the Council recognizes that state and federal law prohibits the distribution of obscene materials and expects and encourages state law enforcement officials to enforce state obscenity statutes against any such illegal activities in the City; and

WHEREAS, the City recognizes its constitutional duty to interpret, construe, and amend its laws and ordinances to comply with constitutional requirements as they are announced; and

WHEREAS, with the passage of any ordinance, the City and the City Council accept as binding the applicability of general principles of criminal and civil law and procedure and the rights and obligations under the United States and Utah Constitutions, Utah Revised Code, and the Utah Rules of Civil and Criminal Procedure; and

WHEREAS, it is not the intent of this ordinance to suppress any speech activities protected by the First Amendment of the U.S. Constitution or Article 1, section 15 of the Utah State Constitution, but to enact a content neutral ordinance which addresses the secondary effects of sexually oriented businesses; and

WHEREAS, the City Council has determined that the following ordinance is in the City’s best interest;

NOW THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF LOGAN, UTAH, AS FOLLOWS:

SECTION 1:

5.29.020: PURPOSE OF PROVISIONS AND FINDINGS:

A. Purpose: It is the purpose and object of this chapter that the city establish reasonable and uniform regulations governing the time, place and manner of operation of sexually oriented businesses and their employees in the city. This chapter shall be construed to protect the governmental interests recognized by this chapter in a manner consistent with constitutional protections provided by the United States and Utah constitutions.


(1) Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities and therefore a mechanism is needed by the city to make the owners and operators of these establishments responsible for the activities that occur on their premises.

(2) Certain employees of unregulated sexually oriented businesses defined in this ordinance as adult theaters and cabarets engage in higher incidence of certain types of illicit sexual behavior than employees of other establishments.

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

(4) Offering and providing such unregulated space encourages such activities, which creates unhealthy conditions.

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

(6) Numerous communicable diseases may be spread by activities occurring in sexually oriented businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis, salmonella.
campylobacter and shigella infections, chlamydial, myoplasmal and ureoplasmal infections, trichomoniasis and chancroid.

(7) According to research from the Kaiser Family Foundation, an estimated 1,300,000 Americans are infected with HIV. Men and women of all races are most likely to be infected by sexual contact.

(8) Relevant statistics revealed that a total of 2,614 AIDS cases had been reported in Utah as of December 31, 2011.

(9) The Centers for Disease Control and Prevention estimates that as many as 1 in 5 people with HIV do not know they are infected.

(10) The number of cases of syphilis in the United States reported annually is 13,970 in 2011.

(11) The number of cases of gonorrhea in the United States reported annually is 321,849 in 2011. The number of cases of chlamydia in the United States reported annually is 1,412,791 in 2011.

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

(13) According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts. See, e.g., Findings of U.S. Dept. of Health & Human Services.

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

(15) Numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where persons view "adult" oriented films.

(16) The findings noted in paragraphs number 1 through 15 raise substantial governmental concerns.

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

(18) A reasonable licensing procedure is an appropriate mechanism to
place the burden of that reasonable regulation on the owners and the operators of
the sexually oriented businesses. Further, such a licensing procedure will place a
heretofore nonexistent incentive on the operators to see that the sexually oriented
business is run in a manner consistent with the health, safety and welfare of its
patrons and employees, as well as the citizens of the City. It is appropriate to
require reasonable assurances that the licensee is the actual operator of the
sexually oriented business, fully in possession and control of the premises and
activities occurring therein.

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

(20) Requiring licensees of sexually oriented businesses to keep information
regarding current employees and certain past employees will help reduce the incidence
of certain types of criminal behavior by facilitating the identification of potential
witnesses or suspects and by preventing minors from working in such establishments.

(21) The disclosure of certain information by those persons ultimately
responsible for the day-to-day operation and maintenance of the sexually oriented
business, where such information is substantially related to the significant
governmental interest in the operation of such uses, will aid in preventing the spread
of sexually transmitted diseases and will prevent the further secondary effects of
dissemination of illegal obscenity, child pornography, and to minors, materials
harmful to them;

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

(23) The fact that an applicant for an adult use has been convicted of a
sexually related crime leads to the rational assumption that the applicant may engage
in that conduct in contravention of this ordinance.

(24) The barring of such individuals from employment in sexually oriented
businesses for a specified period of years serves to prevent distribution of illegal
material, to prevent conduct which leads to the transmission of sexually transmitted
diseases, and to preclude the establishment of criminal enterprises within the City.

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

SECTION 2: Effective Date. This ordinance shall become effective upon publication.
PASSED BY THE LOGAN MUNICIPAL COUNCIL, STATE OF UTAH, THIS DAY OF July, 2013.

AYES: Wash, Jensen, Daines, Atten, Andrews
NAYS: none
ABSENT: none

/s/ Holly Daines, Chair

ATTEST:
/s/ Teresa Harris, City Recorder

PRESENTATION TO MAYOR

The foregoing ordinance was presented by the Logan Municipal Council to the Mayor for approval or disapproval this 6th day of July, 2013.

/s/ Holly Daines, Chair

MAYOR'S APPROVAL OR DISAPPROVAL

The foregoing ordinance is hereby approved this 6th day of July, 2013.

/s/ Randy Watts, Mayor
STATE OF UTAH
COUNTY OF CACHE, ss

On this 12th day of August, A.D. 2013 personally appeared
before me Monica Christensen who being first being duly sworn, deposes and says that
she is the Assistant to the Finance Director of the Cache Valley Publishing Co., publishers of The Herald Journal
a daily newspaper published in Logan City, Cache County Utah, and that the
Legal Notice, a copy of which is hereto attached was published in said
newspaper for 1 issue(s) and that said notice also published on utahlegals.com
on the same days(s) as publication in said newspaper

Commencing on the following days:
08/11/2013

Monica
Assistant to the Finance Director

Subscribed and sworn to before me on this 12th day of August, A.D. 2013

Amanda Marie Nye
Notary Public

My Commission expires August 1, 2015

LEGAL NOTICE
LOGAN MUNICIPAL COUNCIL

SUMMARY OF AN ORDINANCE(S) The following ordinances
were adopted and approved by the Logan Municipal Council,
Logan, Utah on August 6, 2013.
ORD. 13-53 Amendment to Section 17.27.030 of the Land
Development Code regarding Allowed Uses In District and
Corridor Zones (Quad Elite Training); TIN: 07-176-0008.
ORD. 13-52 Amendment to Sections 5.17.010, 5.17.030,
5.17.040, 5.17.050, 5.17.060, 5.17.060 and 5.17.100 of the
Logan Municipal Code regarding Landlords of Rental
Dwellings.
ORD. 13-54 Adding Section 5.17.095 to the Logan Municipal
Code regarding Notice of Occupancy Limitations.
ORD. 13-55 Amendment to Section 5.29.020 of the Logan
Municipal Code regarding Sexually Oriented Businesses.
ORD. 13-58 Amendment to Chapter 2.36.010 of the Logan

These ordinances are effective immediately upon publication.
Full text of the ordinances may be reviewed at the Office of
the Logan City Recorder, City Hall, 290 North 100 West, Logan,
Utah during regular business hours.

Teresa Harris,
City Recorder

Publication Date: August 11, 2013
Civil

PROOF OF PUBLICATION

STATE OF UTAH
COUNTY OF CACHE, ss

On this 29th day of July, A.D. 2013 personally appeared before me Monica Christensen who being first being duly sworn, deposes and says that she is the Assistant to the Finance Director of the Cache Valley Publishing Co., publishers of The Herald Journal a daily newspaper published in Logan City, Cache County Utah, and that the Legal Notice, a copy of which is hereto attached was published in said newspaper for 1 issue(s) and that said notice also published on utahlegals.com on the same days(s) as publication in said newspaper

Commencing on the following days:
07/28/2013

Monica Christensen, Assistant to the Finance Director

Subscribed and sworn to before me on this 29th day of July, A.D. 2013

Amanda Marie Nye, Notary Public

Commissioned in the State of Utah

My Commission expires August 1, 2015

NOTARY PUBLIC
AMANDA MARIE NYE
600362
COMMISSION EXPIRES
AUGUST 18, 2014
STATE OF UTAH

NOTICE OF PUBLIC HEARING
Logan Municipal Council

The Municipal Council of the City of Logan, Utah will hold public hearings to consider the following:

Consideration of a proposed resolution approving the City of Logan Light & Power Department Rate Schedule #6 General Service-Distribution Voltage; Consideration of a proposed resolution approving polling locations and poll workers for the August 13, 2013 Primary Election; Consideration of a proposed amendment to Sections 5.17.010, 5.17.030, 5.17.040, 5.17.050, 5.17.060 and 5.17.100 of the Logan Municipal Code regarding Landlords of Rental Dwellings: Consideration of a proposed ordinance adding Section 5.17.095 of the Logan Municipal Code regarding the Notice of Occupancy Limitations; Consideration of a proposed amendment to Section 5.29.020 of the Logan Municipal Code regarding Sexually Oriented Businesses (Legislative Update); Consideration of a proposed amendment of the Logan Municipal Code regarding Neighborhood Councils.

Said public hearings will be held Tuesday, August 6, 2013, not before 5:30 p.m. in the Logan Municipal Council Chambers, 290 North 100 West, Logan UT.

Full text of the resolutions are available for inspection at the City Recorder's Office during business hours.

Teresa Harris, City Recorder

Publication Date: July 28, 2013