

ORDINANCE NO. 293

AN ORDINANCE AMENDING TITLE 9 OF THE SUGAR CITY MUNICIPAL CODE TO ADD A NEW CHAPTER 9 WHICH REGULATES ADULT ENTERTAINMENT/ SEXUALLY ORIENTED BUSINESS; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH AND PROVIDING A SEVERABILITY CLAUSE.

WHEREAS, the Mayor and City Council find it to be in the best interests of the City of Sugar City and the citizens thereof that adult entertainment/sexually oriented business be regulated; NOW, THEREFORE,

BE IT ORDAINED, by the Mayor and City Council of the City of Sugar City Title 9 of the Sugar City Municipal Code be amended to add a new Chapter 9 as follows:

CHAPTER 9 Sexually Oriented Business

Section:

- 9-9-1 Purpose and Intent
- 9-9-2 Definitions
- 9-9-3 Location of Business
- 9-9-4 Signs
- 9-9-5 Development Standards

9-9-1: Purpose and Intent

- A. The purpose of this chapter is to promote the public health, safety, morals, and general welfare by regulating adult entertainment, sexually oriented businesses and related uses.
- B. The intent of this chapter is not to limit or restrict, by purpose or effect, the content or form of any materials, including sexually oriented materials. Neither is it the intent, by purpose or effect, to condone or legitimize distribution or exhibition of obscene materials.

9-9-2: Definitions

- A. Terms involving adult entertainment and sexually oriented businesses shall have the meaning set forth in chapter 9-2.
- B. Furthermore, the terms "Adult" and "Sexually oriented" shall include, but not be limited to, the following types of establishments and activities related to them: Adult Arcades, Adult Book Stores, Adult Video Stores, Adult Motels, Adult Movie Theaters, Viewing Rooms/Booths, Nudity in Sexually Oriented Businesses, Adult Massage Parlor, Adult Sauna, Adult Entertainment Center, Adult Cabaret, Adult Health/Sport Club, Adult Steam Room/Bathhouse Facility, Nude Dancing Establishment.

9-9-3:Location of Business

A. No person, whether as principal or agent, clerk or employee, either for himself or any other person, or as an officer of any corporation, or otherwise, shall place, maintain, own, or operate any sexually oriented business within one thousand (1,000) feet of any residential zoning district or area designated residential on the comprehensive plan land use map.

B. No person, whether as principal or agent, clerk or employee, either for himself or any other person, or as an officer of any corporation, or otherwise, shall place, maintain, own, or operate any sexually oriented business within two thousand five hundred (2,500) feet of the following land uses:

1. Public library
2. Public playground or park;
3. Public or private school and its grounds; from kindergarten through twelfth grade;
4. A state licensed family day care facility, group day care home, or day care center; or
5. Church or other place of worship.

C. No person, whether as principal or agent, clerk or employee, either for himself or any other person, or as an officer of any corporation, or otherwise, shall place, maintain, own, or operate any sexually oriented business within one thousand (1,000) feet of another sexually oriented business.

D. For purposes of this section, specified distances will be measured in a straight line, without regard to intervening structures, from the property line of the sexually oriented business to the property line of the preceding land uses or zoning districts.

E. Sexually oriented business may be permitted only in the following zoning district and there only by special use permit.

1. Highway Commercial (C3) Zone
2. Light Manufacturing (M1) Zone

9-9-4:Signs

Notwithstanding any other city ordinance or city resolution, code or regulations to the contrary, it shall be unlawful for the operator of any sexually oriented business or any other person to erect, construct, or maintain any sign for a sexually oriented business other than one sign as provided herein and except as provided in 9-9-4-D.

A. The sign shall have only one display surface, and the display surface shall:

1. Not contain any flashing lights or moving effects;
2. Be a flat plane, rectangular in shape;
3. Not exceed twenty-five (25) square feet in area or the maximum size allowed under any other relevant city ordinance or county resolution, whichever is less; and
4. Not exceed ten (10) feet in height or ten (10) feet in length or the maximum height allowed under any other relevant city ordinances or county resolution, whichever is less.

B. The sign shall contain no photographs, silhouettes, drawings or pictorial representations of any type and may contain only the name of the business.

C. Each letter of each word shall be of a solid color, and each letter shall be the same print-type, size, and color. The background on the display surface shall be of uniform and solid color.

D. A sign shall be posted on each door stating "Adults only" or "No Minors Allowed." Such signs shall comply with A-1, 2, B and C, above.

9-9-5:Development Standards

A. A sexually oriented business shall be subject to all development standards of the zoning district in which it is located, including, but not limited to, setbacks, building height, projections, design standards, parking, etc.

b. No merchandise or representations of products or entertainments shall be displayed in windows or in such a way that they can be viewed or perceived from outside the building.

All ordinances and parts of ordinances, and sections of the Code and parts of sections of the Code in conflict with this ordinance are hereby repealed in so far as they may contradict this ordinance.

Neither the adoption of this ordinance nor the repeal of any ordinance shall, in any manner, affect the prosecution for violation of such ordinance committed prior to the effective date of this ordinance or be construed as a waiver of any license or penalty due under any such ordinance or in any manner affect the validity of any action heretofore taken by the City of Sugar City Council or the validity of any such action to be taken upon matters pending before the City Council on the effective date of this ordinance.

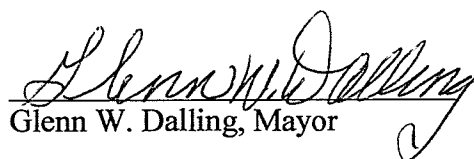
The provisions of this ordinance are severable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid, or unconstitutional or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this ordinance or their application to other persons or circumstances. It is hereby declared to be the legislative

intent that this ordinance would have been adopted if such illegal, invalid or unconstitutional provision, clause sentence, subsection, word, or part had not been included therein, and if such person or circumstance to which the ordinance or part thereof is held inapplicable had been specifically exempt therefrom.


After its passage and adoption, a summary of this Ordinance, under the provisions of the Idaho Code, shall be published once in the official newspaper of the City of Sugar City, and upon such publication shall be in full force and effect.

Passed under suspension of rules upon which a roll call vote was duly taken, and duly enacted an ordinance of the City of Sugar City at a regular session of the City Council on April 28, 2011.

APPROVED, ADOPTED, and SIGNED this 28th day of April, 2011


Glenn W. Dalling, Mayor

ATTEST:


City Clerk

(SEAL)

