

## NOTICE AND AGENDA

Notice is hereby given that the City Council of the City of Santaquin will hold a City Council Meeting on Wednesday, July 19, 2006, in the Council Chambers, 45 West 100 South, at 7:00pm.

### AGENDA

1. **ROLL CALL**
2. **PLEDGE OF ALLEGIANCE**
3. **INVOCATION/INSPIRATIONAL THOUGHT**
4. **CONSENT AGENDA**
  - a. Minutes
    1. July 5, 2006
  - b. Bills
    1. \$133,821.90
5. **PUBLIC FORUM, BID OPENINGS, AWARDS, AND APPOINTMENTS**

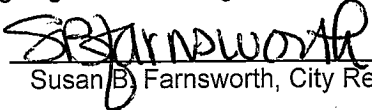
Public Forum will be held to a 30 minute maximum with each speaker given no more than 5 minutes each. If more than 6 Speakers, time will be adjusted accordingly to meet the 30 minute requirement
6. **FORMAL PUBLIC HEARINGS**
7. **UNFINISHED BUSINESS**
  - a. Discussion with regard to the proposed Sexually oriented Business Regulations
  - b. Discussion with regard to the proposed Home Occupation Regulations
8. **NEW BUSINESS**
  - a. Discussion with regard to the Employee Summer Party
9. **BUSINESS LICENSES**
10. **INTRODUCTIONS AND ADOPTION OF ORDINANCES AND RESOLUTIONS**
  - a. Resolution 07-01-2006 "Fee Schedule"
11. **PETITIONS AND COMMUNICATIONS**
12. **REPORTS OF OFFICERS, STAFF, BOARDS, AND COMMITTEES**
  - a. City Manager
    1. General update
  - b. Planning Commission
    1. General update
13. **REPORTS BY MAYOR AND COUNCIL MEMBERS**
  - a. Mayor DeGraffenried
    1. Update on the Public Safety CDBG Audit
14. **EXECUTIVE SESSION** (May be called to discuss the character, professional competence, or physical or mental health of an individual)
15. **EXECUTIVE SESSION** (May be called to discuss the pending or reasonably imminent litigation, and/or purchase, exchange, or lease of real property)
16. **ADJOURNMENT**

If you are planning to attend this Public Meeting and, due to a disability, need assistance in understanding or participating in the meeting, please notify the City ten or more hours in advance and we will, within reason, provide what assistance may be required.

### CERTIFICATE OF MAILING

The undersigned duly appointed City Recorder for the municipality of Santaquin City hereby certifies that a copy of the foregoing Notice and Agenda was faxed to the Payson Chronicle, Payson, UT, 84651.

BY:

  
Susan B. Farnsworth, City Recorder

### POSTED:

CITY CENTER  
POST OFFICE  
ZIONS BANK

® Amendment to Agenda

**MINUTES OF A CITY COUNCIL MEETING  
HELD IN THE COUNCIL CHAMBERS  
JULY 19, 2006**

Mayor James E. DeGraffenried called the meeting to order at 7:05 p.m. Council Members attending: Arthur Adcock, Tracy Roberts, Todd Starley, Martin Green, and James Linford.

Others attending: City Manager Stefan Chatwin, Legal Counsel Brett Rich, City Planner Dennis Marker, Planning Commission Representative Doug Rohbock, Ashley Mortensen, Karen Mortensen, Lynette Davis, Debra Helm, Jimmy Stewart, Rachel Sonderegger, and Glen Ware.

**PLEDGE OF ALLEGIANCE**

Council Member Adcock led the Pledge of Allegiance.

**INVOCATION/INSPIRATIONAL THOUGHT**

Mayor DeGraffenried offered a Word of Prayer.

**CONSENT AGENDA**

***Minutes***

July 5, 2006

***Bills***

\$133,821.90

Council Member Starley moved to approve the Consent Agenda. Council Member Linford seconded the motion. The vote was unanimous.

**PUBLIC FORUM, BID OPENINGS, AWARDS, AND APPOINTMENTS**

Mayor DeGraffenried reported the Community Development Block Grant Representative recently preformed the audit on the funds received for the construction of the Public Safety Building. The Representative indicated she was impressed with the neatness of the files, which were kept by Shannon Hoffman. The Representative indicated she wished all Cities had someone as competent as Ms. Hoffman administrating the CDBG Grants and paperwork. Mayor DeGraffenried presented Ms. Hoffman with an Employee Recognition for her efforts.

Mayor DeGraffenried also presented Susan Farnsworth with a "thank-you" for the work involved in budget operations as well as "for keeping the Mayor and Council on the straight and narrow".

Mrs. Davis, Miss Santaquin Director, reported Sarah Olson has resigned as Miss Santaquin due to an up coming marriage. Ashley Mortensen, who was crowned as First Attendant, will assume the Queen's responsibilities. Ms. Mortensen will be representing Santaquin at the Miss Utah Pageant in 2007.

Ms. Sonderegger, who recently represented Santaquin City at the Miss Utah Pageant, reported she had a great time participating in the pageant. She indicated attending this event was a great experience.

Ms. Mortensen introduced herself as the New Miss Santaquin. She indicated she was excited to attend Miss Utah this coming year as the City Representative. Her platform theme will be "Develop a Talent, Serve the Community and Save a Child". She will be holding classes for the Children of the City to help them develop their talents as well as holding a talent show for them to participate in. She indicated she would be holding a fund raiser during the Celebration park activities and requested that the booth rental fee be waived. The Mayor and Council Members were in agreement that she would not be charged the fee.

Mr. Stewart indicated he wanted to bring to the attention of the Mayor and Council Members a problem with continual running water at 400 East and 100 North. Mayor DeGraffenried indicated the water is coming from a natural spring and will be piped into the sump that is already in place in front of Mr. Stewart's property. City Manager Chatwin indicated the acting Engineer has committed to have an action plan memo to the Mayor and Council Members by the end of the week pertaining to this issue.

### FORMAL PUBLIC HEARINGS

Nothing

### UNFINISHED BUSINESS

#### *Discussion with regard to the proposed Sexually Oriented Business Regulations*

City Planner Marker reviewed with the Mayor and Council Members, the Planning Commission Member's comments and concerns with regard to the proposed Ordinance. Legal Counsel Rich indicated he had reviewed the proposed Ordinance and found the definitions contained within the Ordinance would require some rewording (see attachment "A" for Staff recommendations).

Legal Counsel Rich indicated the proposed Ordinance is too restrictive and if adopted by the Council Members, could cause the City problems. It was recommended allowing the Sexually Oriented Businesses within a particular Zone. Also the recommendation was made to base the availability of a license on the number of Residents within the City. Legal Counsel Rich would like documentation supporting the proposed buffering requirements. He stated that if the Ordinance were to be challenged he then would be in a position to defend the Ordinance.

Mayor DeGraffenried reminded those in attendance of the Business who challenged the County Ordinance pertaining to the counter sale of certain magazines. He indicated, due to winning the challenge, the business became a major spot to visit. Mayor DeGraffenried questioned why the City couldn't adopt an Ordinance along the same line as the County. Legal Counsel Rich indicated he wasn't familiar with the Ordinance and therefore didn't have any comments with regard to the issue.

Council Member Green indicated he didn't want to see the City put in a position, if the proposed Ordinance is adopted, that they can be challenged. Planning Commission Representative Rohbock indicated he agreed with Council Member Green.

City Manager Chatwin stated the City should approach the requirements for the business in a manner that would not put the City in jeopardy.

Mr. Rohbock was questioned as to why he, as part of the Planning Commission had voted against the Ordinance draft. He indicated he had problems with the definitions therefore voted against it.

Legal Counsel Rich said the proposed land for such businesses is owned by the City and would not be available use.

Council Member Adcock reviewed with those in attendance, a number of his concerns. One of those concerns is that the City didn't have a zone for this particular kind of business.

Council Member Roberts indicated the sewer lagoons would be a great place for this type of business.

Council Member Green met with Val Butler to discuss the proposed Ordinance. She is not in favor of the City adopting an ordinance that would put the city in jeopardy but would like the City to continue working on establishing an Ordinance.

Council Member Linford was told that City Planner Marker had contacted the Midvale City Attorney with regard to Midvale's Ordinance. He then incorporated some of their Ordinance language into Santaquin City's draft.

Council Member Roberts indicated he would like to have an Industrial Zone established before the Ordinance is adopted. Council Member Green recommended having Legal Counsel Rich review the Ordinance wording and at the same time have the Planning Commission establish an area for an Industrial Zone. Council Member Starley asked if the recently adopted Temporary Ordinance pertaining to new Commercial Development would cover this issue. Legal Counsel Rich indicated it would not as the issues are not the same. Mayor DeGraffenried recommended following Council Member Green's suggestion as well as in the meantime adopt a Temporary Ordinance pertaining to this issue. In conclusion, Council Member Adcock indicated the Ordinance should not be returned to the Planning Commission however they should be allowed to participate in the zoning recommendation.

Mayor DeGraffenried requested Ms. Hoffman report on the progress of the Public Safety Building. She indicated the project is scheduled for completion by August 5<sup>th</sup>. There currently isn't permanent power, which should be installed shortly. She indicated the asphalt should be laid next week. Also reported is a Property Owner who borders the Public Safety Building is allowing his Summit Creek Water to flood the property. A letter will be sent to the property owner addressing this issue.

Council Member Starley requested an update on the CDBG application to install a Pedestrian Walkway along Highland Drive. Ms. Hoffman indicated the City didn't make the final CDBG cut therefore the project will not move forward.

***Discussion with regard to the proposed Home Occupation Regulations***

City Planner Marker requested the Mayor and Council submit, to him, their comments and concerns with regard to the proposed Home Occupation Regulation. A discussion was held with regard to sign requirements (see attachment "B" for the Planning Commission's recommendations).

Council Member Adcock reviewed his comments, which included signing issues. He was in favor of signs being attached to the home instead of in the yard.

Legal Counsel Rich will work with City Planner Marker to finalize the draft and present it to the Council for adoption.

Mr. Ware recommended adding a distance requirement pertaining to signing. He indicated a sign announcing a home occupation should not be a great distance from the resident.

In conclusion, Council Member Adcock commented that the minutes of the Planning Commission indicated a Home Occupation is to incubate a business. He indicated when that business begins to grow it should be moved to a Commercial Zone.

At 8:43 p.m. Council Member Green moved to take a 5 or 10-minute break. Council Member Linford seconded the motion. The vote was unanimous.

At 8:53 p.m. Mayor DeGraffenried called the meeting to order.

#### **NEW BUSINESS**

##### ***Discussion with regard to the Employee Summer Party***

City Manager Chatwin reported the Summer Employee Barbecue has been scheduled for August 15, 2006 at the Centennial Park beginning at 6:30 p.m. Administrative Assistant Shannon Hoffman will be responsible for the party preparations. Council Member Green will be responsible for cooking the meat.

#### **BUSINESS LICENSES**

Nothing

#### **INTRODUCTIONS AND ADOPTION OF ORDINANCES AND RESOLUTIONS**

##### ***Resolution 07-01-2006 "Fee Schedule"***

Council Member Green moved to approve Resolution 07-01-2006 "Fee Schedule" with the additional verbiage of Multi Family to "Residential Site Plan Review" and correct the fee for Street Lights Major Collectors and Arterials to reflect the fee of \$2780.00. Council Member Adcock seconded the motion. Council Member Roberts indicated he isn't sold on the Temporary Sign Permit Fee. City Manager Chatwin indicated the proposed fee reflects actual costs associated with the permit. Council Member Roberts was told there has been a problem in the past with "temporary" signs becoming "permanent" signs. After the discussion, Council Members Linford, Green, Starley, Roberts and Adcock voted in favor of the motion.

#### **PETITIONS AND COMMUNICATIONS**

Nothing

#### **REPORTS OF OFFICERS, STAFF, BOARDS, AND COMMITTEES**

##### ***City Manager***

##### ***General update***

City Manager Chatwin reported Chief Howard is currently in the hospital. He contacted staff infection and will be required to have a third surgery, on Friday is the infection doesn't show signs of clearing. City Manager Chatwin will visit with Chief Howard on Thursday and report his progress back to the Mayor and Council Members.

Council Member Adcock was told the bid opening was held for the Pressurized Irrigation System. Acceptance of the bid will be held during a Special Council Meeting, which will be held next Wednesday. The received bids were close to the Engineers Estimates.

Those in attendance were told a new pump for the Eastside well has been ordered and will be installed as quickly as it is received.

Also reported was that the reservoir issue will be on the agenda as soon as the Request for Proposals is complete.

City Manager Chatwin reported State Representative Painter as well as the 2 LDS Stake Presidents will be meeting with the Consultant on Friday for a brief overview of Economic Issues.

Council Member Adcock requested direction as to the Regional Wastewater Facility issue. He was told that Mayor DeGraffenried will be meeting with the South County Mayors group next month to discuss this issue.

***Planning Commission***

**General update**

As the Planning Commission Representative participated in the previous discussion he was excused from the meeting.

**REPORTS BY MAYOR AND COUNCIL MEMBERS**

Council Member Starley reported he would like to discuss the issue of the Roping Club becoming a part of the Recreation Department. He and Carwynn Carter had a discussion with regard to the maintenance of the rodeo grounds. City Manager Chatwin indicated he spoke with Mr. Carter with regard to a 4-H activity that was scheduled to be held tonight at the arena. Mr. Carter was upset that they were going to be charged to use the restroom. He was told that the City had to pay an individual to open, clean and close the restrooms. Those requesting the use and not the Residents of the City should absorb the cost. City Manager Chatwin reported he made a judgment call and allowed the restrooms to be used at no cost to them but cautioned them that they would be expected to pay all costs the next event. Council Member Starley indicated Mr. Carter told him the Roping Club Members were no longer allowed to use the City's equipment. City Manager Chatwin indicated this was correct due to insurance liabilities. He also was told that Public Works Employee would groom the arena once a week so it could be used.

Council Member Green was told the amendments to the Summit Ridge Agreement were in the hands of the Legal Counsels. When additional information is available it will be presented to the Mayor and Council Members.

Council Member Green reported Andrew Goudy indicated he had enough horses for the Council Members to ride during the parade. Mayor DeGraffenried questioned if everyone would be uncomfortable riding a horse they were not familiar with. Council Member Green suggested not using the horses if there were any concerns. Council Member Green will find alternate transportation.

A discussion was held with regard to the lighting along the underpass walkway. The Mayor and Council Members were told a railing will be installed and at which time the lighting will be adjusted.

Council Member Linford was told the 400 East Project will be ready to bid by the end of the week. The Engineers are confident the project will be complete by the beginning of the school year.

Council Member Linford reported that other Judicial Courts were using the Court Assessment Fees in an effort to mitigate Court cost for the Cities. Mayor DeGraffenried would meet with Council Member Linford to discuss the information pertaining to these fees.

**EXECUTIVE SESSION** (May be called to discuss the character, professional competence, or physical or mental health of an individual)

Nothing

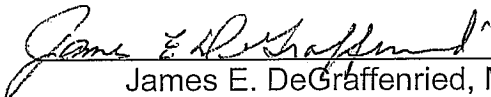
**EXECUTIVE SESSION** (May be called to discuss the pending or reasonably imminent litigation, and/or purchase, exchange, or lease of real property)

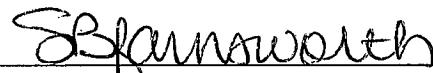
Nothing

**ADJOURNMENT**

At 10:00 p.m. Council Member Linford moved to adjourn. Council Member Starley seconded the motion. The vote was unanimous.

Approved on August 2, 2006.

  
James E. DeGraffenried, Mayor

  
Susan B. Farnsworth, City Recorder



*freedom · family · friendship*

## MEMORANDUM

Friday, April 21, 2006

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To: Mayor DeGraffenried and City Council via Planning Commission  
From: Dennis Marker, City Planner  
RE: Sexually oriented business regulations

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CA#06-06

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**Notice: This item was noticed to the general public in accordance with City procedures.**

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### Background:

City ordinance, Title 3, Business Licensing, regulates the licensure and standards of operation for businesses in the City. As the City begins to grow in population and interests so does the economic landscape of the area. With these changes comes the possibility of adult businesses, commonly known as sexually oriented businesses, entering the City.

In anticipation of a sexually oriented businesses staff has prepared the following ordinance for review by the City Council (See Exhibit A). The attached exhibit incorporates the Planning Commissions desired buffering and signage standards as discussed during previous work sessions and public meetings. Please note that it has been broken into two parts; Title 3, Business Licensing (from page 1-18 of Exhibit A) and Title 10, Land Use Code (from page 19-22 of Exhibit A). This division is for segregating the land use provisions and sign regulations apart from the licensing procedures. The Planning Commission has reviewed the proposed language and has forwarded a positive recommendation to the City Council (See attached Planning Commission minutes).

Staff has researched the Midvale City, Sexually Oriented Business regulations as requested by the Council during a previous work session. The proposed language is similar to that found in the Midvale ordinance. Midvale City does not regulate adult businesses based on a percentage of adult oriented material or goods sold.

### Analysis:

**General Plan Requirements.** The General Plan, adopted November 15, 2000, supports the role of business within the City and the proper regulation of such businesses in order to maintain the City's family oriented, rural atmosphere. This is illustrated through the following goals and policies of the General Plan.



**Community Vision.**

- Goal 1:** To provide a strong business tax base.  
**Objective 2** Create an economically viable setting for businesses.  
**Policy 2** Assure that proper zoning is currently in place to encourage appropriate businesses and discourage inappropriate businesses.  
**Goal 4:** To create a family oriented, clean, fun, and friendly community that is both a great place to live and a crossroads for south Utah County

**Residential Land Uses**

- Goal 1:** To provide for residential areas in Santaquin that support and complement the unique rural quality and character of the city.  
**Policy 1:** Avoid encroachments of land uses which would adversely affect residential areas, i.e.; increased traffic, noise, visual disharmony, etc., by providing adequate screening and buffering an any adjacent commercial or industrial development including parking and service areas.  
**Policy 3:** Maintain and enhance the pleasing appearance and environmental quality of existing residential neighborhoods.

**Commercial Land Uses**

- Goal 1:** To encourage the establishment of a centralized business district with low impact type businesses, which will enhance the City's sales and property tax revenues and provide the highest quality goods and services for local residents, while enhancing the visual appeal of Main Street.  
**Policy 3:** Improve the image and appearance of commercial corridors, specially along Main Street  
**Policy 4:** Carefully limit any negative impacts of commercial facilities on neighboring land-use areas, particularly residential development.

The City's Long Range Master Plan, adopted April 6, 2005 further states,

"Methods of protecting residential areas by providing transitions and buffers between residential and commercial areas include, but are not limited to: increased setbacks, landscaping, restricted land uses, traffic control, controlled noise or light, height limitations, and transitional land use types which are known to generate little or no patron traffic such as business offices."

**State Land Use Laws.** State law states that municipalities may enact "ordinances, resolutions, and rules pertaining to density, open spaces, structures, buildings, energy efficiency, light and air, air quality, transportation and public or alternative transportation, infrastructure, street and building orientation and width requirements, public facilities, and height and location of vegetation, trees, and landscaping, unless expressly prohibited by law" (UAC 10-9a-102(2)). It

also states that such ordinances shall be for the purpose of "providing for the health, safety, and welfare, and promote the prosperity, improve the morals, peace and good order, comfort, convenience, and aesthetics of each municipality and its present and future inhabitants and businesses. . ." (UAC 10-9a-102(1)).

The proposed ordinance provides the City with a means of effecting the above purposes outlined in State law. It also provides for the implementation of the city's goals and policies outlined within the adopted General Plan.

#### **Affect and Non-conforming Uses**

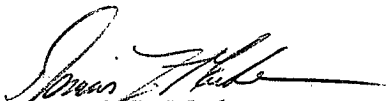
There are currently no licensed sexually oriented businesses in Santaquin City. There will be no legal non-conforming uses/businesses after adoption of this ordinance.

#### **Recommendation:**

Staff recommends that the Planning Commission review the proposed ordinance and forward a positive recommendation to the City Council for its adoption based on the following findings:

#### **Findings**

1. Studies have shown that sexually oriented businesses require increased use of public resources due to increased crime against persons and property.
2. Courts do not allow City's to prohibit such businesses entirely from within their jurisdictions.
3. Residents of Santaquin City have expressed a desire for the city to adopt regulations for such businesses.
4. State law provides for City's to adopt ordinances "providing for the health, safety, and welfare, and promote the prosperity, improve the morals, peace and good order, comfort, convenience, and aesthetics of each municipality and its present and future inhabitants and businesses."
5. The City desires to maintain high moral standards for its citizenry by limiting places of such nature.
6. The proposed ordinance provides the City with a means to appropriately regulate and provide for sexually oriented businesses while limiting their affects on City residents, public places, other commercial businesses as well as City services and resources.
7. The proposed ordinance is in keeping with the land use and economic goals of the City's General Plan.

  
Dennis L. Marker  
City Planner

**GENERAL DISCUSSION / WORK SESSION**

**Creation of an Ordinance Regulating Adult Businesses.**

Commissioner Bean opened the discussion regarding the Creation of an Ordinance Regulating Adult Businesses. He stated that there was no description of a zone or location where a Sexually Oriented Business (SOB) would be allowed. Legal Counsel Rich responded that the City would have to have a zone where this type of business would be allowed. He stated that SOB Ordinances were fairly standard. Commissioner Reed asked Legal Counsel Rich if an SOB could be isolated. Legal Counsel Rich responded in the affirmative, but cautioned the Commissioners to be reasonable. City Manager Chatwin stated that a City could have several different types of zones with different types of businesses allowed in each. He stated that a SOB may be allowed in a specific zone. Commissioner Bean commented that this might be an industrial zone because families are less likely to drive through that area. He reported that there was only one industrial zone left along the highway. Commissioner Reed asked if the property would have to be re-zoned and the residents would have to approve the re-zoning. City Planner Marker responded in the negative. Commissioner Rohbock stated that a Public Hearing would have to be held. Commissioner Bean suggested creating a restrictive zone since the City did not have an established zone as yet. Commissioner Hales suggested annexing the land north of the landfill and creating a zone in that area. Commissioner Rohbock agreed with putting an adult type business in an industrial zone. City Manager Chatwin stated that the City would need to identify an industrial zone with different classifications. Commissioner Bean suggested defining the Industrial zone now and then creating different levels within the Industrial zone at a later date. Legal Counsel Rich stated that the City could not pass an Ordinance to make it appear that a SOB would be allowed, but then not have anywhere within the City to establish one. City Planner Marker displayed a map showing a 1000' buffer throughout the City. Legal Counsel Rich cautioned the Commissioners that if something would be identified as a Conditional Use in a zone, nothing could be done to stop a business coming in that met the specific conditions.

Council Member Green asked if there could be a limit as to how many of a certain type of business could be allowed. Legal Counsel Rich responded in the affirmative. Commissioner Rohbock and Bean felt that keeping a SOB in an Industrial zone would be the best option for now. Commissioner Callahan disagreed, and explained that in the long run with the development of the Master Plan, that type of business in an Industrial zone would defeat the purpose. She added that she would be in favor of creating another zone to accommodate an adult business.

Commissioner Goudy referenced page 7 of the proposed Ordinance and questioned one SOB allowed for each 6,000 residents. Commissioner Rohbock suggested one license for every 10,000 residents. Legal Counsel Rich responded that the higher the ratio of business to residents, the more open the Ordinance could be challenged. Commissioner Bean asked Legal Counsel Rich for his best suggestion. Legal Counsel Rich stated that either way, the City would be at risk. He stated if the Ordinance passed, it might entice someone to bring a SOB to Santaquin. He stated that it would be difficult to have a Public Hearing because no one would want that type of business near them. He stated that the City could ignore the issue and hope that nothing happened, but if the City did nothing, it would be at risk because a SOB applicant could then decide the location of the business. Commissioner Bean asked if the City could put together an Ordinance and then sit on it. City Manager Chatwin responded that with no Ordinance in place and once an application has been submitted, the Ordinance would not apply

to that business.

Legal Counsel Rich suggested City Planner Marker obtain South Salt Lake and Murray City SOB Ordinances. He stated that some cities have already been challenged. He stated that whatever restrictions were put in place, they would have to be reasonable restrictions.

Commissioner Bean suggested a 1000' buffer to a residential zone or any residence, as well as 500' away from any major thoroughfare. Commissioner Rohbock added that there could be no access to a major road and advertising would be restricted.

Commissioner Rohbock moved to take a 5 minute recess. Commissioner Bean declared a recess at 9:00 PM.

Commissioner Bean reconvened the Planning Commissioner meeting at 9:10 PM.

Commissioner Goudy asked what type zone Orem City has in place. She stated that it may help in determining what types of zones a SOB could be in. City Planner Marker indicated that he would obtain that information for Commissioner Goudy.

With no further discussion, Commissioner Bean moved to table the Creation of an Ordinance Regulating Adult Businesses. Commissioner Hales seconded the motion.

The vote to table the Creation of an Ordinance Regulating Adult Businesses was unanimous.

Legal Counsel Rich was thanked and excused at 9:12 PM.

## **MINUTES**

### Minutes – April 13, 2006

Commissioner Bean moved to approve the April 13, 2006 meeting minutes as amended. Commissioner Goudy seconded the motion.

The vote to approve the amended minutes of the April 13, 2006 meeting was unanimous.

## **REPORT OF OFFICIALS AND STAFF**

### City Council Report

Council Representative Green stated that he had nothing to report. He expressed his appreciation for those Planning Commissioners who attended the joint work session with the City Council and indicated that he appreciated their comments. Commissioner Bean stated that although there may be different opinions, there were good members on the City Council and Planning Commission and added that those differences help to make the City strong.

### City Manager's Report

City Manager Chatwin indicated that he had nothing for the Commissioners. Commissioner Callahan asked City Manager Chatwin to provide an update with regards to the consultants hired by the City. City Manager Chatwin stated that the majority of the meetings with the consultants centered on assessing what surrounds Santaquin. He stated they were looking at where things were, where Santaquin was at, all possibilities, etc. He stated that in traveling to Little Sahara to the west, there were no signs directing travelers to Santaquin. He indicated they have discussed where signs could be, as well as other types of things. City Manager Chatwin reported that they have assessed Santaquin City's declaration boundaries and

Commissioner Bean closed the Public Hearing regarding the Conditional Use Permit Application for Sunroc Corporation Mass Grading Application at Summit Ridge.

PLANNING COMMISSION

MAY 11, 2006

PAGE 4 OF 9

Discussion and Possible Action regarding the Conditional Use Permit Application for Sunroc Corporation Mass Grading application at Summit Ridge.

Commissioner Bean opened the item for discussion.

Commissioner Callahan indicated that all of her questions had been answered.

Commissioner Rowley stated that the Conditional Use Permit needed to be contingent for 2 ½-3 years.

Commissioner Rohbock moved to recommend approval to the City Council for the Conditional Use Permit Application for Sunroc Corporation Mass Grading Application at Summit Ridge with the engineer's recommendation and a 3-year conditional use period. Commissioner Hales seconded the motion.

The vote to recommend approval to the City Council regarding the Conditional Use Permit Application for Sunroc Corporation Mass Grading Application at Summit Ridge was unanimous.

Public Hearing regarding the Creation of an Ordinance Regulating Adult Businesses.

Commissioner Bean opened the Public Hearing regarding the Creation of an Ordinance Regulating Adult Businesses. Seeing no public in attendance, Commissioner Bean closed the Public Hearing regarding the Creation of an Ordinance Regulating Adult Businesses.

Discussion and Possible Action regarding the Creation of an Ordinance Regulating Adult Businesses

Commissioner Rohbock reported that he attended the City Council meeting and informed the Council Members that the Planning Commissioners had discussed no advertising and/or access to any residential type zones, as well as being allowed in an Industrial zone. He reported that the Council Members seemed to agree with the direction the Planning Commission was going. He stated that Mayor DeGraffenried stated that the Commissioners should keep in mind the individual's personal rights.

Commissioner Rohbock asked who the Business License Official was referred to on page 3 of 21. City Planner Marker responded that at this point the Business License Official was the City Council. He stated that many cities have one individual who reviewed business licenses. City Planner Marker stated that the Business License Official could be changed to indicate the City Council or a 'designee'. Commissioner Rohbock indicated that he would like to see the City Council listed as the Business License Official. Commissioner Goudy agreed. City Planner Marker reminded the Commissioners that if they would like to make any change in the future, the whole Ordinance would have to be brought back for any proposed amendments. Commissioner Hales suggested using the term "Business License Approval Body", rather than Business License Official. Commissioner Rohbock stated that the City Council was the approval body and should be worded as such. Commissioner Bean agreed. City Planner Marker stated that he would make any changes and added that the Commissioners may want to leave the term as "Business License Official" and then define the Business License Official as the City Council. Commissioner Bean suggested changing the definition of the Business License Official as the City Council or its Designee.

Commissioner Goudy referenced page 20 of 21 indicating that she felt the sign placement of 165' from any gateway should be more. Commissioner Callahan agreed. City Planner Marker stated that the 165' distance from a gateway still allows a sign on the Industrial or Commercial zone, but the sign would be far enough back from the street.

Following a brief discussion with regard to zone locations, a buffer zone and Commissioner Hales recommended approval to the City Council to accept the Creation of an Ordinance Regulating Adult

Businesses. Commissioner Bean asked if Commissioner Hales would like to change or add the Residential Zone or Residential Dwelling to the Ordinance.

**PLANNING COMMISSION**  
**MAY 11, 2006**  
**PAGE 5 OF 9**

Commissioner Goudy suggested tabling the item until Legal Counsel could review and make recommendations. She indicated that the Commissioners would then review the recommendations before having the Ordinance go to the City Council. Commissioner Rowley seconded the motion.

Commissioner Bean indicated that it would be proper for Commissioner Hales to withdraw his motion before another motion could be made. Commissioner Hales withdrew his motion to recommendation approval to the City Council.

Commissioner Goudy moved to table the Creation of an Ordinance Regulating Adult Businesses. Commissioner Rowley seconded the motion. Commissioner Rohbock indicated that he would like to discuss who would enforce employee work permits. He asked if individual employees would be finger printed. City Manager Chatwin stated that generally employees are a controlled thing; things that can be bringing illegal activity, and having background check for individuals who work there.

The vote to table the Creation of an Ordinance Regulating Adult Businesses was unanimous.

Public Hearing regarding the Code Amendment regarding the Code Amendment clarifying the City's bonding Process and Determination of Required Guarantee Amounts

Commissioner Bean opened the public hearing. There were no members of the public in attendance. Commissioner Bean closed the public hearing.

Discussion and Possible Action regarding the Code Amendment clarifying the City's bonding Process and Determination of Required Guarantee Amounts

City Planner Marker remarked that comments from the last Commission meeting had been incorporated into this latest draft. Commissioner Rohbock felt the ordinance read pretty good and questioned why it had come back to the Planning Commission. City Planner Marker stated that because it was not noticed as an action item at last meeting.

Commissioner Hales moved to recommend approval to the City Council regarding the Code Amendment clarifying the City's Bonding Process and Determination of Required Guarantee Amounts. Commissioner Rohbock seconded the motion.

The vote to recommend approval to the City Council regarding the Code Amendment clarifying the City's Bonding Process and Determination of Required Guarantee Amounts was unanimous.

Commissioner Goudy was excused at 8:28 PM

Public Hearing regarding the Code Amendment Modification of Regulations pertaining to Home and Premise Occupations.

Commissioner Bean opened the Public Hearing regarding the Code Amendment Modification of Regulations pertaining to Home and Premise Occupations.

With no public in attendance, Commissioner Bean closed the Public Hearing regarding the Code Amendment Modification of Regulations pertaining to Home and Premise Occupations.

Discussion and Possible Action regarding the 400 East Orchard Lane Rezoning.

Commissioner Bean opened the discussion regarding the 400 East Orchard lane Rezoning and turned time over to City Planner Marker. City Planner Marker thanked the Commissioners and concerned public. He stated that as the City reviewed the criteria for the rezone, it found that the request met the General Plan, it was not a spot zoning, there would be minimal adverse affects and it was not creating any unnecessary, nonconforming uses. He stated that the rezoning would utilize the gateway to the City and would provide for as little impact as possible. He added that the best place for commercial zoning is along the freeway corridor and UDOT was impairing access to this area. The larger commercially zoned area could possibly make new access options available.

After several attendees reiterating their concerns and feelings, Commissioner Rohbock moved to accept the 400 East Orchard Rezoning with the Sorenson property being zoned Commercial and the remaining property as R-10 to the City Council. Commissioner Goudy seconded the motion.

With the motion to rezone the Sorenson property to C-1 and leave the rest of the property as R-10 made and seconded, the vote was as follows:

Commissioner Goudy – Aye  
Commissioner Callahan – Nay  
Commissioner Hales – Aye  
Commissioner Bean – Aye  
Commissioner Rohbock – Aye  
Commissioner Reed – Aye

Commissioner Bean commented that this was a thorny issue and indicated that everyone would not be happy with the decision. He stated that concerns should be taken to the City Council, but stated that the City has no control over stop lights and access issues. City Planner Marker stated that no future mailings would be sent to adjacent property owners and added that residents should watch for local papers and postings on the property regarding public hearings in front of the City Council.

Commissioner Bean thanked everyone for their comments.

**CODE AMENDMENTS**

Creation of an Ordinance Regulating Adult Businesses.

Commissioner Bean opened the discussion regarding the Creation of an Ordinance Regulating Adult Businesses. Commissioner Goudy complimented City Planner Marker of the fantastic job he has done on the Ordinance. She stated that the Ordinance indicated where an Adult Business could not be and did not determine where it might be permitted. City Planner Marker stated that the discussion at the last meeting was to stay away from specific zones where Adult Business could be allowed.

Commissioner Bean moved to recommend that the City Council accept the Ordinance Regulating Adult Businesses with the change of operating hours from 10:00 AM to 10:00 PM. Commissioner Reed seconded the motion.

**ROLL CALL**

Commissioner Goudy – Aye  
Commissioner Callahan – Aye  
Commissioner Hales – Aye  
Commissioner Bean – Aye  
Commissioner Rohbock – Nay  
Commissioner Reed – Aye

Exhibit A  
Proposed Sexually Oriented Business Ordinance

**Title 3 Business and License Regulations**

**Chapter 6 Sexually Oriented Business and Employee Licensing Ordinance.**

**3 - 6 - 1 General Provisions**

**3 - 6 - 1 - 1 Title**

The ordinance codified in this chapter shall be known and may be referred to as the "Sexually Oriented Business and Employee Licensing Ordinance."

**3 - 6 - 1 - 2 Purpose**

It is the objective of this chapter that the city establish reasonable and uniform regulations governing the operation of sexually oriented businesses and their employees in the city. This chapter shall be construed by the city to protect the governmental interests recognized by this chapter in a manner consistent with constitutional protection provided by the United States and Utah Constitutions.

**3 - 6 - 1 - 3 General applicability**

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.

**3 - 6 - 1 - 4 Obscenity**

Notwithstanding anything contained in this chapter, nothing in this chapter shall be deemed to permit or allow the showing or display of any material which is contrary to the provisions of the Santaquin City Municipal Code, or other applicable federal or state statutes prohibiting obscenity.

**3 - 6 - 1 - 5 Definitions**

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

**ADULT ARCADE:** Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by their emphasis upon matter exhibiting or describing "specified sexual activities" or "specified anatomical areas."



Exhibit A  
Proposed Sexually Oriented Business Ordinance

ADULT BOOKSTORE, ADULT NOVELTY STORE, ADULT VIDEO STORE: A commercial establishment which has as 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, or photographs, films, motion pictures, video cassettes, compact discs, slides, or other visual representations which are characterized by their emphasis upon the exhibition or description of "specified sexual activities" or "specified anatomical areas."
- B. Instruments, devices, or paraphernalia that are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others.

ADULT CABARET: A nightclub, bar, juice bar, restaurant bottle club, or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features:

- A. Persons who appear semi-nude,
- B. Live performances which are characterized by the exposure of "specified anatomical areas" or "specified sexual activities," or
- C. Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by their emphasis upon the exhibition or description of "specified sexual activities" or "specified anatomical areas."

ADULT MOTEL: A motel, hotel, or similar commercial establishment which

- A. Offers public accommodations, for any form of consideration, which regularly provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by their emphasis upon the exhibition or description of "specified sexual activities" or "specified anatomical areas" and which advertises the availability of this sexually oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising, including but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television; and
- B. Offers a sleeping room for rent for a period of time less than ten (10) hours; or
- C. Allows a tenant or occupant to sub-rent the sleeping room for a time period of less than ten (10) hours.

ADULT MOTION PICTURE THEATER: A commercial establishment where films, motion pictures, video cassettes, slides or similar photographic reproductions which are characterized by their emphasis upon the exhibition or description of "specified sexual activities" or "specified anatomical areas" are regularly shown for any form of consideration.

Exhibit A  
Proposed Sexually Oriented Business Ordinance

ADULT THEATER: A theater, concert hall, auditorium, or similar commercial establishment which, for any form of consideration, regularly features persons who appear live in a state of semi-nudity or live performances which are characterized by their emphasis upon the exhibition of "specified anatomical areas" or "specified sexual activities."

BUSINESS LICENSE OFFICIAL: Means the city's business license officer or his designee.

CONTROLLING INTEREST: The power, directly or indirectly, to direct the operation, management or policies of a business or entity, or to vote twenty (20) percent or more of any class of voting securities of a business. The ownership, control, or power to vote twenty (20) percent or more of any class of voting securities of a business shall be presumed, subject to rebuttal, to be the power to direct the management, operation or policies of the business.

DISTINGUISHED OR CHARACTERIZED BY AN EMPHASIS ON: The dominant or principal theme of the object described by such a phrase. For instance, when the phrase refers to films "which are distinguished or characterized by an emphasis upon the exhibition or description of "specified sexual activities or specified anatomical areas." The films so described are those whose dominant or principal character and theme are the exhibition or description of "specified anatomical areas" or "specified sexual activities."

EMPLOY, EMPLOYEE AND EMPLOYMENT: Describes and pertains to any person who performs any service on the premises of a sexually oriented business, on a full time, part time, or contract basis, whether or not the person is designated an employee, independent contractor, agent, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises or similar type of function.

ESTABLISH OR ESTABLISHMENT: Includes any of the following:

- A. The opening or commencement of any sexually oriented business as a new business.
- B. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
- C. The addition of any sexually oriented business to any other existing sexually oriented business; or
- D. The relocation of any sexually oriented business.

HEARING OFFICER: The mayor of Santaquin City or a designee of the mayor.

LICENSEE: A person in whose name a license to operate a sexually oriented business has been issued, as well as the individual or individuals listed as an applicant on the application for a sexually oriented business license. In case of an "employee" it shall mean the person in whose name the employee license has been issued.

Exhibit A  
Proposed Sexually Oriented Business Ordinance

NUDITY OR STATE OF NUDITY: The showing of the human male or female genitals, pubic area, vulva, anus, or anal cleft with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple or areola.

OPAQUE: Impervious, having capacity to block out or obstruct the visual image of an object.

OPERATE OR CAUSE TO OPERATE: To cause to function or to put or keep in a state of doing business. Operator means any person on the premises of a sexually oriented business who is authorized to exercise overall operational control of the business or who cause to function or who puts or keeps in operation the business. A person may be found to be operating or causing to be operated a sexually oriented business whether or not that person is an owner, part owner, or licensee of the business.

PARK: Public land which has been designated for park or recreational activities, including but not limited to, a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, open space, wilderness areas, or similar public land within the city which is under the control, operation, or management of the city park and recreation authorities, including but not limited to the following parks and facilities: Centennial Park, Squash head Park, Cottonwood Park, East Side Park, Orchard Cove Park, Santaquin Meadows Ball Fields, and other related trails, parking lots, playgrounds, ball fields.

PECUNIARY COMPENSATION: Any commission, fee, salary, tip, gratuity, profit, reward, or any other form of consideration.

PERSON: An individual, proprietorship, partnership, corporation, association, or other legal entity.

PLACE OPEN TO PUBLIC VIEW: An area capable of observance by persons from the general community, where an expectation for privacy is not reasonably justified, and includes a dedicated roadway, sidewalk, a parking lot, any public way, a theater, a restaurant, a movie theater, any room in a hotel or motel other than a guest room, or any other place where an expectation for privacy is not reasonably justified.

PROTECTED USES: Means churches, public libraries, public parks or parkways, public recreation centers, public and private schools, and any residence or residential district.

REGULARLY FEATURED OR REGULARLY SHOWN: A consistent or substantial course of conduct such that the films or performances exhibited constitute a substantial portion of the films or performances offered as a part of the ongoing business of the sexually oriented business.

SEMI-NUDE: A state of dress in which any opaque clothing covers no more than the genitals, anus, anal cleft or cleavage, pubic area, vulva, and nipple, including the aerola, of the female breast, as well as portions of the body covered by supporting straps or devices.

SEXUALLY ORIENTED BUSINESS: An adult arcade, adult bookstore, adult motion picture theater, adult novelty store, adult theater, adult video store, adult cabaret, and adult motel.

Exhibit A  
Proposed Sexually Oriented Business Ordinance

SPECIFIED ANATOMICAL AREAS: Means (a) human male genitals in a state of sexual arousal; or (b) less than completely and opaquely covered buttocks, anus, anal cleft or cleavage, male or female genitals, or a female breast.

SPECIFIED CRIMINAL ACTIVITY: Any of the following offenses as they are defined by applicable Utah State Statute:

Prostitution or promotion of prostitution; dissemination of obscenity or illegal pornographic materials; sale, distribution or display of harmful material to a minor; sexual abuse; sexual abuse of a child; sexual exploitation of children; sexual performance by a child; possession or distribution of child pornography; sexual battery; rape; indecent exposure; indecency with a child; the crimes of criminal pandering, tax violations, embezzlement, or racketeering, if such crimes are directly related to the operation of a sexually oriented business; sexual assault; molestation of a child; or distribution of a controlled substance; criminal attempt, conspiracy or solicitation to commit any of the foregoing offenses or offenses involving the same elements from any jurisdiction if the offenses were committed in the State of Utah, regardless of the exact title of the offense, for which:

- A. Less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;
- B. Less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or
- C. Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period.

The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant

SPECIFIED SEXUAL ACTIVITY: Means acts of, or simulating any of the following; masturbation, sexual intercourse, sexual copulation with a person or a beast, fellatio, cunnilingus, bestiality, pederasty, buggery, sodomy, excretory functions as part of or in connection with any of the activities listed herein.

TRANSFER OF OWNERSHIP OR CONTROL OF A SEXUALLY ORIENTED BUSINESS:  
Means any of the following:

- A. The sale, lease, or sublease of the business;
- B. The transfer of securities which constitutes a controlling interest in the business, whether by sale, exchange, or similar means; or

Exhibit A  
Proposed Sexually Oriented Business Ordinance

- C. The establishment of a trust, gift or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

VIEWING ROOM: The room, booth, or area where a patron of a sexually oriented business would ordinarily be positioned while watching a film, video cassette or other video production.

**3 - 6 - 2      Zoning**

It is unlawful for any sexually oriented business to do business at any location within the city not zoned for such business. Businesses regulated by this chapter shall also meet the location criteria established in the City's land use and development management ordinances.

**3 - 6 - 3      Licensing Procedures**

**3 - 6 - 3 - 1   Business categories.**

The categories of sexually oriented business are:

- A. Adult arcade
- B. Adult bookstore, adult novelty store, adult video store
- C. Adult cabaret
- D. Adult motel
- E. Adult motion picture theater
- F. Adult theater.

**3 - 6 - 3 - 2   Hours of operation**

All premises licensed to operate a sexually oriented business shall only operate between the hours of ten a.m. and two a.m. of the following day.

**3 - 6 - 3 - 3   Business license required**

It is unlawful:

- A. For any person to operate a sexually oriented business without a valid sexually oriented business license issued by the city pursuant to this ordinance.
- B. For any person who operates a sexually oriented business to employ a person to work for the sexually oriented business who is not licensed as a sexually oriented business employee by the city pursuant to this ordinance.

Exhibit A

Proposed Sexually Oriented Business Ordinance

- C. For any person to obtain employment with a sexually oriented business without having secured a sexually oriented business work permit pursuant to this chapter.
- D. Sexually oriented business licenses will be limited to one for each six thousand (6,000) residents of Santaquin City. Any available license will be issued on a first come, first serve basis.

**3 - 6 - 3 - 4 Business license--Application--Disclosure**

- A. If a person who wishes to operate a sexually oriented business is an individual, he shall sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, the application shall include the full legal name, address, and state of incorporation of the business. Each officer, director, general partner, or other person who owns a controlling interest in the business, or who will participate directly in decisions relating to management and control of the business, shall sign the license application as an applicant. Each applicant must be qualified under this ordinance and each applicant shall be considered a licensee if a license is granted.
- B. Upon filing a completed application for a sexually oriented business license or sexually oriented business work permit, the business license official shall issue a temporary license to the applicant, which temporary license shall expire upon the final decision of the city to deny or grant the license.
- C. An application shall be considered complete when it contains the information required in paragraphs 1 through 6 as follows:
  - 1. The full legal name and any other names or aliases used by the applicant,
  - 2. The applicant's date and place of birth,
  - 3. Present business address and telephone number,
  - 4. Identification issued by a federal or state governmental agency with the individual's colored photograph, signature, and physical description.
  - 5. Fingerprints on a form provided by a public safety department.
  - 6. The identity of each individual authorized by the corporation partnership or non-corporate entity to receive service of process. If the application is for a sexually oriented business license, the application shall be accompanied by a sketch or diagram showing the interior configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.
- D. Each applicant must provide a statement of whether the applicant has been convicted of, or has pled guilty or nolo contendere to, a specified criminal activity as defined in this chapter, and if so, the specified criminal activity involved, the date, place, and jurisdiction of each.
- E. In the event the applicant is not the owner(s) 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(s) of the possessory interest in the property specifically acknowledging the type of business for which the applicant seeks a

Exhibit A  
Proposed Sexually Oriented Business Ordinance

license to operate a sexually oriented business on 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 on which the service is or will be located.

**3 – 6 – 3 – 5 License and work permit fees**

- A. Each applicant for a sexually oriented business license shall be required to pay a regulatory license fee as set forth in the consolidated fee schedule as adopted from time to time by the city council.
- B. This fee shall be in addition to the other licenses and fees required to do business in the city.

**3 – 6 – 3 – 6 Business license term**

A license shall be issued for a period not to exceed twelve (12) months. All sexually oriented business licensees shall expire on December 31 of each year regardless of when issued. The license fees required shall not be prorated for any portion of the year.

**3 – 6 – 3 – 7 License--Display**

Any sexually oriented business location within the boundaries of the city must display the license granted pursuant to this chapter in a prominent public location within the business premises.

**3 – 6 – 3 – 8 Issuance of business license for sexually oriented business.**

- A. Under no circumstances shall the total time for the city to issue a license or issue a written intent to deny an application for a license exceed thirty (30) days from the receipt of a completed application. The business license official shall issue a license to the applicant unless the official finds one or more of the following to be true by a preponderance of the evidence:
  - 1. The applicant is under eighteen (18) years of age or any higher age, if the license sought requires a higher age.
  - 2. The applicant is overdue in payment to the city 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 specifically authorized by this chapter.
  - 4. The license fees required by this chapter have not been paid.
  - 5. All applicable sales and use taxes have not been paid.

Exhibit A  
Proposed Sexually Oriented Business Ordinance

6. Each applicant must provide a statement of whether the applicant has been convicted of or has pled guilty or nolo contendere to a specified criminal activity as defined in this ordinance, and if so, the specified criminal activity involved, the date, place, and jurisdiction of each. The fact that a conviction is being appealed shall have no effect on the disqualification pursuant to this section.

- B. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the number of the license issued to the licensee(s), the expiration date, and, if the license is for a sexually oriented business, the address of the sexually oriented business. The sexually oriented business license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.

**3 - 6 - 3 - 9 Transfer of ownership of business license prohibited.**

Sexually oriented business licenses granted under this chapter shall not be transferable.

**3 - 6 - 3 - 10 Business Name.**

It is unlawful for any sexually oriented business to do business in the city under any name other than the business name specified in the application.

**3 - 6 - 3 - 11 Change in information.**

The licensee shall submit, in writing, any change in the information required to be submitted under this chapter for either a sexually oriented business license or sexually oriented business work permit to the business license official within fourteen (14) days after such change.

**3 - 6 - 3 - 12 Business location.**

- A. It is unlawful to conduct business under a license issued pursuant to this chapter at any location other than the licensed premises.
- B. It is unlawful for any sexually oriented business, as regulated herein, to relocate or otherwise move its location or area of operation. A sexually oriented business wishing to relocate must submit the appropriate application for a license as required under this chapter. Such application shall be reviewed under the terms and conditions of this chapter and applicable city ordinances.

**3 - 6 - 4 Additional Building Regulations**

**3 - 6 - 4 - 1 Regulations pertaining to exhibition of sexually explicit films or videos.**

A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, films, video cassettes, or other video reproductions characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall



Exhibit A  
Proposed Sexually Oriented Business Ordinance

comply with the following requirements. It shall be unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.

1. Each application for a sexually oriented business license shall contain a diagram of the premises showing the location of all manager's stations, viewing rooms, overhead lighting fixtures, video cameras and monitors installed for monitoring purposes and restrooms, and shall designate all portions of the premises in which patrons will not be permitted. Restrooms shall not contain video reproduction equipment. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The business license official may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.
2. The application shall be sworn to be true and correct by the applicant.
3. No alteration in the configuration or location of a manager's station or viewing room may be made without the prior approval of the business license official.
4. It shall be the duty of the operator, and of any employees present on the premises, 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 in the application filed pursuant to Paragraph 1 of this subsection.
5. The interior premises shall be equipped 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 (1.0) foot candle as measured at the floor level. It shall be the duty of the operator, and of any employees present on the premises, to ensure that the illumination described above is maintained at all times that the premises is occupied by patrons or open for business.
6. It shall be the duty of the operator, and of any employees present on the premises, to ensure that no sexual activity occurs in or on the licensed premises.
7. It shall be the duty of the operator, and of any employees present on the premises, to ensure that not more than one person is present in a viewing room at any time. No person shall enter a viewing room that is occupied by another person.
8. It shall be the duty of the operator, and of any employees present on the premises, to ensure that no openings of any kind exist between viewing rooms. No person shall make an attempt to make an opening of any kind between viewing rooms.
9. It shall be the duty of the operator, or of any employee who discovers two or more patrons in a viewing room, or discovers any person making or attempting to make an opening of any kind between viewing rooms, to immediately escort such persons from the premises.
10. It shall be the duty of the operator, or of any employee who discovers an opening of any kind between viewing rooms, to immediately secure such rooms, and prevent entry into

Exhibit A

Proposed Sexually Oriented Business Ordinance

them by any patron until such time as the wall between the rooms has been repaired to remove the opening. Removal and repairing openings between viewing rooms shall be in a manner that is as structurally substantial as the original wall construction.

11. It shall be the duty of the operator, at least once each business day, to inspect the walls between viewing rooms for openings of any kind.
12. It shall be the duty of the operator to post conspicuous signs in well-lighted entry areas of the business stating all of the following:
  - a. That no loitering is permitted in viewing rooms.
  - b. That the occupancy of viewing rooms is limited to one person.
  - c. That sexual activity on the premises is prohibited.
  - d. That the making of openings between viewing rooms is prohibited.
  - e. That violators will be required to leave the premises.
  - f. That violations of Subparagraphs (b), (c) and (d) of this paragraph are unlawful.
13. It shall be the duty of the operator to ensure that floor coverings in viewing rooms are nonporous, easily cleanable surfaces, with no rugs or carpeting.
14. It shall be the duty of the operator to ensure that all wall surfaces and seating surfaces in viewing rooms are constructed of, or permanently covered by, nonporous, easily cleanable material.
15. It shall be the duty of the operator to ensure that premises are clean and sanitary. Such duty shall be fulfilled if the operator complies with the following cleaning procedures:
  - a. The operator shall maintain a regular cleaning schedule of at least two cleanings per day, documented by appropriate logs.
  - b. The operator shall provide an employee to check all areas for garbage, trash, body fluids and excrement and to remove and clean all areas with a disinfectant. All solid waste generated by the business shall be collected from the premises for disposal at a lawful solid waste disposal facility at least once each week. Prior to collection solid waste shall be stored in a manner that prevents access by animals or members of the public and which will not facilitate the creation of a health nuisance.
  - c. Thorough cleaning of the entire interior of any room providing patron privacy shall be done using a disinfectant. Cleaning shall include floors, walls, doors, seating, monitors, video cameras, and windows and other surfaces.
16. 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 in which patrons are permitted, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose. A manager's station shall not exceed forty (40) square feet of floor area. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this paragraph must be by direct line of sight from the manager's station. It is the duty of the operator to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is on the premises. It shall be the duty of the operator, and it shall also be the duty of any employees present on the premises, to ensure that the view area specified in this paragraph remains

Exhibit A  
Proposed Sexually Oriented Business Ordinance

unobstructed by any doors, curtains, walls, merchandise, display racks or other materials or enclosures at all times that any patron is present on the premises.

**3 - 6 - 4 - 2 Stage requirements.**

It shall be a violation of this chapter for an employee to knowingly or intentionally, in a sexually oriented business, appear in a state of semi-nudity unless the employee is at least three feet from patrons and customers and on a stage at least two feet from the floor.

**3 - 6 - 5 Employee Regulations**

**3 - 6 - 5 - 1 Employee work permit required.**

It is unlawful for any person to act as a sexually oriented business employee, without first obtaining a sexually oriented business work permit, as specified below in § 3 - 6 - 5-2 et. seq.

**3 - 6 - 5 - 2 Sexually oriented business employee work permits.**

It is unlawful for any sexually oriented business to employ, or for any individual to be employed as a sexually oriented business employee unless that employee first obtains a sexually oriented business employee work permit.

**3 - 6 - 5 - 3 Sexually oriented business employee work permit application Disclosure.**

A. Upon the filing of a completed application for a sexually oriented business employee work permit, the business license official shall issue a temporary license to the applicant, which temporary license shall expire upon the final decision of the city to deny or grant the work permit. An application shall be considered complete when it contains the information required in Paragraphs 1 through 5 as follows.

1. The correct legal name of each applicant;
2. Present business address and telephone number; and
3. Identification issued by a federal or state governmental agency with the individual's date of birth, colored photograph, signature, and physical description.
4. The individual's fingerprints on a form provided by a public safety department.
5. Each applicant must provide a statement of whether the applicant has been convicted of or has pled guilty or nolo contendere to a specified criminal activity as defined in this chapter, and if so, the specified criminal activity involved, the date, place, and jurisdiction of each. The fact that a conviction is being appealed shall have no effect on the disqualification pursuant to this section.

Exhibit A  
Proposed Sexually Oriented Business Ordinance

- B. A license or permit required by this article is in addition to any other licenses or permits required by the city, county, or state to engage in the business or occupation. Persons engaged in the operation of an adult-oriented business or in employment in an adult-oriented business shall comply with all other applicable local, state, and federal laws, ordinances, and statutes, including zoning ordinances, as may be required.
- C. The information provided by an applicant in connection with an application for a license under this chapter shall be maintained by the city on a confidential basis, except that such information may be disclosed only to law enforcement agencies in connection with a law enforcement or public safety function, or as may be required by governing law or court order. The information provided by a sexually oriented business license applicant in connection with the application for a license under this chapter shall be maintained by the business license official.

**3 - 6 - 5 - 4                      State licensing exemption.**

The provisions of this chapter shall not apply to any sex therapist or similar individual licensed by the State of Utah to provide bona fide sexual therapy or counseling, a licensed medical practitioner, licensed nurse, psychiatrist, or psychologist while providing professional services for which they are licensed, nor shall it apply to any educator licensed by the State of Utah for activities in the classroom.

**3 - 6 - 5 - 5                      Sexually oriented business employee work permit--Issuance and term.**

- A. Within thirty (30) days of the initial filing date of the receipt of a completed application, the business license official shall either issue a license or issue a written notice of intent to deny a license to the applicant. The business license official shall approve the issuance of a license unless one or more of the following is found by a preponderance of evidence to be true.
  - 1. The applicant is less than eighteen (18) years of age.
  - 2. The applicant has failed to provide information as required by Section 4 for issuance of a license or has falsely answered a question or request for information on the application form.
  - 3. The license application fee required by this section has not been paid.
  - 4. The applicant has been convicted of a specified criminal activity, as defined in this ordinance, or has been shown to have committed two or more violations of Section 6 -5-9 of this chapter within the previous year.
- B. Sexually oriented business employee work permits may be obtained at any time throughout the year. All employee work permits will expire on the last day of the twelfth month following issuance.
- C. Sexually oriented business licenses and sexually oriented business employee work permits may be renewed only by making application and payment of a fee as provided for in this chapter. Application for renewal should be made at least ninety (90) days before the

Exhibit A  
Proposed Sexually Oriented Business Ordinance

expiration date of said licenses and work permits, and when made less than ninety (90) days before the expiration date, the expiration of the license or work permit will not be affected.

**3 - 6 - 5 - 6            Change in Employee information.**

Any change in the information required to be submitted under this chapter for a sexually oriented business work permit will be given, in writing, to the business license official within fourteen (14) days after such change.

**3 - 6 - 5 - 7            License fees.**

Each applicant for a sexually oriented employee work permit shall be required to pay yearly regulatory license fees pursuant to the consolidated fee schedule as adopted by the city council.

**3 - 6 - 5 - 8            License display.**

A sexually oriented business employee shall keep the employee's work permit on his or her person or on the premises where the licensee is then working and shall, while working on the sexually oriented business premises, produce such work permit for inspection upon request by a law enforcement officer or other city official performing functions connected with the enforcement of this chapter.

**3 - 6 - 5 - 9            Sexually oriented business employee conduct.**

It is unlawful for any sexually oriented business licensee or sexually oriented business employee to knowingly or intentionally:

- A. Allow persons under the age of eighteen (18) years, or the age of twenty-one (21) years if required by any applicable alcohol ordinance, on the business premises;
- B. Allow, offer or agree to gambling on the business premises;
- C. Allow, offer or agree to the illegal possession, use, sale or distribution of controlled substances on the licensed premises;
- D. Permit, commit, offer or agree to commit prostitution, solicitation of prostitution, solicitation of a minor or commit activities harmful to the minor to occur on the licensed premises;
- E. Permit, commit, offer or agree to permit any live specified sexual activity as defined by city ordinances or state statutes in the presence of any customer or patron;
- F. Permit, offer or agree to a patron or customer to masturbate within or upon the premises of a sexually oriented business.
- G. Appear in a state of nudity before a patron on the premises of a sexually oriented business.

Exhibit A  
Proposed Sexually Oriented Business Ordinance

- H. Refuse to permit officers or agents of Santaquin City who are performing functions connected with the enforcement of this chapter to inspect the portions of the sexually oriented business premises where patrons are permitted, for the purpose of ensuring compliance with this chapter, at any time the sexually oriented business is occupied by patrons or open for business. A licensee's knowing or intentional refusal to permit such an inspection shall constitute a violation of this section. The provisions of this subsection do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation.

**3 - 6 - 5 - 10            Activities of patrons.**

It is unlawful for any patron to knowingly or intentionally:

- A. Touch in any manner a sexually oriented business employee while the sexually oriented business employee is semi-nude;
- B. Place any money or object on or within the costume or person of any sexually oriented business employee while the sexually oriented business employee is semi-nude; or
- D. Appear in a state of nudity before another person on the premises of a sexually oriented business.

**3 - 6 - 6                    General Applicability, Actions for Violations, Defenses**

**3 - 6 - 6 - 1            Applicability of regulations to existing businesses**

- A. The provisions of this chapter shall be applicable to all persons and businesses described in this chapter, whether the 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 city.
- B. Upon adoption, the provisions of the ordinance codified in this chapter shall apply to the activities of all sexually oriented businesses and sexually oriented business employees described herein, whether such businesses or activities were established or commenced before, on, or after the effective date of this ordinance. All existing sexually oriented businesses and sexually oriented business employees are hereby granted a de facto temporary license to continue operation or employment for a period of ninety (90) days following the effective date of the ordinance codified in this chapter. Within said ninety (90) days, all sexually oriented businesses and sexually oriented business employees must make application for a license pursuant to this chapter. Within said ninety (90) days, sexually oriented businesses must make any necessary changes to the interior configurations of the regulated business premises to conform to this chapter.

**3 - 6 - 6 - 2            Injunctions**

An entity or individual who, without a valid license, operates or causes to be operated a sexually oriented business, without a valid license, or who employees or is employed as an employee of a

Exhibit A  
Proposed Sexually Oriented Business Ordinance

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 in this chapter, and any other remedy available at law or in equity.

**3 - 6 - 6 - 3                      Suspension**

The city shall issue a written letter of intent to suspend a sexually oriented business license for a period not to exceed thirty (30) days if it is determined that the sexually oriented business licensee has knowingly violated this chapter or has knowingly allowed an employee to violate this chapter. The city shall issue a written letter of intent to suspend a sexually oriented employee work permit if it is determined that the employee has knowingly violated this chapter.

**3 - 6 - 6 - 4                      Revocation**

A. The business license official shall issue a written intent to revoke a sexually oriented business license or a sexually oriented business employee work permit if a cause of suspension in Section 3 - 6 - 6-5 occurs and the license has been suspended within the preceding twelve (12) months.

B. The business license official shall issue a written intent to revoke a sexually oriented business license or a sexually oriented business employee work permit if the official determines that a licensee or an employee, with the knowledge of the licensee:

1. Knowingly gave false or misleading information in the application or in any document or diagram related to the operation of the sexually oriented business.
2. Knowingly allowed possession, use, or sale of controlled substances on the premises.
3. Knowingly allowed prostitution on the premises.
4. Knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended.
5. A licensee has been convicted, pled guilty, or pled nolo contendere to a specified criminal activity as defined in this chapter.
6. A licensee or an employee has knowingly allowed any specified sexual activity to occur in or on the licensed premises.
7. A licensee is delinquent in payment to the city of taxes or fees related to the sexually oriented business.

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

D. For the purposes of this ordinance, an act by a sexually oriented business employee that constitutes grounds for revocation of that employee's work permit shall be imputed to the sexually oriented business for purposes of denial, suspension, or revocation proceedings only if the hearing officer determines by a preponderance of evidence that an officer, director, or general partner, or an employee who managed, supervised, or controlled the operation of the business, knowingly allowed such act to occur on the sexually oriented business premises.

Exhibit A  
Proposed Sexually Oriented Business Ordinance

- E. Nature of Revocation. When, after the notice and hearing procedure described in this chapter, the business license official revokes a license, the revocation shall continue for one year and the licensee shall not be issued a sexually oriented business license for one year from the date revocation becomes effective, provided that, if the conditions of Section 5.56.380 are met, a provisional license will be granted pursuant to that section. If, subsequent to revocation, the enforcement officer finds that the basis for the revocation found in subsections (B)(1), (B)(4) and (B)(7) of this section has been corrected or abated, the applicant shall be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective. If the license was revoked under subsections (B)(2), (B)(3), (B)(5) and (B)(6) of this section, an applicant may not be granted another license until the appropriate number of years required under this chapter has elapsed.

**3 - 6 - 6 - 5                      Hearing, revocation, license denial, suspension--Appeal.**

- A. If the business license official determines that facts exist for denial, suspension, or revocation of a license under this chapter, the city shall notify the applicant or licensee (respondent) in writing of the city's intent to deny, suspend or revoke the license, including the grounds therefore, by personal delivery, or by certified mail.
1. The notification shall be directed to the most current business address or other mailing address on file with the business license official for the respondent. Within ten (10) working days of receipt of such notice, the respondent may provide to the business license official a written response that shall include a statement of reasons why the respondent believes the license should not be denied, suspended, or revoked.
  2. Within five days of the receipt of respondent's written response, the business license official shall notify respondent in writing of the hearing date on respondent's denial, suspension, or revocation proceeding. Within ten (10) working days of the receipt of respondent's written response, the hearing officer shall conduct a hearing at which respondent shall have the opportunity to present all of respondent's arguments and to be represented by counsel, present evidence and witnesses on his or her behalf, and cross-examine any of the city's witnesses. The hearing shall take no longer than two days, unless extended to meet the requirements of due process and proper administration of justice. The hearing officer shall issue a written opinion within five days after the hearing. If a court action challenging the city's decision is initiated, the city shall prepare and transmit to the court a transcript of the hearing within ten (10) days after the issuance of the hearing officer's written opinion.
  3. If a written response from respondent is not received by the business license official within the time stated in paragraph (A)(1) above, or if after a hearing, the hearing officer concludes that grounds as specified in this chapter exist for denial, suspension, or revocation of the license, then such denial, suspension, or revocation shall become final five days after the hearing officer sends, by certified mail, written notice to the respondent that the license has been denied, suspended, or revoked. Such notice shall include a statement advising the respondent of the right to appeal such decision to a court of competent jurisdiction. If the hearing officer finds that no grounds exist for denial, suspension, or revocation of a license, then within five days after the hearing, the hearing



Exhibit A

Proposed Sexually Oriented Business Ordinance

officer shall immediately withdraw the intent to deny, suspend, or revoke the license and shall notify the respondent in writing by certified mail of such action. The hearing officer shall contemporaneously therewith issue the license to the applicant.

- B. An applicant or licensee (aggrieved party) whose application for a license has been denied or whose license has been suspended or revoked shall have the right to appeal such action to a court of competent jurisdiction. Upon the filing of any court action to appeal, challenge, restrain, or otherwise enjoin the city's enforcement of the denial, suspension, or revocation, the city shall immediately issue the aggrieved party a provisional license. The provisional license shall allow the aggrieved party to continue operation of the sexually oriented business or to continue employment as a sexually oriented business employee and will expire upon the court's entry of a judgment on the aggrieved party's appeal or other action to restrain or otherwise enjoin the city's enforcement.
- C. Application of Ordinance During Temporary License or Provisional License Periods.  
Sexually oriented businesses or sexually oriented business employees operating or working under temporary licenses, provisional licenses, or de facto temporary licenses shall be subject to the applicable provisions of this chapter.

**3 - 6 - 6 - 6                      Violation--Penalty**

In addition to revocation or suspension of a license as 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. The prosecuting agency shall have the discretion to charge any offense under this chapter as an infraction.

**3 - 6 - 6 - 7                      Severability**

Santaquin City Municipal Code Title 3 Chapter 6 and each section and provision of said chapter thereunder, are hereby declared to be independent divisions and subdivisions and, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provisions of said chapter, or the application thereof to any person or circumstance is held to be invalid, the remaining sections or provisions and the application of such sections and provisions to any person or circumstances other than those to which it is held invalid, shall not be affected thereby, and it is hereby declared that such sections and provisions would have been passed independently of such section or provision so known to be invalid.

Exhibit A

Proposed Sexually Oriented Business Ordinance

**10 - 6 - 36                      Sexually Oriented Businesses**

**10 - 6 - 36 - 1              Purpose**

The purpose and object of this article is to establish uniform and reasonable regulations to prevent the concentration of sexually oriented businesses or their locations in areas deleterious to the community, to regulate the signs of such businesses, to control the adverse effects of such signs, and to prevent inappropriate exposure to the community. This ordinance by its terms is designed to prevent crime, protect the city's retail trade, maintain property values, and generally protect and preserve the quality of the city's neighborhoods, commercial districts, and the quality of urban life. This ordinance is not designed to suppress the expression of unpopular views. This article is to be construed as a regulation of time, place and manner of the operation of these businesses consistent with the limitations provided by the United States and Utah Constitutions.

**10 - 6 - 36 - 2              Definitions**

For purposes of this article, the following terms shall have the meanings defined in this section:

**A. Gateway means:**

1. Highway 6;
2. Center Street;
3. Highway 198; east of I-15;
4. Highland Drive (aka Frontage Road along I-15);
5. South Santaquin Interchange
6. Frontage Road along West side of I-15

**B. Historic buildings or sites** mean those buildings or sites found on either the national or state historic registers, or the City register of cultural and historic resources.

**C. Public park** means a park, playground, swimming pool, golf course or athletic field within the City which is under the control, operation or management of the City's Public Works or Recreation Department.

**D. Religious institution** means a building which is used primarily for religious worship and related religious activities.

**E. School** means an institution of learning or instruction primarily catering to minors, whether public or private, which is licensed as such a facility either by the City or the State. This definition shall include nursery schools, kindergartens, elementary schools, junior high schools, senior high schools, or any special institution of learning under the jurisdiction of the State Department of Education, but not including trade schools, charm schools, dancing schools, music schools or similar limited schools, nor public or private universities or colleges.

Exhibit A  
Proposed Sexually Oriented Business Ordinance

- F. **Sexually oriented business** means any business for which a sexually oriented business license is required pursuant to the sexually oriented business license ordinance set out in Title 3, Chapter 6 of the Santaquin City Code.

**10 - 6 - 36 - 3 Permitted Locations and Restrictions.**

~~Sexually oriented businesses shall only be permitted in areas zoned I-1 under Section 10-7 of the Santaquin City Code. Sexually oriented businesses are that meet~~ subject to the following additional restrictions. All distance requirements specified hereafter shall be measured from the nearest entrance of the sexually oriented business outlet by following the shortest route of either ordinary pedestrian traffic or, where applicable, vehicular travel along public thoroughfares, whichever is the closer, to the property boundary of the specified use, zone, gateway, business or building, unless otherwise noted.

- A. No sexually oriented business shall be located within a one-thousand-foot (1000') radius of any church, park, school, or residential zone ~~in the city. as measured from the nearest entrance of the business outlet by following the shortest route of either ordinary pedestrian traffic or, where applicable, vehicular travel along public thoroughfares, whichever is the closer, to the property boundary of the church, park, school, or residential zone.~~
- B. No sexually oriented business shall be permitted within ~~one hundred sixty five feet (165')~~ five hundred (500) feet from any gateway.
- C. No sexually oriented business shall be permitted within three hundred feet (300') of any historic building or site. ~~The distance shall be measured from the nearest entrance of the business outlet by following the shortest route of either ordinary pedestrian traffic or, where applicable, vehicular travel along public thoroughfares, whichever is the closer, to the property boundary of the historic building or site.~~
- D. No sexually oriented business shall be allowed within one thousand feet (1000') of any other sexually oriented business, measuring a straight distance from the nearest property line of the one business to the nearest property line of the other business.
- E. No sexually oriented business shall be allowed within six hundred (600) feet of a business licensed for the consumption of alcohol or liquor ~~as measured from the nearest entrance of the business outlet by following the shortest route of either ordinary pedestrian traffic or, where applicable, vehicular travel along public thoroughfares, whichever is the closer, to the property boundary of the business licensed for the consumption of alcohol or liquor.~~
- F. All sexually oriented businesses must have direct access onto a major collector or arterial street via abutting frontage or access through an approved commercial center.

**10 - 6 - 36 - 5 Sign Restrictions**

Notwithstanding any contrary provision contained in the Santaquin City Sign Regulations in this code, sexually oriented business signs shall be limited as follows:

Exhibit A  
Proposed Sexually Oriented Business Ordinance

- A. No more than one sign promoting or identifying the sexually oriented business shall be allowed on any sexually oriented business premises;
- B. Off premise signs are prohibited.
- C. No sign on the sexually oriented business premises promoting or identifying the sexually oriented business shall be allowed to exceed eighteen (18) square feet;
- D. No animation shall be permitted on or around any sexually oriented business sign or on the exterior walls or roof of the premises;
- E. No descriptive art or designs depicting any activity related to or inferring the nature of the business shall be allowed on any sexually oriented business sign. The sign shall contain alpha-numeric copy only;
- F. Signage is limited to one flat wall sign and shall not project more than twelve inches (12") from the wall to which it is attached.
- G. Painted wall advertising, window graphics or decals shall not be allowed;
- H. Other than the flat wall sign specifically allowed by this article, sexually oriented businesses shall not construct or allow to be constructed any other type of sign including those types of signs listed in Chapter 14 of the Orem City Code, or use any light or other device designed to draw attention to the business location.

**10 - 6 - 36 - 5      Severability.**

If any provision or clause of this chapter or the application to any person or circumstance 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 herein which can be implemented without the invalid provision, clause or application, and to this end the provisions and clauses of this chapter are declared to be severable.



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## MEMORANDUM

Friday, April 21, 2006

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To: Mayor DeGraffenried and City Council via Planning Commission  
From: Dennis Marker, City Planner  
RE: Proposed Home Occupation Regulations CA#06-05

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**Notice: This item was noticed to the general public in accordance with City procedures.**

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### Background:

City ordinance, Sections 10-12, regulates businesses being operated out of a home or on the premises of a residential property. Staff has received numerous complaints about the restrictive nature of the current ordinance and the "harsh" limitations to incubating startup businesses or child care facilities. State law has also been changed to require City's to provide specific imposable conditions for items requiring a Conditional Use permit. The Planning Commission has reviewed the proposed ordinance (Exhibit A) and forwarded a positive recommendation to the City Council for its adoption (See attached Planning Commission minutes).

Major changes to the current ordinance include the following

- Combining the regulations of Home and Premises Occupations into one category: "Home Occupations". There remains a minor and major class for home occupations.
- Allowing greater flexibility for Family Child Care facilities.
- Allowing minimal business traffic to be brought into a neighborhood without needing a Conditional Use Permit.
- Allowing a full-time equivalent employee to work with a business operator at the home business location.
- Establishing specific conditions to be complied with for businesses needing a Conditional Use Permit.

The proposed ordinance provides the City with a greater flexibility in effecting the goals and policies of the general plan and maintaining the "health, safety, and welfare, and promoting the prosperity, improving the morals, peace and good order, comfort, convenience, and aesthetics of the municipality and its present and future inhabitants and businesses" (State Code 10-9a-102)

**Analysis:**

**General Plan Requirements.** The General Plan, adopted November 15, 2000, supports the role of business within the City and the proper regulation of such businesses around and within residential properties. This is illustrated through the following goals and policies of the General Plan.

**Community Vision.**

**Goal 1:** To provide a strong business tax base.

**Residential Land Uses**

**Goal 1:** To provide for residential areas in Santaquin that support and complement the unique rural quality and character of the city.

**Policy 1:** Avoid encroachments of land uses which would adversely affect residential areas, i.e.; increased traffic, noise, visual disharmony, etc., by providing adequate screening and buffering an any adjacent commercial or industrial development including parking and service areas.

**Policy 3:** Maintain and enhance the pleasing appearance and environmental quality of existing residential neighborhoods.

**Commercial Land Uses**

**Goal 1:** To encourage the establishment of a centralized business district with low impact type businesses, which will enhance the City's sales and property tax revenues and provide the highest quality goods and services for local residents, while enhancing the visual appeal of Main Street.

**Policy 4:** Carefully limit any negative impacts of commercial facilities on neighboring land-use areas, particularly residential development.

**Policy 5:** Formulate thoughtful commercial site design and development standards, including guidelines for landscaping and signage, to express the desired overall image and identity as outlined in the Community Vision Statement.

The City's Long Range Master Plan, adopted April 6, 2005 further states,

"Methods of protecting residential areas by providing transitions and buffers between residential and commercial areas include, but are not limited to: increased setbacks, landscaping, restricted land uses, traffic control, controlled noise or light, height limitations, and transitional land use types which are known to generate little or no patron traffic such as business offices."

The proposed ordinance does provide clear guidelines for the operation of a home occupation within a residential area and the impacts that such business can have on the area. As such, it meets the general goals and policies of the adopted City general plan.

**State Land Use Laws.** State law states that municipalities may enact "ordinances, resolutions, and rules pertaining to density, open spaces, structures, buildings, energy efficiency, light and air, air quality, transportation and public or alternative transportation, infrastructure, street and building orientation and width requirements, public facilities, and height and location of vegetation, trees, and landscaping, unless expressly prohibited by law" (UAC 10-9a-102(2)). It also states that such ordinances shall be for the purpose of "providing for the health, safety, and welfare, and promote the prosperity, improve the morals, peace and good order, comfort, convenience, and aesthetics of each municipality and its present and future inhabitants and businesses. . ." (UAC 10-9a-102(1)).

The proposed ordinance provides the City with a greater flexibility in effecting the above purposes outlined in State law. It also provides for the implementation of the city's goals and policies outlined within the adopted General Plan.

State law, Section 10-9a-507(1), states "A land use ordinance may include conditional uses and provisions for conditional uses that require compliance with standards set forth in an applicable ordinance." In lay terms, you must specify conditions in your ordinance that must be met by persons seeking a conditional use permit, if the city allows for conditional use permits.

The proposed ordinance requires that Major Class Home Occupations receive conditional use approval before receiving a business license. The proposed ordinance does specify conditions that must be met by Major Class Home Occupations in order to receive conditional use approvals. The proposed ordinance does comply with state law, Section 10-9a-507(1).

#### **Affect and Non-conforming Uses**

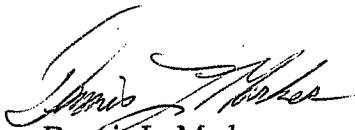
Businesses which are currently operating legally with a business license will not be affected by this ordinance. Businesses which meet the proposed Minor Home Occupation requirements will be able to function as they have in the past and possibly without needing to renew a Conditional Use Permit where required before. Businesses which currently have a Conditional Use permit and fall under the proposed Major Home Occupation category will continue to be reviewed and licensed as a Major Home Occupation. Any home occupation now listed as a Prohibited Home Occupation will be "grandfathered" and able to continue business operations if they maintain a current license and conduct their business within the confines of the current ordinance, adopted February 5, 2002.

#### **Recommendation:**

Staff recommends that the City adopt the Home Occupation ordinance attached as Exhibit A, based on the following findings.

Findings

1. State land use law allows City's to adopt ordinances pertaining to the development and use of land for the purposes of "providing for the health, safety, and welfare, and promote the prosperity, improve the morals, peace and good order, comfort, convenience, and aesthetics of each municipality and its present and future inhabitants and businesses. . ."
2. The Santaquin City General Plan outlines goals for preserving the residential character of the City as well as encouraging businesses to prosper and succeed. The General Plan also outlines policies for limiting the impact of businesses on residential areas.
3. Santaquin City recognizes the need to allow small businesses to be incubated in an environment compatible with its surroundings, including business owner's homes.
4. The proposed ordinance complies with the goals and policies of the City's general plan in that it establishes guidelines for home occupations to operate in a residential setting while limiting their impacts on the surrounding neighborhoods. It also provides greater flexibility for the incubation of small businesses in a home.
5. State land use law requires that conditions of approval be adopted by ordinance where a conditional use permit is required by local authority. The proposed ordinance lists those conditions to be met by home occupations which are required to have conditional use approval before operating.



Dennis L. Marker  
City Planner





**MINUTES OF A PLANNING COMMISSION MEETING**  
**Held in the City Council Chambers**  
**April 27, 2006**

Chairperson Bean called the meeting to order at 7:00 P.M.

Commissioners Present: Clara Goudy, Allen Reed, Robert Hales, Carolyn Callahan, Doug Rohbock, and Rex Bean.

Commissioners Excused: Rick Steele

Staff Present: City Planner Dennis Marker, City Manager Stefan Chatwin, Council Representative Martin Green, Legal Counsel Brett Rich and Planning Commission Clerk Darlene Gray.

Attendees: no public in attendance

Pledge of Allegiance.

Commissioner Bean led those present in the Pledge of Allegiance.

Approval of the Agenda Time Frame.

Commissioner Bean asked if anyone had any concerns regarding the agenda time frame. With no comments, Commissioner Bean declared the agenda would be followed as advertised.

**PUBLIC FORUM**

Nothing.

Commissioner Bean indicated that the agenda had been created with the intent for Legal Counsel Rich's presence. He indicated that because Legal Counsel Rich was not as yet in attendance, he would like to move to agenda item 7; Modification of Regulations Pertaining to Home and Premise Occupation. All Planning Commissioners were in agreement.

Modification of Regulations pertaining to Home and Premises Occupations.

Commissioner Rohbock referenced page 2, Policy #4 regarding negative impacts and asked if this was being put into the document or was already part of the General Plan. City Planner Marker and Commissioner Bean responded that it was already part of the General Plan.

Commissioner Bean stated that he thought there was a conflict in the definition of a 'day care'. City Planner Marker stated that the current Code includes children under the age of 12 and added that even in a day care the children of the family should be included in number of children allowed. He stated that the definitions are according to the State's definition and follows along the lines of the major and minor class day care facility.

Commissioner Bean requested a spelling correction of decibel. He referenced the second line on page 2 section D and suggested that noise, etc. be added to the section. He added that he could not see how the City could restrict drawing clients from the immediate neighborhood. City Planner Marker responded that the intent would be to encourage neighbors to use day care businesses in their immediate neighborhood but added that it would not be mandatory. Commissioner Bean stated that he thought this would discourage business. Commissioner Goudy suggested leaving the section out. Commissioner Bean asked that the last clause be deleted and that the term 'encourage' be added.

PLANNING COMMISSION  
APRIL 27, 2006  
PAGE 2 OF 8

Commissioner Bean stated that the City should be trying to loosen the requirements and thought that all major class home occupations may not require a Conditional Use Permit. City Planner Marker indicated that this was why the Commissioners had the item on their agenda; to discuss possible changes.

Commissioner Bean requested information regarding additional employees in a home or premise business acting as a satellite facility. He commented that the whole document seemed to be in conflict. City Planner Marker stated that if a business used an employee's home for multiple offices of employees that do not reside in the home and then that would not be allowed. City Manager Chatwin added that the City would currently not be able to regulate a satellite business in a home. City Planner Marker indicated that it would become a safety issue for additional employees because of exits, etc.

Commissioner Hales stated that there needed to be more leeway with regards to Home and Premise Occupations. City Planner Marker stated that the current Ordinance states that no employees or visitors would be allowed unless the business had a Conditional Use Permit. He stated that in trying to provide a little more flexibility, the information he has provided the commissioners allows for employees and limited visitors. Commissioner Bean asked that 'established' be added in the statement regarding a satellite office. Legal Counsel Rich suggested simply defining satellite office. He also suggested having a fine associated with any violation of the Ordinance. Commissioner Hales commented that it would be valuable for the City to know about and control Home and Premise Occupations.

City Planner Marker indicated that the current Ordinance states that all major class Home and Premise Occupations must go through the Conditional Use Permit process. He added that the proposed changes would allow for more incubation. Commissioner Hales asked if the current Ordinance allowed for other employees in the home. City Planner Marker responded in the negative. Legal Counsel Rich added that section 10-12-4 would apply if the applicant did not have a Conditional Use Permit. Commissioner Bean commented that the way the standards and qualifications are currently written, the requirements for each classification were not clear. Legal Counsel Rich referenced section 10-12-4 regarding standards and qualifications for Home and Premise Occupations without a Conditional Use Permit. He added that section 10-12-5 explains what type of business the applicant could conduct from the home with the Conditional Use Permit. Commissioner Bean commented that he felt the Ordinance was unnecessarily restrictive. Commissioner Hales stated that if the City wanted to help businesses grow, there would need to be a better plan. He stated that if a person could work locally, it would be better for taxes, etc. He stated that more time would be needed to establish what a conditional use home occupation would be. City Planner Marker explained that the major class home and premise business involves and / or creates concerns for the nearby residents, i.e. noise, too many vehicles, etc. and indicated that those are businesses that are classified as conditional use type businesses. Commissioner Goudy stated that if a person operates a daycare license by the State, that business may need more than one person to operate.

Commissioner Rohbock stated that one option may be to define any business related to any nuisance call or complaints, traffic, noise, etc. would determine whether or not it would require a

PLANNING COMMISSION  
APRIL 27, 2006  
PAGE 3 OF 8

Conditional Use Permit. Commissioner Hales stated that 18 children at a daycare may be bigger nuisance than one person stopping by to drop things off at a home occupation.

Commissioner Bean questioned what would make one person stopping by a home occupation more intrusive. He added that he felt the Ordinance was too restrictive and should be loosened. City Manager Chatwin stated that the City had been trying to figure out a way to avoid or discourage several employees coming to a home business and added that the City would have no way to regulate that. Commissioner Rohbock asked City Manager Chatwin if there had been many calls to the City regarding that. City Manager Chatwin responded in the affirmative. Commissioner Hales suggested reorganizing a plan and try to separate a minor from a major class. Commissioner Bean suggested tabling the agenda item for further review.

City Planner Marker indicated that Legal Counsel Rich had additional comments. Legal Counsel Rich reviewed his concerns regarding a Bed and Breakfast; Daycare agency organization or individual; Family Daycare; etc. He suggested that some of the language would have to be massaged.

Legal Counsel Rich suggested deleting *and* at the end of the first line on page 2-a and adding something regarding ownership of a certain percentage of a business to page 2-b. He suggesting using *promote* instead of *safeguard* in page 2-d and adding *after areas from* on the second line. Legal Counsel Rich suggested defining a *bon a fide* resident, as well as a few changes in wording, i.e. *not permitted* to *prohibited* in section 10-12-3. He stated that on page 3, section 10-12-4-a-5 regarding parking would be difficult to regulate. He stated that his comments were mostly stylistic and minor and indicated that he would review them with City Planner Marker.

Commissioner Bean stated that he felt this was written to be more restrictive. Commissioner Goudy added that if the Ordinance was easier to understand and less restrictive, more individuals would apply for a business license. She stated that the City should be business-friendly so residents who have a business in their homes would comply. City Planner Marker stated this proposed modification would allow for more businesses. Commissioner Bean stated that fewer regulations make for more freedom. Commissioner Bean stated that he had researched businesses within 5 miles of Santaquin City and found 950 businesses, many who do not have a business license.

With no further discussion, Commissioner Bean moved to table the Modification of Regulations pertaining to Home and Premises Occupations. Commissioner Reed seconded the motion. The vote to table the Modification of Regulations pertaining to Home and Premises Occupations was unanimous.

#### **CODE AMENDMENTS**

~~Public Hearing and Discussion regarding a Code Amendment clarifying the City's Bonding Process and Determination of Required Guarantee Amounts.~~

~~Commissioner Goudy moved to open the Public Hearing regarding a Code Amendment clarifying the City's Bonding Process and Determination of Required Guarantee Amounts. Commissioner Hales seconded the motion.~~

Businesses. Commissioner Bean asked if Commissioner Hales would like to change or add the Residential Zone or Residential Dwelling to the Ordinance.

PLANNING COMMISSION  
MAY 11, 2006  
PAGE 5 OF 9

Commissioner Goudy suggested tabling the item until Legal Counsel could review and make recommendations. She indicated that the Commissioners would then review the recommendations before having the Ordinance go to the City Council. Commissioner Rowley seconded the motion.

Commissioner Bean indicated that it would be proper for Commissioner Hales to withdraw his motion before another motion could be made. Commissioner Hales withdrew his motion to recommendation approval to the City Council.

Commissioner Goudy moved to table the Creation of an Ordinance Regulating Adult Businesses. Commissioner Rowley seconded the motion. Commissioner Rohbock indicated that he would like to discuss who would enforce employee work permits. He asked if individual employees would be finger printed. City Manager Chatwin stated that generally employees are a controlled thing; things that can be bringing illegal activity, and having background check for individuals who work there.

The vote to table the Creation of an Ordinance Regulating Adult Businesses was unanimous.

Public Hearing regarding the Code Amendment regarding the Code Amendment clarifying the City's bonding Process and Determination of Required Guarantee Amounts

Commissioner Bean opened the public hearing. There were no members of the public in attendance. Commissioner Bean closed the public hearing.

Discussion and Possible Action regarding the Code Amendment clarifying the City's bonding Process and Determination of Required Guarantee Amounts

City Planner Marker remarked that comments from the last Commission meeting had been incorporated into this latest draft. Commissioner Rohbock felt the ordinance read pretty good and questioned why it had come back to the Planning Commission. City Planner Marker stated that because it was not noticed as an action item at last meeting.

Commissioner Hales moved to recommend approval to the City Council regarding the Code Amendment clarifying the City's Bonding Process and Determination of Required Guarantee Amounts. Commissioner Rohbock seconded the motion.

The vote to recommend approval to the City Council regarding the Code Amendment clarifying the City's Bonding Process and Determination of Required Guarantee Amounts was unanimous.

Commissioner Goudy was excused at 8:28 PM

Public Hearing regarding the Code Amendment Modification of Regulations pertaining to Home and Premise Occupations.

Commissioner Bean opened the Public Hearing regarding the Code Amendment Modification of Regulations pertaining to Home and Premise Occupations.

With no public in attendance, Commissioner Bean closed the Public Hearing regarding the Code Amendment Modification of Regulations pertaining to Home and Premise Occupations.

Discussion and Possible Action Regarding the Code Amendment Modification of Regulations pertaining to Home and Premise Occupations.

Commissioner Rohbock commented that the Code Amendment Modification of Regulations pertaining to Home and Premise Occupations read well.

Commissioner Hales commented that the signage Code allowed for sexually oriented businesses to have an 18 square foot sign, but local or home businesses were only allowed an 11" x 7" sign. City Planner Marker stated that the intent was to try to protect residential neighborhoods keep a neighborhood-type feel and environment. Commissioner Callahan stated that each City had designated zones for different purposes. She stated that she felt the City should protect the quality of life in the residential zones. Commissioner Callahan stated that home business signs were acceptable if they were not too big, but she did not know how the City would enforce the Code. City Planner Marker stated that the current Code allowed for a 2' sign per dwelling, but if it were a premise occupation, a 7' sign would be allowed in the yard or on the structure.

Commissioner Bean stated that he thought that residents have the right to make a living and did not want to restrict an individual's livelihood. He stated that signs could be bigger than 2' and still be un-intrusive.

City Planner Marker stated that the residential zone indication is in place with the primary purpose being a residential area. Commissioner Rowley commented that people move into a neighborhood because of the residential feel and not for businesses.

Commissioner Callahan reiterated that a home occupation is a secondary use. She stated that home occupations affect neighborhoods, I.E. an impact on property values, residential feel, etc. She stated that signs tend to make people think twice about living there.

Commissioner Hales indicated that he felt a 6' square sign would be reasonable. Commissioner Rohbock agreed, but not at the road front, but rather on the side of the dwelling.

With no further discussion, Commissioner Hales moved to have both the home occupation and premise occupation same size and size be 6 square feet rather than 2'. Commissioner Bean seconded the motion. Commissioner Bean indicated that the motion made was only regarding the size of the signs. Commissioner Rowley indicated that he felt that the signs should only be allowed attached to the building. Commissioner Callahan reiterated that she felt a business in a home should be clearly secondary. Commissioner Rowley stated that if the Planning Commission could compromise on the size of a sign, they could also compromise on the position of the sign. Commissioner Hales stated that residents always had the right to have a business sign in a residential area. Commissioner Callahan stated that residents have freedoms and right so long as those rights don't infringe in a negative way. Commissioner Bean questioned how an individual's rights could be affected in a negative way. Commissioner Rowley stated that a negative affect would be the devaluation of someone's property. City Planner Marker explained that the Commissioners have to draw the line regarding preservation of residential zonings. Commissioner Bean stated that they should stay within constitutional boundaries. Commissioner Rohbock stated that he agreed with Commissioner Rowley with regards to putting signs on the homes rather than in the front yards. Commissioner Bean stated that he felt depending on the situation, some 6' signs in the side of a home could be uglier than a sign in the yard.

At 8:57 PM, Commissioner Bean called for a 5 minute break.

~~REPORT OF OFFICIALS AND STAFF~~  
~~City Council Report~~

Modification to Regulations of Home and Premise Occupations.  
Council Representative Green excused himself at 9:00 PM.

Commissioner Hales moved to recommend acceptance of the Modification to Regulations of Home and Premise Occupations to the City Council. Commissioner Rohbock seconded the motion.

Commissioner Callahan reiterated her opposition with regards to the size of the Home Occupation signs.

#### **ROLL CALL**

Commissioner Goudy – Aye  
Commissioner Callahan – Nay  
Commissioner Hales – Aye  
Commissioner Bean – Aye  
Commissioner Rohbock – Aye  
Commissioner Reed -- Aye

#### **MINUTES**

Approval of the May 11, 2006 Meeting Minutes

Commissioner Bean moved to approve the May 11, 2006 meeting minutes as amended. Commissioner Reed seconded the motion. The vote to approve the May 11, 2006 meeting minutes was unanimous.

#### **REPORT OF OFFICIALS AND STAFF**

City Council Report

Council Member Green excused himself from the meeting earlier.

City Manager's Report

City Manager Chatwin was not in attendance.

City Planner's Report

City Planner Marker indicated that he had nothing further.

#### **NEW BUSINESS**

Decision and assignment of Planning Commission Representative to the City Council Meeting of June 21, 2006.

Commissioner Rohbock volunteered to represent the Planning Commission at the June 21, 2006 City Council Meeting.

Report by the Planning Commissioner from City Council meeting of June 7, 2006.

No Planning Commissioner had volunteered to attend this meeting.

Report of Planning Commissioners.

Commissioner Rohbock indicated that he had nothing to report.

Commissioner Reed indicated that he had nothing to report.

Commissioner Hales indicated that he had nothing to report.

Commissioner Callahan stated that she would report on the May 17<sup>th</sup> City Council Meeting. She reported that the City Council had set a date for the Work Session. She reported that the City Council discussed the Aqua Engineering Wastewater Report; the City Library hours; they reviewed the screening 3-month

Exhibit A

Planning Commission Recommended Home Occupation Ordinance

**10-2-2 DEFINITIONS**

**AGRIBUSINESS:** Agriculturally related businesses that supply farm inputs (such as fertilizer or equipment) or are involved in the marketing of farm products (such as warehouses, processors, wholesalers, transporters, and retailers). Farms are not usually included when the term agribusiness is used.

**BED AND BREAKFAST HOME:** A single-family dwelling with not less than two (2) and not more than eight (8) guestrooms where lodging, with or without meals, is provided for compensation with stays not to exceed twenty nine (29) days.

**CHILD:** A person between birth and eighteen (18) years of age.

**CHILD GROUP ACTIVITY:** A regularly scheduled activity, class, gathering, or event (e.g. dance schools, preschool, music classes, swimming classes, etc.) for children. Such activities typically have ongoing or open enrollment and the person who has organized the activity receives direct or indirect compensation.

**CHILD ORIENTED HOME OCCUPATIONS:** Home occupations which function as day cares for children and/or conduct child group activities.

**CROPLAND:** Land used primarily for the production of row crops, close-growing crops, and fruit and nut crops.

**DAYCARE:** An agency, organization or individual, person or persons, corporation, association, or entity (Person) engaged in the provision of care for four or more cumulative hours during the day for a group of children not related by blood or marriage to, or not the legal wards or foster children of, the attendant adult, with or without compensation, specifically:

Adult Day Care: A nonresidential care facility providing supervision for three or more adults for at least four but less than 24 hours a day; and that meets the needs of functionally impaired adults through a comprehensive program that provides a variety of health, social, recreational, and related support services in a protective setting. Adult Day Care does not include those facilities regulated as Residential Facilities for the Elderly.

Day-care Center: A person providing child care in a place other than a person's home for five (5) or more children, for less than 24 hours per day, having a regularly scheduled, ongoing enrollment, for direct or indirect compensation and licensed by the state of Utah.

Family Group Day Care: A person who provides care in a home for nine (9) to sixteen (16) children not related by blood or marriage to, or not the legal wards or foster children of, the attendant adult, for less than 24 hours a day, for direct or in-direct compensation and licensed by the state of Utah.

Family Day Care: A person who provides care in a home for not more than eight (8) children who are unrelated by blood or marriage to, or not the legal wards or foster children of, the attendant adult at one time for less than 24 hours a day and may be licensed by the state of Utah.

Exhibit A

Planning Commission Recommended Home Occupation Ordinance

DECIBEL: Logarithmic and dimensionless unit of measure often used in describing the amplitude of sound. Decibel is denoted dB.

FARMS: Any place that has, or has the potential to produce, \$1,000 or more in annual gross sales of farm products via cultivating of soil, managing croplands, producing and harvesting crops, and/or raising livestock.

FAMILY FARM: A farm that produces agricultural commodities for sale in such quantities so as to be recognized in the community as a farm and not a rural residence; (2) produces enough income (including off-farm employment) to pay family and farm operating expenses, pay debts, and maintain the property; (3) is managed by the operator; (4) has a substantial amount of labor provided by the operator and the operator's family; and (5) may use seasonal labor during peak periods and a reasonable amount of full-time hired labor.

GUESTROOM: a bedroom that is kept for the use of guests/customers.

HEALTH CARE FACILITY: Any general acute hospitals, specialty hospitals, home health agencies, hospices, nursing care facilities, residential-assisted living facilities, birthing centers, ambulatory surgical facilities, small health care facilities, abortion clinics, facilities owned or operated by health maintenance organizations, end stage renal disease facilities, but does not include the offices of private physicians or dentists, whether for individual or group practices.

HOME OCCUPATION: An occupation or business activity conducted within a dwelling or on the premises of a single-family residential property which is clearly secondary in importance to the home as a dwelling or place to live and carried on by persons residing in the dwelling. Home occupation shall not be construed to mean a family farm or an employee, working in his/her home in the service of an employer whose principal place of business is licensed at another location (e.g. telecommuters).

MAJOR HOME OCCUPATION: A home occupation which the City determines will have more than minimal impact on surrounding properties but may operate within acceptable standards.

MINOR HOME OCCUPATION: A home occupation which the City anticipates will have minimal impact on surrounding neighbors.

~~PREMISES OCCUPATION: An occupation conducted on the premises outside of a dwelling, by persons residing on the premises.~~

PROPERTY BOUNDARY: An imaginary line delineating the ownership or control of property.

RESIDENTIAL FACILITY FOR THE ELDERLY: A single-family or multiple-family dwelling unit that meets the requirements of the Santaquin City Code, but does not include a health care facility.

TRAFFIC CIRCULATION AND SAFETY PLAN: A parking and circulation plan provided by a business to show how business controlled parking and a traffic circulation system can be maintained to limit any on or off-site traffic conflicts caused by such business.



Exhibit A

Planning Commission Recommended Home Occupation Ordinance

**10 -12 HOME OCCUPATIONS**

**10 -12-1: PURPOSE**

The purposes of this chapter are to:

- A. Establish regulations for the establishment, maintenance, and well being of home occupations in order to provide for the betterment of the community, residents, patrons, and neighboring citizens.
- B. Provide an opportunity for Home Occupations as an accessory use, when they are compatible with the neighborhoods in which they are located.
- C. Guide business activities which are not compatible with neighborhoods, to appropriate commercial and industrial zones.
- D. Promote the peace, quiet, and domestic tranquility within all residential neighborhoods. Protect residents from the adverse effects of business uses being conducted in residential areas i.e. from noise, nuisances, traffic, fire hazard and other possible business impacts that are in excess of that customarily associated with the neighborhood.
- E. Provide an opportunity for a home occupation to engage in the business of child care and other group child activities.
- F. Provide a means to enforce and regulate the businesses that are licensable through the authority of the Home Occupation Ordinance, and if necessary terminate Home Occupations if violation of the ordinances regulating Home Occupations occurs, as provided for herein.

**10-12-2: HOME OCCUPATION LICENSE.**

All Home Occupations shall be licensed in accordance with Title 3 of the Santaquin City Code (S.C.C.) and the provisions of this chapter. Only the owner or official representative of a business may apply for a Home Occupation business license and the applicant must be resident of the home where the business will be conducted. The authority to issue a license to conduct a Home Occupation shall be under the jurisdiction of the City Council.

**10-12-3: CATEGORIES AND REGULATIONS OF HOME OCCUPATIONS**

Home occupations, as defined in section 10-2-2 of this title, shall be classified as "Minor Home Occupations", "Major Home Occupations", "Prohibited Home Occupations", and "Bed and Breakfast Homes."

Minor Home Occupations need review and approval by City staff. Major Home Occupations and Bed and Breakfast Homes require review and approval of the Planning Commission as a Conditional Use prior to operation. Child Oriented Home Occupations may be reviewed by City staff or the Planning Commission based on the regulations below. Prohibited Home Occupations are not allowed to operate in residential zones.

Exhibit A

Planning Commission Recommended Home Occupation Ordinance

If the zoning administrator, or its designee, finds sufficient cause to question the nature of a minor class home occupation, or if unperceived circumstances exist, it shall be his/her discretion to refer the application to the Planning Commission for determination and/or approval of the home occupation.

**10-12-4: STANDARDS FOR ALL HOME OCCUPATIONS**

All home occupations must comply with the following "Standards" at all times. Bed and Breakfast homes are regulated by Section 10-12-8.

- A. Permitted or Conditional Use. Home occupations must be a permitted or conditional use in the zone in which the home occupation is to be located and not be in conflict with the objectives and characteristics of the same zone;
- B. Accessory Use On The Property. The Home Occupation shall be clearly incidental and secondary to the primary residential use of the property and dwelling.
- C. Bona Fide Resident. The Home Occupation business shall be owned by and carried on only by a resident of the home for which a certificate of occupancy has been issued.
- D. Satellite Offices are not allowed. Established or workstation business activities for an off-premise employer shall not be conducted at the home of an employee by other employees of the same business who are not-residents of the home.
- E. Parking. All business related vehicles, which park at the location of the home occupation, must be legally parked, either in conventional parking spaces on the lot or adjacent to the frontage of the lot. No parking from the home occupation shall be permitted in front of adjacent lots unless approved by the City as part of a traffic circulation and safety plan. Required parking for resident vehicles shall be available at the close of business each day.
- F. Signs. Signs are limited to one non-animated sign not larger in area than six (6) square feet. The sign shall not be directly or internally illuminated.
- G. External Appearance. Any exterior alterations to the residence to accommodate the home occupation shall maintain the character and appearance of the residential dwelling in which it is located. Furthermore, the business operation shall not negatively affect the physical appearance, traffic, and other activities of the surrounding neighborhood and not depreciate surrounding property values.
- H. Storage Areas. Home occupations are not permitted to store materials or products outside of the dwelling unit, except in a city approved and permitted accessory building.
- I. Conformity with Safety Codes. No hazardous materials or equipment may be used in the home occupation, including, but not limited to, anything flammable or unsafe that is not customary to the home in which the occupation is located. There shall be complete conformity with fire, building, plumbing, electrical and all other city, county, state and federal codes.

Exhibit A

Planning Commission Recommended Home Occupation Ordinance

- J. Neighborhood Disruptions Not Permitted. The Home Occupation shall not disrupt the peace, quiet and domestic tranquility of the neighborhood nor emit noise, odor, dust, fumes, vibration, smoke, electrical interference (including interferences with radio and television reception), or any other interference with the residential use of adjacent properties.
- K. Renter/Owner Responsibility. If the applicant for a Home Occupation license rents or leases the property wherein the home occupation is intended to be conducted, the applicant must provide a letter of acknowledgment and consent from the property owner at the time the application is submitted to the Community Development Department.

**10-12-5: MINOR HOME OCCUPATIONS**

In addition to the standards previously set forth in Section 10-12-4 above, all Minor Home Occupation businesses must comply with the qualifications outlined below. If a business finds that it is unable to fully comply with these qualifications, the applicant may request approval as a Major Home Occupation, as outlined in Section 10-12-6.

A. Employees.

1. One full-time or full-time equivalent non-resident may be employed, volunteer, or work at a designated workstation or area on the premises or inside the home where the Home Occupation business is located. Only one (1) nonresident employee may work at the home, in such manner, at one time. No more than two (2) persons shall comprise the equivalent full-time employee.
2. Any Home Occupation may utilize employees to work off-site. The off-site employee, volunteer, hiree or any other persons engaged with the Home Occupation shall not come to the home for purposes related to the Home Occupation license, except for incidental vehicle stops in accordance with the traffic and operational hours qualifications outlined below.

B. Operational Hours. The home occupation shall not generate any traffic before 6:00A.M. or after 8:00 P.M., (e.g. clients, patrons, employees, volunteers, students, pupils etc.).

C. Traffic. Vehicular traffic from business related visitors, employees, volunteers, and customers shall not exceed that which normally and reasonably occurs for a home in the neighborhood, and shall be conducted so that the neighbors will not be significantly impacted by its existence. Minor Home Occupations shall be limited to six (6) vehicle stops (i.e. three automotive visitors) to the residence during any one hour to a maximum of eight (8) vehicle stops per day. Business related deliveries or pickups made by vehicles greater than 1 ton GVW shall not exceed two (2) per day.

Exception: Day care and child group activities having an approved traffic circulation and safety plan may exceed the above maximum number of vehicle stops up to a total of sixteen (16) vehicle stops at the home in a day (e.g. dropping off and picking up a child would count as two vehicle stops).

Exhibit A

Planning Commission Recommended Home Occupation Ordinance

D. Areas and Property to be Used.

1. The business activities in the dwelling shall not occupy more than five hundred (500) square feet or twenty five percent (25%) of the total floor area of such dwelling, whichever is less. For the purposes of this section, a garage, carport, patio, breezeway, or any accessory building is not considered to be part of the dwelling.
2. Business activities in an accessory structure shall not exceed eight hundred (800) square feet or 50% of the accessory structure whichever is more on properties having less than ½ acre in area.
3. Business activities in an accessory structure shall not exceed 80% of the accessory structure on lots greater than ½ acre in size unless such accessory structure is being utilized for licensed agribusiness functions or is associated with a licensed boarding facility for animals.

E. Business Related Vehicles. Business related vehicles include those of the applicant, employee, customer, client or business-related visitor and shall comply with the following:

1. There shall be no more than six (6) business related vehicles parked at the residence at any one time. These six (6) vehicles shall include the vehicles owned and operated by the owners of the residence as well as any vehicles which are non-operable due to (1) a collision or other violent act; (2) has had parts removed from the vehicle rendering the vehicle inoperable, or (3) being stored on a lot for the purpose of restoration.

Exception: Any vehicle, operable on a road or not, that is inside a fully enclosed, permanent structure shall not be included in the maximum number of vehicles. This number shall also not include single or dual occupancy, off highway recreation vehicles (OHV) unless such are used as part of the business operation.

2. No commercial vehicles having more than two axles, or three with attachments, are to be used with the home occupation. Business vehicles and attachments shall not exceed 8 feet in height nor exceed 22 feet in length individually or 35 feet in length when attached.
3. No vehicle having more than two axels shall travel to the residence for the purpose of delivery of merchandise, goods, or supplies for use in the home occupation.

F. Number of Licenses Allowed: Multiple Home Occupation licenses may be granted per residence as long as the cumulative affects of the businesses do not exceed the above standards and qualifications.

G. Additional Qualifications for Day Cares and Child Group Activities.

1. Child Oriented Home Occupations shall not exceed eight (8) children at any one time. A maximum of eight (8) students/children is permitted per day. This number shall include the licensee's own children if they are less than six (6) years of age and are under the care of the licensee at the time the Home Occupation is conducted.

Exhibit 1

Planning Commission Recommended Home Occupation Ordinance

2. All Child Oriented Home Occupations shall be allowed to provide safe, outdoor play time as required by State, County or local laws governing such business activity. All outdoor play areas must be enclosed by a fence of at least five feet (5') if there are more than six (6) children enrolled.
3. All day care and other child group activity facilities must be located on a through street unless a traffic and circulation plan is approved by the City as part of the business operations.

**10-12-6 MAJOR HOME OCCUPATIONS**

Major home occupations must comply with all of the standards outlined in section 10-12-4 and where possible the qualifications of section 10-12-5. Major home occupations must be reviewed by the Planning Commission and granted a Conditional Use Permit before pursuing a business license through the City. Unless listed as a Prohibited Home Occupation in section 10-12-7, a Major Home Occupation is subject to the pertinent conditions listed below.

A. General Conditions for all Major Home Occupations

1. All Major Home Occupation uses shall only be conducted from property with a single-family dwelling,
2. The Conditional Use Permit and the Home Occupation business license shall be maintained in good standing for the entire period that business is being conducted,
3. Conditional Use Permits can be revoked based upon unresolved legitimate complaints,
4. Applicable conditions listed below are met, and
5. The review criteria for conditional use applications as found in this code have been satisfied.

B. Child Oriented Home Occupations shall comply with the following conditions:

1. Maximum children permitted. The following maximum numbers include the licensee's and any employees' children if they are under twelve (12) years of age and are under the care of the licensee at the time the Home Occupation is conducted.
  - a. Family Group Day Cares may not exceed twelve (12) children at one time nor eighteen (18) different children per day.
  - b. Child Group Activities may not exceed twelve (12) students/children per session and a maximum of twenty-four (24) students/children per day. A maximum of two (2) sessions per day may be permitted.

Exhibit A

Planning Commission Recommended Home Occupation Ordinance

2. Yard Requirements.

- a. All non-business related structures or on-premise hazards are to be made inaccessible to the children attending the day care facility.
- b. All outdoor play areas must be enclosed by a fence at least five feet (5') in height.

3. Traffic.

- a. All vehicular stops for the dropping off or picking up of children shall be done with the passenger side of the vehicle toward the residents.
- b. A traffic circulation and safety plan must be submitted and reviewed/approved by the City.
- c. The existing residential street is of sufficient width to accommodate the increased average daily vehicular traffic (ADT) counts caused by the business.

4. Location Requirements. No Child Oriented Home Occupation, which requires a Conditional Use Permit, may be operated within three hundred (300) feet, as measured from property line to property line, of another Child Oriented Home Occupation operating under a Conditional Use Permit.

5. Licensure. When applicable, licensure by the state is to be provided to the City for verification of compliance with all State standards.

C. Businesses not conducted within a home. which must obtain a conditional use permit and which may include welding; carpentry; sheet metal work; furniture manufacturing; upholstery and other similar manufacturing activities, must comply with the following:

1. No machinery is to be operated between the hours of 7:00 P.M. and 8:00 A.M.,

2. Noise Levels.

- a. No power equipment which emits a sound pressure level in excess of 74 dB, as measured at a distance of 50 feet (15 meters) from such machinery, shall be used.
- b. No equipment shall cause a noise disturbance for a consecutive period longer than 15 minutes.
- c. Business machinery noise levels are not to exceed 55 dB when measured at the closest property boundary.

3. All storage qualifications listed in Section 10-12-5 are to be met.

4. The applicant shall designate the areas of the home, attached/detached garage or accessory structure that will be used for the home occupation and if approved, the home occupation may be conducted only in the designated areas.

Exhibit A

Planning Commission Recommended Home Occupation Ordinance

- D. Businesses having more than one commercial vehicle or a commercial vehicle exceeding 35 feet in length, with attachments, must comply with the following conditions:
1. All business related commercial vehicles are to be parked on the property and behind the front of the home when not being used for business purposes.
  2. The vehicles and attachments are to be located behind a 6 foot tall opaque fence, or other obstruction, so as to minimize their view from the front property line.
- E. Businesses entailing food or beverage preparation, storage or catering must comply with the following conditions:
1. Must be authorized by the appropriate State or County department or agency prior to approval of a business license.
  2. All business related vehicle qualifications listed in section 10-12-5 must be met.
- F. Businesses which have operating hours past 8 P.M. and prior to 7 A.M. must comply with the following:
1. Applicant's must show that any operation conducted after 8 P.M. and before 7 A.M. will be compatible with like uses and operations found in the residential neighborhoods between such hours.
  2. All business activities are to be conducted within closed doors between 8 P.M. and 7 A.M. unless shown to be compatible with like uses and operations found in the residential neighborhood between such hours.
  3. Any business lighting shall be shielded and directed downward away from adjoining properties or contained within the building from which it emanates.

**10-12-7. PROHIBITED HOME OCCUPATIONS.**

The following uses, by the nature of the occupation, substantially impair the use and value of residentially-zoned areas for residential purposes and are therefore prohibited.

- A. Mortuaries, crematorium, columbarium, mausoleum .
- B. Clinics, dental offices, medical offices, chiropractic office, or other health care facilities.
- C. Junk yards, auto wrecking yards, salvage yard, impound lots, or vehicle towing operations.
- D. Storage, service, repair, sales or rental of: ambulance, tow truck, recreational vehicles, water craft, automobiles, ATV, or other motorized vehicles.
- E. Food or drink preparation, storage or catering which is not permitted by an appropriate State or County department or agency.

Exhibit A

Planning Commission Recommended Home Occupation Ordinance

- F. Fitness or health spa facility.
- G. Auto body repair, motor vehicle repair.
- H. Any home occupation which entails the use of chemicals exceeding typical household quantities, pesticides and flammable/combustible materials, and including any other process or business where current, adopted Building and Fire Codes would require an 'Operational Permit'.
- I. Any Home Occupation unable to comply with the Standards outlined in section 10-12-4.

**10-12-8 BED AND BREAKFAST HOMES:**

The Planning Commission may grant a Conditional Use Permit for a bed and breakfast home, if the following conditions are met:

- A. Bed and breakfast homes are a permitted conditional use within the zone.
- B. Bed and breakfast homes shall not have less than two (2) guestrooms or more than eight (8).
- C. The applicant shall submit a plot plan showing the location of the bed and breakfast home, parking, required yards, and property lines at a scale of not less than one inch to twenty feet (1":20') to the planning commission, health, and fire departments.
- D. The bed and breakfast home must be and remain the primary residence of the owner or leasee. If approved by the planning commission, employees may be hired; however, employees shall not be allowed to reside at the residence. A notarized letter attesting that the owners will occupy said bed and breakfast home, except for bona fide temporary absences, shall be submitted to the Planning Commission and kept on record with the City.
- E. Signs shall be limited to one non-lighted sign not larger in area than sixteen (16) square feet.
- F. All bed and breakfasts homes must collect and pay all applicable transient room taxes, sales tax, and all other applicable taxes and obtain a Santaquin City business license.
- G. No more than two (2) adult persons may occupy any guestroom.
- H. If meals are served, they shall be prepared, served, and placed upon the table family style, without service or ordering of individual portions from a menu.
- I. Any Bed and breakfast homes must be reviewed by the City's Development Review Committee to assure compliance with all building, zoning, fire, health, and other applicable ordinances prior to review by the Planning Commission.
- J. All applicable licenses and inspections are to be done by the appropriate governing agencies and officials, including but not limited to any remodeling or construction requiring a Santaquin City building permit, prior to approval of the business license by the City Council



Exhibit A

Planning Commission Recommended Home Occupation Ordinance

- K. A Santaquin City business license has been applied for and approved by the city council prior to opening.