

PUBLIC HEARING AND CITY COUNCIL MEETING
Tuesday, August 19, 2008 7:00 p.m.
Public Safety Building
3925 W Cedar Hills Drive, Cedar Hills, Utah

This meeting may be held electronically via telephone to permit one or more of the council members to participate.

NOTICE is hereby given that the City Council of the City of Cedar Hills, Utah, will hold a Public Hearing in connection with their Regular City Council Meeting on Tuesday, August 19, 2008, beginning at 7:00 p.m.

COUNCIL MEETING

1. Call to Order, Invocation and Pledge
2. Public Comment: Time has been set aside for the public to express their ideas, concerns, and comments (Comments limited to 3 minutes per person with a total of 30 minutes for this item).

PUBLIC HEARINGS

3. Amendments to the City Code Title 3, Chapter 1, Business Licensing and Title 10, Chapter 6A, Section 2, Use Requirements - Sexually Oriented Businesses - CONTINUED FROM AUGUST 5, 2008

CONSENT AGENDA

4. Minutes from the August 5, 2008, Public Hearing and Regular City Council Meeting

SCHEDULED ITEMS

5. Review/Action on Cedar Hills Golf Course Items and Clubhouse
6. Review/Action on Resolution Adopting Fees
7. Review/Action on Landscape Watering Schedule
8. Review/Action on Amendments to the City Code Title 3, Chapter 1, Business Licensing and Title 10, Chapter 6A, Section 2, Use Requirements - Sexually Oriented Businesses
9. Review/Action on Mesquite Park
10. Discussion Regarding Funds for a Statue
11. City Manager Report and Discussion

MAYOR AND COUNCIL REPORTS

12. Board and Committee Reports

EXECUTIVE SESSION

13. Motion to go into Executive Session, Pursuant to Utah State Code 52-4-5
* * * EXECUTIVE SESSION * * *
14. Motion to Adjourn Executive Session and Reconvene City Council Meeting

ADJOURNMENT

15. Adjourn

Posted this 14th day of August, 2008.

Kim E. Holindrake, City Recorder

- Supporting documentation for this agenda is posted on the City's Web Site at www.cedarhills.org.
- In accordance with the Americans with Disabilities Act, the City of Cedar Hills will make reasonable accommodations to participate in the meeting. Requests for assistance can be made by contacting the City Recorder at least 48 hours in advance of the meeting to be held.
- The order of agenda items may change to accommodate the needs of the City Council, the staff, and the public.



CITY OF CEDAR HILLS

TO:	Mayor and City Council
FROM:	Konrad Hildebrandt, City Manager
DATE:	8/19/2008

City Council Agenda Item

SUBJECT:	Golf Course Reconfiguration and Clubhouse
APPLICANT PRESENTATION:	N/A
STAFF PRESENTATION:	Konrad Hildebrandt
BACKGROUND AND FINDINGS: The City of Cedar Hills has completed 90% of the golf reconfigurations – the remaining 10% will be discussed. Further discussion and renderings of the proposed clubhouse will be discussed	
PREVIOUS LEGISLATIVE ACTION: NONE	
FISCAL IMPACT: The purpose of the reconfiguration is to pay down the golf course construction bond. An estimated \$3 million will be available, upon sale, for the debt service write down.	
SUPPORTING DOCUMENTS: None	
RECOMMENDATION: None	
MOTION: None	



CITY OF CEDAR HILLS

TO: Mayor McGee, City Council and Staff
FROM: Kim E. Holindrake, City Recorder
DATE: August 14, 2008

City Council Memorandum

SUBJECT: Resolution Adopting Fees
APPLICANT PRESENTATION:
STAFF PRESENTATION: Konrad Hildebrandt

BACKGROUND AND FINDINGS:

At the August 5, 2008, meeting, the Council discussed imposing a fine for parking violations. Brad Kearl, Chief Building Official, proposed a fine of \$35 for each occurrence. Also during that meeting the Council adopted Ordinance 8-5-2008C regarding sexually oriented businesses. This ordinance requires a bond of \$20,000 at the time of application. This fee needs to be on the City's fee schedule and removed from the ordinance.

Any additional changes may also be added.

PREVIOUS LEGISLATIVE ACTION:

FISCAL IMPACT:

SUPPORTING DOCUMENTS:

- Proposed Resolution

RECOMMENDATION

To adopt the resolution with any amendments.

MOTION

To adopt Resolution No. _____, A Resolution adding, amending, or deleting certain fees of the official fee schedule of the City of Cedar Hills, Utah.

RESOLUTION NO. _____

A RESOLUTION ADDING, AMENDING, OR DELETING CERTAIN FEES TO THE OFFICIAL FEE SCHEDULE OF THE CITY OF CEDAR HILLS, UTAH.

WHEREAS, the City has enacted various ordinances and fee resolutions setting certain fees for the City; and

WHEREAS, the City Council desires to provide an updated schedule of all City fees; and

WHEREAS, the purpose of this resolution is to add, amend or delete certain fees on the fee schedule.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CEDAR HILLS, UTAH, as follows:

**Section 1
Adoption**

Pursuant to the provisions of Section 10-3-717 UCA, 1953, as amended, the City Council hereby adopts the schedule of fees for certain municipal services provided by the City as set forth under Attachment A, which is attached hereto and by this reference made part of this Resolution.

Specific fees to be added and/or amended are as follows:

Fee Type	Current Fee	Amended/Added Fee
Parking Violation Fine	-0-	\$35
Bond - Sexually Oriented Business	-0-	\$20,000

**Section 2
Update/Adjustment of Fees**

1. Any subsequent fee resolutions for any or all of the fees contained within this fee schedule shall have the effect of updating and/or adjusting the fee schedule accordingly.
2. Any adjustment that is needed for those fees not created by a separate fee resolution shall be accomplished only by amending or repealing this resolution and adoption of a new fee resolution.

**Section 3
Severability**

If any section, sentence, clause, or phrase of this resolution is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not effect the validity or constitutionality of any other section, sentence, clause, or phrase of this resolution.

All resolutions or policies in conflict herewith are hereby repealed.

PASSED AND APPROVED THIS 19 TH DAY OF AUGUST, 2008.

Michael C. McGee, Mayor

ATTEST:

Kim E. Holindrake, City Recorder

City of Cedar Hills - Fees, Bonds, and Fines Schedule
EFFECTIVE: August 19, 2008

<u>Fee</u>	<u>Amount</u>	<u>When Collected</u>	<u>Enabling Legislation (if applicable)</u>
New Construction Fees			
Construction Water Fee	\$150.00	Building Permit	
Water Meter & Installation	\$375.00	Building Permit	Resolution 6-21-2005A
Water Lateral Inspection	\$75.00	Building Permit	Resolution 4-18-2006C
Sewer Lateral Inspection	\$75.00	Building Permit	Resolution 4-18-2006C
Gas Line Inspection	\$35.00	Building Permit	
Pressurized Irrigation Infrastructure	\$9.95 x # of months	Building Permit	Resolution 4-6-2004B
Commercial/Industrial Plan Check	Based on valuation	Building Permit	International Building Code
Residential Plan Check	Based on valuation	Building Permit	International Building Code
Building Permit	Based on valuation	Building Permit	International Building Code
Plumbing Permit	\$35.00	Building Permit	Resolution 6-21-2005A
Mechanical Permit	\$35.00	Building Permit	Resolution 6-21-2005A
Electrical Permit	\$35.00	Building Permit	Resolution 6-21-2005A
Building w/no Permit	\$100 initial (2 week grace, then \$100 per day)		Resolution 6-21-2005A
1% State Fee	1% of Building Permit	Building Permit	International Building Code
Re-inspection Fee	\$100.00	Prior to Re-inspect	Resolution 9-20-2005A
Refundable Improvement Bond	\$1,000.00	Building Permit	
Landscape Installation Bond	\$2,000.00	Building Permit	Resolution 12-12-2007B
Non-Participating Subdivision			
Water Line	\$5/Lineal Foot	Building Permit	
Sewer Line	\$4/Lineal Foot	Building Permit	
Sidewalk	\$15/Lineal Foot	Building Permit	
Street Excavation/Cut Permit	\$75.00	at Application	Resolution 9-20-2005A
Street Excavation/Cut Without Permit	\$500.00	Per Day	Resolution 9-20-2005A
Engineering/Public Works Inspection	Actual Cost	During Development	
Staging in the Street	\$100 initial (2 week grace, then \$100 per day)		
Fee in Lieu of Property Tax	Residential Properties: Assessed Value (55% of market value) x Certified Tax Rate x Percent of Year Remaining Other Types of Properties: Property Value x Certified Tax Rate x Percent of Year Remaining	Building Permit	Resolution 4-18-2006C
		Building Permit	Resolution 4-18-2006C

City of Cedar Hills - Fees, Bonds, and Fines Schedule
EFFECTIVE: August 19, 2008

<u>Fee</u>	<u>Amount</u>	<u>When Collected</u>	<u>Enabling Legislation (if applicable)</u>
Impact Fees			
Park Development Single Family	\$1,170.00	Building Permit	Resolution 8-21-2007C
Park Development Multi Family - Per Unit	\$1,185.00	Building Permit	Resolution 8-21-2007C
Park Land Single Family	\$4,378.00	Plat Recording	Resolution 8-21-2007C
Park Land Multi Family - Per Unit	\$4,437.00	Plat Recording	Resolution 8-21-2007C
Recreation Facilities	\$1,640.00	Building Permit	Resolution 6-6-2000C
Culinary Water - Lower Pressure Zor ;	\$1,661.00	Plat Recording	Resolution 4-17-2007B
Culinary Water - Upper Pressure Zone	\$2,167.00	Plat Recording	Resolution 4-17-2007B
Public Safety - Residential Per Unit	\$537.00	Building Permit	Resolution 7-17-2007B
Public Safety - Commercial Per 1,000 Unit	\$246.00	Building Permit	Resolution 7-17-2007B
Public Safety - Nursing Homes	\$2,430.00	Building Permit	Resolution 7-17-2007B
Public Safety - Big Box Retail	\$700.00	Building Permit	Resolution 7-17-2007B
Wastewater (TSSD)	\$3,120.00	Building Permit	Per TSSD
Wastewater (Cedar Hills)			
80 Rod Ditch	\$92.00	Building Permit	Resolution 4-7-98C
South Aqueduct	\$586.00	Building Permit	Resolution 4-7-98C
Roadway (Streets)	\$1,314.00	Building Permit	Resolution 4-17-2007B
Land Use Application Fees-Non Refundable			
General Plan Amendment	\$450.00	at Application	
Zoning Map or Ordinance Change	\$450.00	at Application	
Concurrent General Plan and Zone Change	\$650.00	at Application	
Conditional Use	\$150.00	at Application	
Appeal (City Council)	No Charge	at Application	
Board of Adjustment	\$100.00	at Application	Resolution 5-6-2008A
Relief Petition (Watershare Adjustment)	\$250.00	at Application	
Reimbursement Agreement	\$500.00	at Application	
Development Fees			
Site Plan Review	\$100.00	at Application	
Concept Plan	\$150 + \$15/lot	at Application	
Preliminary Plan	\$300 + \$30/lot	at Application	
Final Plan (or Site Plan approval)	\$200 + \$20/lot	at Application	Resolution 4-18-2006C
Minor Subdivision (1 or 2 lots)	\$200 + \$20/lot	at Application	
Improvement Bond	125% of Imp. Cost	Prior to Recording	
Recording Fee	Per Utah County	Prior to Recording	
Annexation	\$250.00	at Application	Resolution 9-5-2006A
Release of Building Setback	\$100.00	at Application	Resolution 5-6-2008A

City of Cedar Hills - Fees, Bonds, and Fines Schedule
EFFECTIVE: August 19, 2008

<u>Fee</u>		<u>Amount</u>	<u>When Collected</u>	<u>Enabling Legislation (if applicable)</u>
Utility Fees				
Water (No PI Available)	Base Rate (no usage)	\$6.00	Per Month	Resolution 6-19-2007A
	1-10,000	\$1.25	Per 1,000 gallons	Resolution 6-19-2007A
	10,001-12,000	\$2.00	Per 1,000 gallons	Resolution 6-19-2007A
	12,001-18,000	\$2.50	Per 1,000 gallons	Resolution 6-19-2007A
	18,000+	\$1.50	Per 1,000 gallons	Resolution 6-19-2007A
Water (PI Available)	Base Rate (no usage)	\$6.00	Per Month	Resolution 6-19-2007A
	1-10,000	\$1.25	Per 1,000 gallons	Resolution 6-19-2007A
	10,001-12,000	\$2.00	Per 1,000 gallons	Resolution 6-19-2007A
	12,001-18,000	\$3.00	Per 1,000 gallons	Resolution 6-19-2007A
	18001+	\$4.00	Per 1,000 gallons	Resolution 6-19-2007A
Water (PI Not Connected)	Base Rate (no usage)	\$6.00	Per Month	Resolution 6-19-2007A
	1-6,000	\$2.00	Per 1,000 gallons	Resolution 6-19-2007A
	6,001-12,000	\$3.00	Per 1,000 gallons	Resolution 6-19-2007A
	12,001-18,000	\$4.00	Per 1,000 gallons	Resolution 6-19-2007A
	18001+	\$5.00	Per 1,000 gallons	Resolution 6-19-2007A
Sewer	Base Rate	\$8.44	Per Month	
	Per 1,000 gal over base	\$1.75	(winter water usage)	
Sewer - Nonresident	Double average resident rate	\$44.88	Per Month	Resolution 12-12-2007B
Sewer - Nonresident	Beginning 1-1-2008 if no Boundary Adjustment or Disconnection/Annexation documentation is filed with the City of Cedar Hills and other municipality.	4 x Cedar Hills Resident Rate	Per Month	Resolution 10-2-2007C
Sewer - Nonresident	Beginning 7-1-2008 if the Boundary Adjustment or Disconnection/Annexation is not complete between the City of Cedar Hills and other municipality.	8 x Cedar Hills Resident Rate	Per Month	Resolution 10-2-2007C
Garbage	1 Toter	\$10.80	Per Month	Resolution 6-3-2008A
	Each Additional Toter	\$7.08	Per Month/min. 6 mths	Resolution 6-3-2008A
Storm Drain/Flood Control		\$5.75	Per Month	Resolution 2-19-2008B
Central Utah Water Conservancy (CUP)		\$4.95	Per Month	Resolution 6-19-2007A
Pressurized Irrigation	Base Rate	\$11.95	(Begins 1-1-2004)	Resolution 6-19-2007A
(Add to base rate)	Lot Size-1/4 acre or less	\$12.05	Per Month	Resolution 4-15-2003A
	1/4 acre to 1/3 acre	\$16.05	Per Month	Resolution 4-15-2003A
	1/3 acre to 1/2 acre	\$19.05	Per Month	Resolution 4-15-2003A
	Large Water Users determined by City		Per Month	Resolution 4-15-2003A
Recycling	1 Toter	\$4.79	Per Month/min. 6 mths	Resolution 6-3-2008A
	Each Additional Toter	\$2.08	Per Month/min. 6 mths	Resolution 6-3-2008A
Set-up Fee		\$50.00	Per Account	Resolution 6-18-2002A
ACH NSF		\$15.00		Resolution 6-21-2005A

City of Cedar Hills - Fees, Bonds, and Fines Schedule
EFFECTIVE: August 19, 2008

<u>Fee</u>	<u>Amount</u>	<u>When Collected</u>	<u>Enabling Legislation (if applicable)</u>
Penalty Fees/Fines			
Reset Water Meter	\$1,000.00	Prior to Reset	
Utility Disconnection	1st Offense \$50.00	Prior to Reconnect	Resolution 4-17-2007B
	2nd Offense \$75.00	Prior to Reconnect	Resolution 4-17-2007B
	3rd Offense + each offense thereafter \$100.00	Prior to Reconnect	Resolution 4-17-2007B
Landscape Installation Fine	Offenses 1-12 \$50.00	Per Month	Resolution 9-5-2006A
	Offenses 13 + \$100.00	Per Month after 12 Months	
Landscape Watering Fine	1st Offense No Charge		Resolution 4-18-2006C
	2nd Offense + each offense thereafter \$50.00		
Motor Vehicle Trespass	1st Offense \$50.00		Resolution 12-12-2007B
	2nd Offense \$250.00		
	3rd Offense + each offense thereafter \$750.00		
Parking Violations Fine	\$35.00	Per Occurrence	
Business Licensing			
Business License			
Commercial	Base \$50.00	Per Year	Resolution 6-18-2002A
	Additional Employee \$10.00	Per Year	Resolution 6-18-2002A
Home/Premises/PedVen/Solic	Base \$50.00	Per Year	Resolution 6-21-2005A
Home/Premises Occupation	Annual Base plus \$5.00	Per Year	Resolution 6-18-2002A
Peddlers, Vendors	Annual Base plus \$10.00	Per Year	Resolution 2-20-2007A
Solicitation (door-to-door)	Annual Base + \$15 + \$5 per badge	Per Year	Resolution 4-17-2007B
Late Fee	(30-day grace period) \$10.00	Per Month	Resolution 4-18-2006C
Inspection Fee	One reinspection allowed, then charged fee each time thereafter \$25.00		Resolution 2-20-2007A
Replacement/Duplicate License	\$5.00		Resolution 2-20-2007A
Forfeiture of Fees	Applicant fails to complete requirements Fees Forfeited		Resolution 2-20-2007A
Bond - Sexually Oriented Business	\$20,000.00	at Application	

City of Cedar Hills - Fees, Bonds, and Fines Schedule
EFFECTIVE: August 19, 2008

<u>Fee</u>	<u>Amount</u>	<u>When Collected</u>	<u>Enabling Legislation (if applicable)</u>
MISC Fees			
Other fees			
Returned Check	\$15.00		Resolution 4-6-2004B
Copies 8.5 x 11	\$0.25		Resolution 6-18-2002A
Copies - Colored 8.5 x 11	\$0.50		Resolution 9-20-2005A
Design Standard Book	\$35.00		Resolution 6-18-2002A
Grama Request Per 8.5 x 11 copy	\$0.25 black/white \$0.50 color		Resolution 6-18-2002A
Grama Request Compiling, Formatting, Manipulating, Packaging, Summarizing or Tailoring	\$0 first quarter hour \$15 per hour thereafter		Resolution 2-20-2007A
Park - Resident Per hour - each area	\$8.00		Resolution 6-18-2002A
Park - Non Resident Per hour - each area	\$16.00		Resolution 6-18-2002A
Park - Reservation Refund Administrative Cost to Refund Fee	\$8.00		Resolution 4-17-2007B
Postage	Actual Cost		
Sign Permit	\$1.00	Per Sign, Per Occurrence	Resolution 4-18-2006C
Public Works			
No-fault Meter Re-Read	\$15.00		Resolution 6-21-2005A
Shut-off 2nd Notice	\$15.00		Resolution 6-21-2005A
0-3 day No account Water Turn on/off	\$30.00		Resolution 9-5-2006A
PI hookup/assistance	\$30.00	per hour	Resolution 6-21-2005A
Water Testing	\$50.00	Per Request	Resolution 4-18-2006C
Re-Inspection Fee	\$100.00	Per Occurrence	Resolution 12-12-2007B
Street Closure Fee	\$40.00		Resolution 9-5-2006A
Deposit	\$250.00		
Universal City Late Fee	\$10.00		Resolution 6-21-2005A
Nuisance	\$100.00	Each Day/First Week	Ordinance 6-17-2003A
	\$200.00	Each Day Thereafter	Ordinance 6-17-2003A
911 False Alarm	Actual Dispatch Cost	Each Occurrence	Resolution 6-19-2007A



CITY OF CEDAR HILLS

TO: Mayor McGee, City Council, and Staff
FROM: Kim E. Holindrake, City Recorder
DATE: August 8, 2008

City Council Memorandum

SUBJECT: Landscape Watering Ordinance
APPLICANT PRESENTATION:
STAFF PRESENTATION: Konrad Hildebrandt

BACKGROUND AND FINDINGS:

Recently residents were notified that the prohibited day-time watering for landscaping changed from 9 a.m. -7 p.m. to 10 a.m. - 7 p.m. Council member Perry proposes that this change be amended in the City Code as well as allowing residents to install new lawns during the months of July and August. Any additional changes by the Council may be included.

PREVIOUS LEGISLATIVE ACTION:

FISCAL IMPACT:

SUPPORTING DOCUMENTS:

- Proposed ordinance

RECOMMENDATION

To pass the proposed ordinance with any additional changes.

MOTION

To approve Ordinance No. _____, an ordinance amending Title 7 of the City Code of the City of Cedar Hills, Utah.

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 7 OF THE CITY CODE OF THE CITY OF CEDAR HILLS, UTAH.

WHEREAS, the City Council of the City of Cedar Hills has determined that it is in the best interest of the City of Cedar Hills and the residents thereof to enact certain amendments to Title 7 of the City Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CEDAR HILLS, UTAH COUNTY, STATE OF UTAH:

**PART I
AMENDMENTS**

SECTION 1. Section 7-4, Landscape Watering Schedule, is amended by changing the section regarding irrigation regulations as follows:

7-4-2: **IRRIGATION REGULATIONS:** Sprinkler irrigation of public and private landscapes is prohibited between the hours of nine o'clock (10~~9~~:00) A.M. and seven o'clock (7:00) P.M. As an additional conservation method, public and private landscapes may be required to water according to a City prescribed schedule. Schools, churches, homeowner associations, parks, and golf courses must have a watering schedule approved by the City. The provisions of this Chapter shall apply to all landscapes within the City, with the following exceptions:

- A. New lawns that require frequent irrigation for establishment purposes within thirty (30) days of planting. ~~This exception does not apply during the months of July and August.~~
- B. Short cycles required for testing, inspecting and maintaining irrigation systems, or attended hand spot watering.
- C. Agricultural farming entities.

**PART II
PENALTY AND ADOPTION**

A. CONFLICTING PROVISIONS
Whenever the provisions of this Ordinance conflict with the provisions of any other Ordinance, resolution or part thereof, the more stringent shall prevail.

B. PROVISIONS SEVERABLE
This Ordinance and the various sections, clauses and paragraphs are hereby declared to be severable. If any part, sentence, clause or phrase is adjudged to be unconstitutional or invalid it is hereby declared that the remainder of the ordinance shall not be affected thereby.

C. AMENDMENT TO BE ADDED TO CITY CODE
The City Council hereby authorizes and directs that insert pages reflecting the provisions enacted hereby shall be made and placed in the City Code, Title 7.

D. PENALTY

Any public or private entity violating any of the provisions of this Ordinance shall receive a fine according to the City Fee Schedule.

E. EFFECTIVE DATE

This Ordinance shall take effect upon its passage and publication as required by law.

PASSED AND ORDERED POSTED BY THE CITY COUNCIL OF THE CITY OF CEDAR HILLS, UTAH, THIS 19TH DAY OF AUGUST, 2008.

Michael C. McGee, Mayor

ATTEST:

Kim E. Holindrake, City Recorder



CITY OF CEDAR HILLS

TO:	City Council
FROM:	Brad Kearn-Zoning Administrator
DATE:	August 19, 2008

City Council Agenda Item

SUBJECT:	Sexually Oriented Business
APPLICANT PRESENTATION:	
STAFF PRESENTATION:	Konrad Hildebrandt
BACKGROUND AND FINDINGS: To change the bond amount to \$20,000 and to be removed from the Ordinance and put on the Fee Schedule.	
PREVIOUS LEGISLATIVE ACTION: NONE	
FISCAL IMPACT: NONE	
SUPPORTING DOCUMENTS: As per previously discussed by the City Council	
RECOMMENDATION: Recommend approval of changes	
MOTION: To recommend that the bond amount be increased to \$20,000 and put on the Fee Schedule to be approved.	

ORDINANCE NO. 8-5-2008C

AN ORDINANCE AMENDING TITLE 3, BUSINESS AND LICENSE REGULATIONS, OF THE CITY CODE OF THE CITY OF CEDAR HILLS, UTAH, BY ADDING CERTAIN PROVISIONS REGARDING SEXUALLY ORIENTED BUSINESS AND EMPLOYEE LICENSING.

WHEREAS, the City Council of the City of Cedar Hills, following receipt of a recommendation from the Planning Commission, has determined that it is in the best interest of the City of Cedar Hills and the residents thereof to enact certain provisions to Title 3, Business and Licensing Regulations.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CEDAR HILLS, UTAH COUNTY, STATE OF UTAH:

**PART I
AMENDMENTS**

SECTION 1. Title 3, Chapter 1, of the City Code, entitled Business Licensing, is hereby amended by adding Article E, as follows:

3-1E-1 TITLE, PURPOSE AND APPLICABILITY:

- A. The provisions of this Article shall be known and may be referred to as the *Sexually Oriented Business and Employee Licensing Ordinance*.
- B. It is the purpose and object of this City that the City of Cedar Hills establishes reasonable and uniform regulations governing the time, place and manner of operation of Sexually Oriented Businesses and employees of those businesses in the City. This Ordinance shall be construed, and shall have the purpose to not only protect the governmental interests recognized by this Ordinance, including, but not limited to, the known secondary affects of such businesses, in a manner consistent with constitutional protections provided by the United States and Utah Constitutions. The purpose of these regulations is to provide for the regulation of and licensing of Sexually Oriented Businesses within the Town in a manner which will protect the property values of surrounding businesses and neighborhoods, and residents from the potential adverse secondary effects of Sexually Oriented Businesses, while providing to those who desire to patronize Sexually Oriented Businesses the opportunity to do so. Sexually Oriented Businesses are frequently used for unlawful sexual activities, including prostitution. Licensing of Sexually Oriented Businesses is a legitimate and reasonable means of ensuring that Operators of Sexually Oriented Businesses comply with reasonable regulations and that Operators do not knowingly allow their businesses to be used for illegal sexual activity or solicitation. There is convincing documented evidence that Sexually Oriented Businesses, because of their nature, have a deleterious effect on both the existing neighboring businesses and surrounding residential areas, causing increased crime and downgrading of property values. The purpose of this Chapter is to control the adverse effects of Sexually Oriented Businesses and thereby to protect the health, safety, and welfare of the citizens and guest of Cedar Hills, protect the citizens from increased crime, preserve the quality of life, preserve the property values and character of the surrounding neighborhoods, and deter the spread of urban blight.

1. Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the City Council, and on findings incorporated in the cases of *City of Erie v. Pap's A.M.*, 529 U.S. 277, 120 S.Ct. 1382, 146 L.Ed.2d 265 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41, 106 S.Ct. 925, 89 L.Ed.2d 29 (1986); *Young v. American Mini Theatres, [Inc.]*, 427 U.S. 50, 96 S.Ct. 2440, 49 L.Ed.2d 310 (1976); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560, 111 S.Ct. 2456, 115 L.Ed.2d 504 (1991); *California v. La Rue*, 409 U.S. 109, 93 S.Ct. 390, 34 L.Ed.2d 342 (1972); *O'Connor v. City and County of Denver*, 894 F.2d 1210 (10th Cir.1990); *Z.J. Gifts D-2, L.L.C. v. City of Aurora*, 136 F.3d 683 (10th Cir.1998); *Dodger's Bar & Grill, Inc. v. Johnson County*, 98 F.3d 1262 (10th Cir.1996); *Dodger's Bar & Grill, Inc. v. Johnson County Bd. of County Com'rs*, 32 F.3d 1436 (10th Cir.1994); *American Target Advertising, Inc. v. Giani*, 199 F.3d 1241 (10th Cir.2000); *MS News Co. v. Casado*, 721 F.2d 1281 (10th Cir.1983); *Cortese v. Black*, 87 F.3d 1327, (10th Cir.1996); *Heideman v. South Salt Lake City*, 348 F.3d 1182 (10th Cir. 2003); *Doctor John's Inc. v. Roy*, 465 F.3d 1150 (10th Cir. 2006), *Salt Lake City v. Wood*, 1999 Utah App. 323, 991 P.2d 595 (Utah Ct.App.1999); *Midvale City Corp. v. Haltom*, 73 P.3d 334 (Utah 2003); *United States v. Freedberg*, 724 F.Supp. 851 (D.Utah 1989); and documents concerning the secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Phoenix, Arizona-1984; Minneapolis, Minnesota-1980; Houston, Texas-1997; Indianapolis, Indiana-1984; Amarillo, Texas; Garden Grove, California-1991; Los Angeles, California-1977; Whittier, California-1978; Austin, Texas-1986; Seattle, Washington-1989; Oklahoma City, Oklahoma-1986; Cleveland, Ohio-; and Dallas, Texas-1997; St. Croix County, Wisconsin-1993; Bellevue, Washington-1998; Newport News, Virginia-1996; New York Times Square study-1994; Phoenix, Arizona-1995-98; and also on findings from the paper entitled "Stripclubs According to Strippers: Exposing Workplace Sexual Violence," by Kelly Holsopple, Program Director, Freedom and Justice Center for Prostitution Resources, Minneapolis, Minnesota, and from "Sexually Oriented Businesses: An Insider's View," by David Sherman, presented to the Michigan House Committee on Ethics and Constitutional Law, Jan. 12, 2000; crime statistics of the City of South Salt Lake for the past seven years; and the Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota) the town council finds as follows:

- a. Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the unlicensed operators of the establishments. Further, there is presently no mechanism in this city to make the owners and operators of these establishments responsible for the activities that occur on their premises.
- b. Sexual acts, including masturbation, and oral and anal sex, occur at unregulated sexually oriented businesses, especially those which provide private or semiprivate booths or cubicles for viewing films, videos or live sex shows.

- c. Offering and providing such unregulated space encourages such activities, which creates unhealthy conditions.
 - d. Numerous communicable diseases may be spread by activities occurring in sexually oriented businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis, salmonella, campylobacter and shigella infections, chlamydia, mycoplasmal and ureoplasmal infections, trichomoniasis and chancroid.
 - e. Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.
 - f. The findings noted in subsections (B)(1) through (B)(5) of this section raise substantial governmental concerns.
 - g. A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and the operators of the sexually oriented businesses. Further, such a licensing procedure will place a heretofore nonexistent incentive on the operators to see that the sexually oriented business is run in a manner consistent with the health, safety and welfare of its patrons and employees, as well as the citizens of the city. It is appropriate to require reasonable assurances that the licensee is the actual operator of the sexually oriented business, fully in possession and control of the premises and activities occurring therein.
 - h. The disclosure of certain information by those persons ultimately responsible for the day to day operation and maintenance of the sexually oriented business, where such information is substantially related to the significant governmental interest in the operation of such uses, will aid in preventing the spread of sexually transmitted diseases and will prevent the further secondary effects of dissemination of illegal obscenity, child pornography, and to minors, materials harmful to them.
 - i. The general welfare, health, morals and safety of the citizens of the city will be promoted by the enactment of this chapter.
- C. This Ordinance imposes regulatory standards and license requirements on certain business activities that 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 Ordinance does not supersede or nullify any other related ordinances.

3-1E-2 **DEFINITIONS:**

A. For the purpose of this Ordinance, the following definitions shall apply:

- ADULT BOOKSTORE OR ADULT VIDEO STORE:** A commercial establishment which:
- A. Excludes minors from the premises; and
 - B. As one of its principal purposes, offers sale or rental for any form of consideration one or more of the following: books, magazine periodicals, printed matter, photographs, motion pictures, video cassettes, reproductions, slides or other “representations;” the central theme of depicts or describes “specified sexual act” or “specified sexual anatomical areas” or instruments, devices or paraphernalia that are designed for use in connection with “specified sexual activities.” Legitimate medically recognized contraceptives are accepted.
- ADULT BUSINESS:** An adult theater, adult motion picture theater, adult book store, or adult video store.
- ADULT MOTION PICTURE THEATER:** A commercial establishment that:
- A. Excludes all minors from the premises; and
 - B. As its principal business, shows, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions that are primarily characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas.”
- ADULT THEATER:** A theater, concert hall, auditorium or similar commercial establishment that:
- A. Holds itself out as such a business; or
 - B. Excludes minors from the premises; and
 - C. As its principal business, features persons who appear in live performances in a state of semi-nudity or that are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities.”

EMPLOY:	Hiring an individual to work for pecuniary or any other form of compensation, whether such person is on the payroll of the employer, as an independent contractor, as an agent, or any form of employment relationship.
ESCORT:	Any person who, for pecuniary compensation, dates, socializes, visits, consorts with or accompanies or offers to date, consort, socialize, visit or accompany another or others to or about social affairs, entertainment or places of amusement or within any place of public or private resort or any business or commercial establishment or any private quarters. Escort shall not be construed to include persons who provide business or personal services, such as licensed private nurses, aides for the elderly or handicapped, social secretaries or similar service personnel whose relationship with their patron is characterized by a bona fide contractual relationship having a duration of more than twelve (12) hours and who provide a service not principally characterized as dating or socializing. Escort shall also not be construed to include persons providing services such as singing telegrams, birthday greetings or similar activities characterized by appearances in a public place, contracted for by a party other than the person for whom the service is being performed and of duration not longer than three (3) hours.
ESCORT SERVICE:	An individual or entity who for pecuniary compensation, furnishes or offers to furnish escorts, or provides or offers to introduce patrons to escorts.
ESCORT SERVICE RUNNER:	Any third person, not an escort, who, for pecuniary compensation, acts in the capacity of an agent or broker for an escort service, escort or patron by contacting or meeting with escort services, escorts or patrons at any location within the City, whether or not such third person is employed by such escort service, escort, patron or by another business, or is an independent contractor or self-employed.
NUDITY:	A state of dress in which the areola of the female breast, or male or female genitals, pubic region or anus are covered by less than the covering required in the definition of semi-nude.
OPERATOR:	One who operates, manages, and supervises a sexually oriented business.
OUTCALL SERVICES:	Services of a type performed by a sexually oriented business employee outside of the premises of the licensed sexually oriented business, including, but not limited to, escorts, models, dancers and other similar employees.

PATRON:	Any person who contracts with or employs any escort services or escort, or the customer of any business licensed pursuant to this Ordinance.
PECUNIARY COMPENSATION:	Any commission, fee, salary, tip, gratuity, hire, profit, reward or any other form of consideration.
PERSON:	Any person, unincorporated association, corporation, partnership or other legal entity.
SEMI-NUDE:	A state of dress in which opaque clothing covers no more than the areola of the female breast; and the male or female genitals, pubic region and anus shall be fully covered by an opaque covering no narrower than four inches (4") wide in the front and five inches (5") wide in the back.
SEMI-NUDE DANCING AGENCY:	Any person, agency, firm, corporation, partnership or any entity or individual that furnishes bookings, or otherwise engages or offers to furnish bookings, or otherwise engage the service of a professional dancer licensed pursuant to this Ordinance for performance or appearance at a business licensed for adult theaters.
SEMI-NUDE ENTERTAINMENT BUSINESS:	A business, including adult theater, where employees perform or appear in the presence of patrons of the business in a state of semi-nudity. A business shall also be presumed to be a semi-nude entertainment business if business holds itself out as such a business.
SEXUALLY ORIENTED BUSINESS:	“Semi-nude entertainment businesses,” sexually oriented “outcall services,” “adult businesses,” and “semi-nude dancing agencies” as defined by this Ordinance.
SEXUALLY ORIENTED BUSINESS EMPLOYEES:	Those employees who work on the premises of a sexually oriented business in activities related to the sexually oriented portion of the business. This includes all managing employees, dancers, escorts, models and other similar employees, whether or not hired as employees, agents or as independent contractors. Employee shall not include individuals whose work is unrelated to the sexually oriented portion of the business, such as janitors, bookkeepers and similar employees. Sexually oriented business employees shall not include cooks, serving persons and similar employees, except where they may be managers or supervisors of the business. All persons making outcall meetings under this Ordinance, including escorts, models, guards, escort runners, drivers, chauffeurs and other similar employees, shall be considered sexually oriented business employees.

**SPECIFIED
ANATOMICAL
AREAS:**

The human male or female pubic area or anus with less than a full opaque covering, or the human female breast below a point immediately above the top of the areola, with less than full opaque covering.

**SPECIFIED SEXUAL
ACTIVITIES:**

Acts of:

- A. Masturbation.
- B. Human sexual intercourse.
- C. Sexual copulation between a person and a beast.
- D. Fellatio.
- E. Cunnilingus.
- F. Bestiality.
- G. Pederasty.
- H. Buggery.
- I. Any anal copulation between a human male and another male, human female or beast.
- J. Manipulating, caressing or fondling by any person of:
 - 1. The genitals of a human.
 - 2. The pubic area of a human.
 - 3. The breast or breasts of a human female,
- K. Flagellation, torture or sadomasochistic abuse by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of the one so clothed.

WORKING DAYS: Weekdays excluding Saturdays, Sundays, and legal holidays.

3-1E-3 STATUTORY PROVISIONS:

- A. Obscenity: Notwithstanding anything contained in this Ordinance, nothing in this Ordinance shall be deemed to permit or allow the showing or display of any matter that is contrary to applicable Federal or State statutes prohibiting obscenity.

- B. Lewdness: Notwithstanding anything contained in this Ordinance, nothing in this Ordinance shall be deemed to permit or allow conduct or the showing or display of any matter that is contrary to the provisions of Utah Code Annotated section 76-5-401 et seq.

3-1E-4 LOCATION AND NAME RESTRICTIONS:

- A. Zoning: It is unlawful for any sexually oriented business to do business at any location within the City not zoned for such business.
- B. Premises Licensed: It is unlawful to conduct business under a license issued pursuant to this Ordinance at any location other than the licensed premises. Any location to which telephone calls are automatically forwarded by such business shall require a separate license.
- C. 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.
- D. Zoning: It is unlawful for any sexually oriented business or its employee(s) to do business at any location within the City not specifically and expressly zoned for such business and/or use.
- E. No sexually-oriented business shall operate within 600 feet of any of the following:
 - 1. a residential zone boundary line as shown on the Zone Map of the City;
 - 2. the property boundary of any church, public park, public library, or school.

3-1E-5 LEGITIMATE AND ARTISTIC MODELING:

- A. Intent: The City does not intend to unreasonably or improperly prohibit legitimate modeling that may occur in a state of nudity for purposes protected by the First Amendment or similar State protections. The City intends to prohibit prostitution and related offenses occurring under the guise of nude modeling. Notwithstanding the provisions of the Section entitled Regulations and Unlawful Activities of this Ordinance, a licensed outcall employee may appear in a state of nudity before a customer or patron, providing that a written contract for such appearance was entered into between the customer or patron and the employee and signed at least twenty four (24) hours before the nude appearance. All of the other applicable provisions of this Ordinance shall still apply to such nude appearances.
- B. Unlicensed Appearance; Unlawful Acts: In the event of a contract for nude modeling or appearance signed more than forty eight (48) hours in advance of the modeling or appearance, the individual to appear nude shall not be required to obtain a license pursuant to this Ordinance. During such unlicensed nude appearance, it is unlawful to:
 - 1. Appear nude or semi-nude in the presence of minors.
 - 2. Allow, offer or agree to any touching of the contracting party or other person by the individual appearing nude;

3. Allow, offer or agree to commit prostitution, solicitation of prostitution, solicitation of a minor or committing activities harmful to a minor;
4. Allow, offer, commit or agree to any sex act as validly defined by City ordinances or State statute;
5. Allow, offer, agree or permit the contracting party or other person to masturbate in the presence of the individual contracted to appear nude;
6. Allow, offer or agree for the individual appearing nude to be within five feet (5') of any other person while performing or while nude or semi-nude.

3-1E-6 **CATEGORIES OF LICENSES; NUMBER LIMITED:**

- A. Number: It is unlawful for any business premises to operate or be licensed for more than one category of sexually oriented business, except that a business may have a license for both outcall service and a semi-nude dancing agency on the same premises.
- B. Categories: The categories of sexually oriented businesses are:
 1. Outcall services;
 2. Adult businesses;
 3. Semi-nude entertainment businesses;
 4. Semi-nude dancing agency.

3-1E-7 **LICENSES REQUIRED:**

- A. Businesses; Exemptions:
 1. It is unlawful for any person to operate a sexually oriented business, as specified herein, without first obtaining a general business license and a sexually oriented business license. The sexually oriented business license shall specify the type of business for which it is obtained.
 2. The provisions of this Ordinance shall not apply to any sex therapist or similar individual licensed by the State to provide bona fide sexual therapy or counseling, licensed medical practitioner, licensed nurse, psychiatrist, psychologist, nor shall it apply to any educator licensed by the State for activities in the classroom.
- B. Employees: It is unlawful for any sexually oriented business to employ or for any individual to be employed by a sexually oriented business in the capacity of a sexually oriented business employee, unless that employee first obtains a sexually oriented business employee license.

- 3-1E-8 **APPLICATION; DISCLOSURES:** Before any applicant may be licensed to operate a sexually oriented business or as a sexually oriented business employee pursuant to this Ordinance, the applicant shall submit on a form to be supplied by the City license authority, the following:

- A. Name: The correct legal name of each applicant, corporation, partnership, limited partnership or entity doing business under an assumed name.
- B. Corporations, Partnerships, Assumed Names:
 - 1. If the applicant is a corporation, partnership or limited partnership, or individual or entity doing business under an assumed name, the information required below for individual applicants shall be submitted for each partner and each principal of an applicant, and for each officer, director and any shareholder. Any holding company or any entity holding stock of any applicant, shall be considered an applicant for purposes of disclosure under this Ordinance.
 - 2. The shareholder disclosure requirements above shall only be applicable for outcall service licenses.
 - 3. All corporations, partnerships or non-corporate entities included on the application shall also identify each individual authorized by the corporation, partnership or non-corporate entity to sign the checks for such corporation, partnership or non-corporate entity.
- C. Personal Information: For all applicants or individuals, the application must also state:
 - 1. Any other names or aliases used by the individual;
 - 2. The age, date and place of birth;
 - 3. Height;
 - 4. Weight;
 - 5. Color of hair;
 - 6. Color of eyes;
 - 7. Present business address and telephone number;
 - 8. Present residence and telephone number; and
 - 9. Social Security Number.
- D. Proof Of Age: Acceptable written or documented proof that any individual is at least twenty-one (21) years of age.
- E. Photographs; Fingerprints: Attached to the form, as provided above, two (2) color photographs of the applicant clearly showing the individual's face and the individual's fingerprints on a form provided by the Police Department. For persons not residing in the City, the photographs and fingerprints may be on a form from the law enforcement jurisdiction where the person resides. Fees for the photographs and fingerprints shall be paid by the applicant directly to the issuing agency.
- F. Health Certificate: For any individual applicant required to obtain a sexually oriented business employee license as an escort or a semi-nude entertainer, a certificate from the Utah County Health Department, stating that the individual has, within thirty (30) days immediately preceding the date of the original or renewal application, been examined and found to be free of any contagious or communicable diseases.

- G. Employment History: A statement of the business, occupation or employment history of the applicant for three (3) years immediately preceding the date of the filing of the application.
- H. License Or Permit History: A statement detailing the license or permit history of the applicant for the five (5) year period immediately preceding the date of the filing of the application, including whether such applicant previously operated or sought to operate a sexually oriented business in this or any other county, city, state or territory, has ever had a license, permit or authorization to do business denied, revoked or suspended, or has ever had any professional or vocational license or permit denied, revoked or suspended. In the event of any such denial, revocation or suspension, state the date, the name of the issuing or denying jurisdiction and state in full the reasons for the denial, revocation or suspension. A copy of any order of denial, revocation or suspension shall be attached to the application.
- I. Criminal Convictions: All criminal convictions or pleas of nolo contendere, except those that have been expunged, and the disposition of all such arrests for the applicant, individual or other entity subject to disclosure under this Ordinance, for five (5) years prior to the date of the application. This disclosure shall include identification of all ordinance violations, excepting minor traffic offenses (any traffic, offense designated as a felony shall not be construed as a minor traffic offense), stating the date, place, nature of each conviction or plea of nolo contendere, and sentence of each conviction or other disposition, identifying the convicting jurisdiction and sentencing court, and providing the court identifying case numbers or docket numbers. Application for a sexually oriented business or employee license shall constitute permission for disclosure of any criminal conviction or plea of nolo contendere for the purposes of any proceeding involving the business or employee license.
- J. Lease Or Rental Of Property: In the event the applicant is not the owner 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 of the possessory interest in the property specifically acknowledging the type of business for which the applicant seeks a license for the property. In addition to furnishing such notarized statement, the applicant shall furnish the name, address and phone number of the owner of record of the property, as well as the copy of the lease or rental agreement pertaining to the premises in which the service is or will be located.
- K. Description Of Services: A description of the services to be provided by the business, with sufficient detail to allow reviewing authorities to determine what business will be transacted on the premises, together with a schedule of usual fees for services to be charged by the licensee and any rules, regulations or employment guidelines under or by which the business intends to operate. This description shall also include:
1. The hours that the business or service will be open to the public and the methods of promoting the health and safety of the employees and patrons and preventing them from engaging in illegal activity.
 2. The methods of supervision preventing the employees from engaging in acts of prostitution or other related criminal activities.

3. The methods of supervising employees and patrons to prevent employees and patrons from charging or receiving fees for services or acts prohibited by this Ordinance or other statutes or ordinances.
 4. The methods of screening employees and customers in order to promote the health and safety of employees and customers and prevent the transmission of disease, and prevent the commission of acts or prostitution or other criminal activity.
- L. **False Or Misleading Information:** It is unlawful to knowingly submit false or materially misleading information on or with a sexually oriented business license application or to fail to disclose or omit information for the purpose of obtaining a sexually oriented business or employee license.

3-1E-9 **FEES:** Each applicant for a sexually oriented business or employee license shall be required to pay regulatory license fees as set by resolution and added in the consolidated fee schedule. The fees will be reviewed periodically. An application is not complete until all appropriate fees have been paid.

3-1E-10 **BOND REQUIRED:** Each application for a sexually oriented business license shall post with the City Recorder, a cash or corporate surety bond payable to the City in the amount of twenty thousand dollars (\$20,000.00). Any fines assessed against the business, officers or managers for violations of City ordinances shall be taken from this bond if not paid in cash within ten (10) days after notice of fine, unless an appeal is filed as provided by this Ordinance. In the event the funds are drawn against the cash or surety bond to pay such fines, the bond shall be replenished to twenty thousand dollars (\$20,000.00) within fifteen (15) days of the date of notice of any draw against it.

3-1E-11 **ISSUANCE CONDITIONS:**

- A. **Specified:** The City Business Licensing Official shall approve the issuance of a license to the applicant within thirty (30) days after receipt of a completed application, unless the official finds one or more of the following:
1. The applicant is a minor.
 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 as authorized by this Ordinance.
 4. The applicant has violated a provision of this Ordinance or similar provisions found in statutes or ordinances from any jurisdiction within five (5) years immediately preceding the application; a criminal conviction for a violation of a provision of this Ordinance or similar provisions from any jurisdiction, whether or not it is being

appealed, is conclusive evidence of a violation, but a conviction is not necessary to prove a violation.

5. The premises to be used for the business has been disapproved by the Utah County Health Department, the Fire Department, the Police Department, the building officials or the zoning officials as not being in compliance with applicable laws and ordinances of the City.

If any of the foregoing reviewing agencies cannot complete their review within the thirty (30) day approval or denial period, the agency or department may obtain from the City Business Licensing Official an extension of time of no more than thirty (30) days for their review.

6. The required license fees have not been paid.
7. All applicable sales and use taxes have not been paid.
8. An applicant for the proposed business is in violation of or not in compliance with this Ordinance or any other applicable provisions of state law.
9. An applicant has been convicted or pleaded or pled nolo contendere to a crime involving: prostitution; exploitation of prostitution; aggravated promotion of prostitution; aggravated exploitation of prostitution; solicitation of sex acts; sex acts for hire; compelling prostitution; aiding prostitution; sale, distribution or display of material harmful to minors; sexual performance by minors; possession of child pornography; lewdness; indecent exposure; any crime involving sexual abuse or exposure; any crime involving sexual abuse or exploitation of a child; sexual assault or aggravated sexual assault; rape; forcible sodomy; forcible sexual abuse; incest; harboring a runaway child; criminal attempt; conspiracy or solicitation to commit any of the foregoing offenses; or offenses involving similar elements from any jurisdiction, regardless of the exact title of the offense for which:
 - a. Less than two (2) years have elapsed from the date of conviction, if the conviction is of a misdemeanor offense or less than five (5) years if the convictions are of five (5) or more misdemeanors within the five (5) years; or
 - b. Less than five (5) years have elapsed from the date of conviction, if the offense is of a felony.
 - c. The fact that a conviction is being appealed shall have no effect on the disqualification pursuant to this subsection.

- B. Approval Time; Review: The total time for the City to approve or deny a license shall not exceed sixty (60) days from the receipt of a completed application and payment of all fees. Businesses located outside of the corporate boundaries of the City, but requiring a license under this Ordinance, may be denied a license pursuant to this Ordinance if the business does

not have a valid business license to conduct business at the business location from the appropriate jurisdiction for that location.

1. Upon receipt of an application, all departments required to review the application shall determine within ten (10) days whether or not the application is incomplete in items needed for processing. Incomplete applications shall immediately be returned to the applicant with a specification of the items that are incomplete.
2. The time for processing applications specified in this Section shall begin to run from the receipt of a complete application.
3. In the event that a license for semi-nude entertainment, semi-nude dancing agencies, adult businesses or semi-nude entertainment businesses has not been disapproved within thirty (30) days or the sixty (60) days allowed after an extension, the City shall issue the license pending completion of the City's review.
4. Any license pursuant to subsection B 3 of this Section may be revoked by the City pursuant to the revocation procedures provided for herein, if the completed review determines that the license should have been denied.

3-1E-12 **TERM OF LICENSE:** Sexually oriented business and employee licenses issued pursuant to this Ordinance shall be valid from the date of issuance through January 1, of each succeeding year. The license fees required under the consolidated fee schedule shall not be prorated for any portion of a year, but shall be paid in full for whatever portion of the year the license is applied for.

3-1E-13 **NOTICE OF CHANGE OF INFORMATION:** Any change in the information required to be submitted under this Ordinance for either a sexually oriented business license or sexually oriented business employee license shall be given, in writing, to the City Business Licensing Official and the Police Department within fourteen (14) days after such change.

3-1E-14 **TRANSFER LIMITATIONS:** Sexually oriented business licenses granted under this Ordinance shall not be transferable. It is unlawful for a license held by an individual to be transferred. It is unlawful for a license held by a corporation, partnership or other non-corporate entity to transfer any part thereof, without filing a new application and obtaining prior City approval. If any transfer of the controlling interest in a business licensee occurs, the license is immediately null and void and the business shall not operate until a separate new license has been properly issued by the City as provided in this Ordinance.

3-1E-15 **DISPLAY OF LICENSE:** It is unlawful for any sexually oriented business location within the boundaries of the City to fail to display the license granted pursuant to this Ordinance in a prominent location within the business premises. It is unlawful for any individual licensed pursuant to this Ordinance to fail to carry, at all times while engaged in licensed activities within the corporate boundaries of the City, their employee license on their person. If the individual is nude, such license shall be

visibly displayed within the same room the employee is performing. When requested by the Police Department, City licensing or other enforcement personnel or health official, it is unlawful to fail to show the appropriate licenses while engaged in licensed activities within the corporate boundaries of the City.

3-1E-16 **STATEMENT IN ADVERTISING:** It is unlawful for any advertisement by the sexually oriented business or employee to fail to state that the business or employee is licensed by the City, and shall include the City license number.

3-1E-17 **REGULATIONS AND UNLAWFUL ACTIVITIES:** It is unlawful for any sexually oriented business or sexually oriented business employee to:

- A. Allow minors on the licensed premises or allow, offer, or agree to conduct any outcall business with minors.
- B. Alcoholic Beverages: To allow, offer or agree to allow any alcohol to be stored, used or consumed on or in the licensed premises.
- C. Locking Outside Door: Allow the outside door to the premises to be locked while any customer is in the premises.
- D. Gambling: Allow, offer or agree to gambling on the licensed premises.
- E. Touching: Allow, offer or agree to any sexually oriented business employee touching or being touched by any patron or customer; except that outcall employees and customers may touch, except that any touching of specified anatomical areas, whether clothed or unclothed, is prohibited.
- F. Controlled Substances:
 - 1. Allow, offer or agree to illegal possession, use, sale or distribution of controlled substances on the licensed premises.
 - 2. Allow sexually oriented business employees to possess, use, sell or distribute controlled substances while engaged in the activities of the business.
- G. Prostitution: Allow, offer or agree to commit prostitution, solicitation of prostitution, solicitation of a minor or permitting activities harmful to a minor to occur on the licensed premises or, in the event of an outcall employee or business, the outcall employee committing, offering or agreeing to commit prostitution, attempting to commit prostitution, soliciting prostitution, soliciting a minor or committing activities harmful to a minor.
- H. Specified Sexual Activities: Allow, offer, commit or agree to any “specified sexual activity” as validly defined by City ordinances or State statute in the presence of any customer or patron.

- I. Nudity: Allow, offer or agree to any outcall employee appearing before any customer or patron in a state of nudity.
- J. Masturbation: Allow, offer or agree to allow a patron or customer to masturbate in the presence of the sexually oriented business employee or on the premises of a sexually oriented business.

3-1E-18 **OUTCALL SERVICES; OPERATION REQUIREMENTS:** It is unlawful for any business or employee providing outcall services contracted for in the City to fail to comply with the following requirements:

- A. Contract: All businesses licensed to provide outcall services pursuant to this Ordinance shall provide to each patron a written contract in receipt of pecuniary compensation for services. The contract shall clearly state the type of services to be performed, the length of time such services shall last, the cost to the patron and any special terms or conditions relating to the services performed. The contract need not include the name of the patron. The business licensee shall keep and maintain a copy of each written contract pursuant to this Section for a period not less than one year from the date of provision of services thereunder. The contracts shall be numbered and entered into a register listing the contract number, date, names of all employees involved in the contract and pecuniary compensation paid.
- B. Office; Phone: All outcall businesses licensed pursuant to this Ordinance shall maintain an open office or telephone at which the licensee or licensee's designated agent may be personally contacted during all hours outcall employees are working. The address and phone number of the license location shall appear and be included in all patron contracts and published advertisements. For outcall businesses that premises are licensed within the corporate limits of the City, private rooms or booths where the patrons may meet with the outcall employee shall not be provided at the open office or any other location by the service, nor shall patrons meet outcall employees at the business premises.
- C. Advertising: Outcall services shall not advertise in such manner that would lead a reasonably prudent person to conclude that specified sexual activities would be performed by the outcall employee.
- D. Licensing Regardless Of Business Location: All employees of outcall services who provide outcall services within the City shall be licensed in accordance with this Ordinance, regardless of the primary location of the business.

3-1E-19 **DESIGN OF PREMISES:**

- A. Adult Business:
 - 1. In addition to the general requirements of disclosure for a sexually oriented business, any applicant for a license as an adult business shall also submit a diagram, drawn to scale, of the premises of the license. The design and construction, prior to granting a license or opening for business, shall conform to the following:

- a. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms.
 - b. Restrooms may not contain any video reproduction equipment or any of the business merchandise. Signs shall be posted requiring only one person be allowed in the restroom and only one person in any stall at a time; and requiring that patrons shall not be allowed access to manager's station areas.
 - c. For businesses that exclude minors from the entire premises, all windows, doors and other apertures to the premises shall be darkened or otherwise constructed to prevent anyone outside the premises from seeing the inside of the premises.
 - d. The diagram required does not necessarily need to be a professional engineer's or architect's blueprint; however, the diagram must show marked internal dimensions, all overhead lighting fixtures and ratings for illumination capacity.
2. It shall be the duty of the licensee and the licensee's employees to ensure that the views from the manager's station in subsection A 1 of this Section remain unobstructed by any doors, walls, merchandise, display racks or any other materials at all times that any patron is present in the premises and to ensure that no patron is permitted access to any area of the premises that has been designated as an area in which patrons will not be permitted.
 3. The premises shall at all times be equipped and operated with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one foot-candle, measured at the floor level. It shall be the duty of the licensee and the licensee's employees present on the premises to ensure that the illumination described above is maintained at all times that any patron is present on the premises.

B. Semi-Nude Entertainment Business:

1. It is unlawful for a business premises licensed for semi-nude entertainment to:
 - a. Permit a bed, sofa, mattress or similar item in any room on the premises, except that a sofa may be placed in a reception room open to the public or in any office to which patrons are not admitted, and except that in an adult theater, such items may be on the stage as part of a performance.
 - b. Allow any door on any room used for business, except for the door to an office to which patrons shall not be admitted, outside doors and restroom doors to be lockable from the inside.

- c. Provide any room in which the employee or employees and the patron are alone together without a separation by a solid physical barrier at least three feet high and six inches wide (3' x 6"). The patron or patrons shall remain on one side of the barrier and the employee or employees shall remain on the other side of the barrier.
- 2. Adult theaters shall also require that the performance area shall be separated from the patrons by a minimum of three feet (3'), which separation shall be delineated by a physical barrier at least three feet (3') high.

3-1E-20 **ALCOHOL PROHIBITED:**

- A. It is unlawful for any business licensed pursuant to this Ordinance to allow the sale, storage, supply or consumption of alcoholic beverages on the premises.
- B. It is unlawful for any person to possess or consume any alcoholic beverage on the premises of any sexually oriented business.

3-1E-21 **PROHIBITED ACTIVITIES:**

A. Semi-Nude Dancing Agencies:

- 1. It is unlawful for any individual or entity to furnish, book or otherwise engage the services of a professional dancer, model or performer to appear in a state of semi-nudity for pecuniary compensation in or for any semi-nude entertainment business or adult theater if licensed pursuant to this Ordinance, unless such agency is licensed pursuant to this Ordinance.
- 2. It is unlawful for any individual or entity to furnish, book or otherwise engage or permit any person to perform as a professional dancer, model or performer in a state of semi-nudity or nudity, either gratuitously or for compensation, in or for any business licensed pursuant to this Ordinance unless such person is licensed pursuant to this Ordinance.

B. Performers: It is unlawful for any professional dancer, model or performer, while performing in any business licensed pursuant to this Ordinance, to:

- 1. Touch in any manner any other person;
- 2. Throw any object or clothing off the stage area;
- 3. Accept any money, drink or any other object directly from any person;
- 4. Allow another person to touch such performer or to place any money or object on the performer or within the costume or person or the performer;

5. Place anything within the costume or adjust or move the costume while performing so as to render the performer in a state of nudity.
- C. Patrons: It is unlawful for any person or any patron of any business to touch in any manner any performer; to place any money or object on or within the costume or person of any performer; or to give or offer to give to any such performer any drinks, money or object while such performer is performing; except that money may be placed on the stage, which shall not be picked up by the performer except by hand.

3-1E-22 **DEFENSES TO PROSECUTION:** It is a defense to prosecution or violation under this Ordinance that a person appearing in a state of nudity did so in a modeling class operated:

- A. By a proprietary school licensed by the State or a college, junior college or university supported entirely or partly by taxation;
- B. By a private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation.

3-1E-23 **SUSPENSION OR REVOCATION OF LICENSE:**

- A. Procedure: The denial, suspension or revocation of any license issued pursuant to this Ordinance shall be done in accordance with the Section entitled Appeal Procedures of this Ordinance, which sets forth the applicant's right to present evidence why the license should not be suspended or denied.
- B. Conditions Specified: The City may issue a notice suspending or revoking a sexually oriented business license or employee license granted under this Ordinance if a licensee or an employee of the licensee has:
 1. Violated or is not in compliance with the provisions of this Ordinance;
 2. Refused to allow any inspection of the premises of the sexually oriented business specifically authorized by this Ordinance or by any other statute or ordinance;
 3. Failed to replenish the cost bond as provided in this Ordinance (such a suspension shall extend until the bond has been replenished);
 4. Given materially false or misleading information in obtaining the license;
 5. Knowingly operated the sexually oriented business or worked under the employee license during the period when the business license or employee licensee's license was suspended;
 6. Committed an offense that would be grounds for denial of a license for which the time period required has not elapsed;

7. On two (2) or more occasions within a twelve (12) month period, a person committed in or on, or solicited for on the licensed premises, or an outcall employee solicited or committed on or off the premises, an offense that would be grounds for denial of a license for which a conviction has been obtained, and the person was an employee, whether or not licensed, of the sexually oriented business at the time the offenses were committed;
 8. Delinquent in payment to the City for ad valorem taxes or sales taxes related to the sexually oriented business.
- C. **Effective Date:** Suspension or revocation shall take effect within ten (10) working days of the issuance of notice, unless an appeal is filed as provided by this Ordinance. The notification shall be directed to the most current business address or other mailing address on file with the business licensing authority for the applicant or licensee.
 - D. **Appeal No Effect On Revocation:** The fact that a conviction is being appealed shall have no effect on the revocation of the license.
 - E. **Length Of Revocation:** When a license issued pursuant to this Ordinance is revoked, the revocation shall continue for one (1) year from its effective date and the license shall not be reissued to the sexually oriented business or employee for one (1) year from the date of such revocation.

3-1E-24 **APPEAL PROCEDURES**

- A. If the license is denied or approved with qualifications, or if a notice of suspension, revocation or citation of a civil fine is imposed, the applicant or licensee may file an appeal with the business licensing authority.
- B. Filing of an appeal must be within ten (10) working days of the date of service of the notice of any denial, qualified approval, suspension, revocation or civil fine. Upon receiving the notice of such appeal, the business licensing authority shall schedule a hearing before the City Manager within twenty (20) days of from the date of the appeal unless such time shall be extended for good cause.
- C. The City Manager shall hold a public hearing on the record, and take such facts and evidence as necessary to determine whether the denial, qualified approval, suspension, revocation or civil fine was proper under the law. The applicant or licensee shall have the opportunity to present all of his or her 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 (2) working days, unless extended to meet the requirements of due process and proper administration of justice.
- D. After the hearing, the City Manager shall have seven (7) working days, unless extended for good cause, in which to render findings of fact, conclusions of law, and make a recommendation to the City Council.

- E. Either party may object to the recommendation of the hearing officer by filing the party's objections and reason, in writing, to the City Council within seven (7) working days following the recommendation. In the event the City Manager recommends upholding a suspension or revocation, the license shall be immediately revoked or suspended, and shall remain revoked or suspended until any subsequent appeal is decided. If no objections are received within the seven (7) working days, the City Council may immediately adopt the recommendation of the City Manager.
- F. If objections are received, the City Council shall have ten (10) working days to consider such objections before issuing the City Council's final decision. The City Council may, in the City Council's discretion, take additional evidence or require written memorandum on issues of fact or law. The standard by which the City Council shall review the decision of the hearing officer is whether substantial evidence exists in the record to support the hearing officer's recommendation. The final decision shall be sent, by certified mail, to the applicant or licensee 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.
- G. An applicant aggrieved by the City Council's decision shall have the right to appeal such action to a court of competent jurisdiction.

3-1E-25 VIOLATION; PENALTY:

- A. **Suit For Injunction:** An entity or individual who operated or causes a sexually oriented business to be operated without a valid license, or who employs or is employed as an employee of a sexually oriented business, or who operates such a business or functions as such an employee in violation of the provisions of this Ordinance is subject to a suit for injunction in addition to the civil and criminal violations provided herein and any other remedy available at law or in equity.
- B. **Civil Penalty:** In addition to revocation or suspension of a license, as provided in this Ordinance, each violation of this Ordinance shall, upon citation by the Business Licensing Official or Zoning Official, require the licensee to pay a civil penalty. Such fines shall be deducted from the cost bond posted pursuant to this Ordinance, unless paid within ten (10) days of notice of the fine or the final determination after any appeal.
- C. **Misdemeanor Offense:** In addition to a civil fine provided in this Ordinance, the violation of any provision of this Ordinance shall be a Class B misdemeanor, and subject the violator to the penalty provisions as provided (each day of a violation shall be considered a separate offense):
 - 1. **Penalty For Violation Of Nuisance Ordinance:** Unless otherwise specifically authorized by statute, the City Council may provide a penalty for the violation of any City ordinance by a fine not to exceed the maximum Class B Misdemeanor fine under Utah Code Annotated section 76-3-301, or by a term of imprisonment up to six (6) months, or by both the fine and the term of imprisonment. The City Council may prescribe a minimum penalty for the violation of any City ordinance

and may impose a civil penalty for the unauthorized use of City property, including, but not limited to, the use of parks, streets and other public grounds or equipment. Rules of civil procedure shall be substantially followed.

- D. **Employee Violations:** Every act or omission by an employee constituting a violation of the provisions of this Ordinance shall be deemed the act or omission of the sexually oriented business licensee and/or operator. If such act or omission occurs either with the authorization, knowledge or approval of the licensee and/or operator, or as a result of the licensee's and/or operator's negligent failure to supervise the conduct of the employee, the sexually oriented business licensee shall be punishable for such act or omission in the same manner as if the licensee committed the act or caused the omission.
- E. **Responsibility For Conduct:** A sexually oriented business licensee and/or operator shall be responsible for the conduct of all employees while on the licensed premises and any act or omission of any employee constituting a violation of the provisions of this Ordinance shall be deemed the act or omission of the licensee and/or operator for the purposes of determining whether the licensee's license shall be revoked, suspended or renewed.

PART II PENALTY AND ADOPTION

A. CONFLICTING PROVISIONS

Whenever the provisions of this Ordinance conflict with the provisions of any other Ordinance, resolution or part thereof, the more stringent shall prevail.

B. PROVISIONS SEVERABLE

This Ordinance and the various sections, clauses and paragraphs are hereby declared to be severable. If any part, sentence, clause or phrase is adjudged to be unconstitutional or invalid it is hereby declared that the remainder of the ordinance shall not be affected thereby.

C. AMENDMENT TO BE ADDED TO CITY CODE

The City Council hereby authorizes and directs that insert pages reflecting the provisions enacted hereby shall be made and placed in the City Code, Title 3.

D. PENALTY

Hereafter these amendments shall be construed as part of the Business and License Regulations of the City of Cedar Hills, Utah, to the same effect as if originally a part thereof, and all provisions of said zoning ordinance shall be applicable thereto, including, but not limited to, the enforcement, violation and penalty provisions.

E. EFFECTIVE DATE

This Ordinance shall take effect upon its passage and publication as required by law.

PASSED AND ORDERED POSTED BY THE CITY COUNCIL OF THE CITY OF CEDAR HILLS, UTAH, THIS 5TH DAY OF AUGUST, 2008.

/s/ Michael C. McGee
Michael C. McGee, Mayor

ATTEST:

/s/ Kim E. Holindrake
Kim E. Holindrake, City Recorder



CITY OF CEDAR HILLS

TO:	Mayor and City Council
FROM:	Konrad Hildebrandt, City Manager
DATE:	8/19/2008

City Council Agenda Item

SUBJECT:	Mesquite Park
APPLICANT PRESENTATION:	N/A
STAFF PRESENTATION:	Konrad Hildebrandt
BACKGROUND AND FINDINGS: Mesquite park is the newest constructed park in the City of Cedar Hills. Several City Council members have discussed the desire to add a pavilion, bbq – culinary water and some benches to the facility. Staff further suggests a perimeter walking path (sidewalk). Discussion will be had on these issues and the various costs for the existing and proposed park.	
PREVIOUS LEGISLATIVE ACTION: NONE	
FISCAL IMPACT: A spreadsheet will be provided on Tuesday	
SUPPORTING DOCUMENTS: None	
RECOMMENDATION: Staff recommends that the City Council, by motion, direct staff on the further improvements to Mesquite Park	
MOTION: To approve/deny _____ improvements to the Mesquite Park.	



CITY OF CEDAR HILLS

TO: Mayor McGee, City Council, and Staff
FROM: Kim E. Holindrake, City Recorder
DATE: August 14, 2008

City Council Memorandum

SUBJECT: Funds for a City Statue
APPLICANT PRESENTATION:
STAFF PRESENTATION: Konrad Hildebrandt

BACKGROUND AND FINDINGS:

At the August 5, 2008, meeting C. Wright and C. Bowman proposed the idea of purchasing a statue to be located in the commercial area. They have requested this item for discussion and will present additional information.

PREVIOUS LEGISLATIVE ACTION:

FISCAL IMPACT:

SUPPORTING DOCUMENTS:

RECOMMENDATION

MOTION