

**CHAPTER 18.73
CABARETS AND ADULT ENTERTAINMENT**

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18.73.003 Purpose: It is the purpose of this Chapter to regulate adult entertainment businesses to promote the health, safety, and general welfare of the citizens of Moses Lake, and to establish reasonable and uniform regulations of adult entertainment businesses within the City. The provisions of this chapter have neither the purpose or effect of imposing a limitation or restriction on the content of any communicative materials including sexually oriented materials. Similarly, it is not the intent or effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented material to their intended market. Neither is it the intent or effect of this chapter to condone or legitimize the distribution of obscene material. (Ord. 2130, 10/28/03)

18.73.007 Findings:

- A. The operation of adult entertainment businesses has historically and regularly been accompanied by secondary effects that are detrimental to the public health, safety, morals and general welfare of the community. Such secondary effects include significant criminal activity and activities injurious to the public health, safety, morals and general welfare of the community, detrimental effects on nearby businesses and residential areas and a decline in property values in the area of the adult entertainment businesses. This history of criminal and injurious activity includes prostitution, narcotics and liquor law violations, breaches of the peace, assaults, employment or involvement of minors, sexual conduct between customers or between customers and entertainers, the opportunity for the spread of sexually transmitted diseases, use and distribution of obscenity, and the presence within the industry of individuals with hidden ownership interests and outstanding arrest warrants. Accordingly, there is a compelling need and interest to regulate adult entertainment businesses as provided in this chapter to protect and promote the public health, safety, morals and general welfare of the citizens of Moses Lake.
- B. In the absence of regulation, these activities occur regardless of whether adult entertainment is presented in conjunction with the sale of alcoholic beverages.
- C. The resources available for responding to problems associated with adult entertainment businesses are limited and are most efficiently and effectively utilized through a licensing and regulatory program.

- D. The license fees required in this ordinance are necessary as reasonable fees imposed to help defray the costs of processing the license applications and the substantial expenses incurred by Moses Lake in regulating the adult entertainment industry.
- E. Licensing is a legitimate and reasonable means of accountability to ensure that operators of adult entertainment businesses comply with reasonable regulations and to ensure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation.
- F. Adult entertainment businesses have historically engaged in practices that involve secreting ownership interests for such purposes as money laundering, skimming profits, and tax evasion. These hidden ownership interests have, on occasion, been held by individuals and entities reputed to be involved in organized crime. To detect and discourage the involvement of organized crime in the adult entertainment industry, to effectively deploy its limited law enforcement resources, and to effectively protect the public health, safety, morals, and general welfare of its citizenry, the city must be fully apprised of the actual and controlling interests of adult entertainment businesses and the identities and criminal backgrounds of persons responsible for the management and control of such businesses.
- G. To detect and discourage the involvement of organized crime in the adult entertainment industry, to prevent the exploitation of minors, to assure the correct identification of persons working in adult entertainment businesses, to effectively deploy its limited law enforcement resources, and to effectively protect the public health, safety, morals, and general welfare of its citizenry, the city must be fully apprised of the identity, age, and criminal background of managers in adult entertainment businesses.
- H. It is necessary to have a licensed manager on the premises of an adult entertainment business during all hours of operation so there will be a person responsible for the overall operation of the business, including the actions of customers, entertainers, and other employees. To monitor the actions of these individuals, a manager must be able to observe these individuals at all times.
- I. It is necessary to license entertainers in the adult entertainment industry to prevent the exploitation of minors, to ensure that each such entertainer is an adult, to ensure that such entertainers have not assumed a false name which would make regulation of the entertainer difficult or impossible, and to ensure that such entertainers are not involved in criminal activity.
- J. Contact between entertainers and patrons of adult entertainment businesses facilitates sexual conduct, prostitution, transactions involving controlled substances, and other crimes. The concern over unlawful sexual activities and related crimes is a legitimate health concern of the city which demands reasonable regulation of adult entertainment businesses in order to protect the health and well-being of the citizens.
- K. To prevent sexual conduct from occurring between entertainers and customers, customers must be prohibited from any stage where adult entertainment occurs and be prohibited from passing tips, gratuities, or other payments directly to entertainers performing on stage.
- L. Adult entertainment businesses have historically attempted to prevent law enforcement and licensing officials from detecting sexual conduct, prostitution, sale and distribution of controlled substances, and other violations of law occurring on the premises by employing warning systems, maintaining a low level of lighting, and other techniques. It is necessary, to effectively enforce this ordinance and to protect the public health, safety, morals and general welfare of the city's citizenry, that adult entertainment businesses be required to maintain a minimum level of lighting, that warning devices and systems be prohibited, and that unannounced inspections be permitted by city licensing and law enforcement personnel.

- M. Adult arcades provide booths for individual viewing of live performances, videos, and films distinguished or characterized by an emphasis on nudity or sexual conduct. To detect and deter sexual conduct by customers, to require maintenance of clean and sanitary conditions, and to reduce the potential for the spread of sexually transmitted diseases, it is necessary to regulate the configuration and facility specifications of adult arcades as set forth in this chapter, including but not limited to restricting the occupancy of a booth to one person.
- N. An adult arcade might attempt to circumvent the limit of one (1) person per booth by creating a small room, labeled a "mini theater" rather than a booth, in which two (2), three (3), or a small number of individuals would be able to view videos and films distinguished or characterized by an emphasis on nudity or sexual conduct. Moreover, traditional-sized theaters might also show such videos or films. Customers have used both traditional adult theaters and "mini theater" within arcades as places to engage in sexual conduct. To detect and deter such conduct and reduce the potential for the spread of sexually transmitted diseases, it is necessary to regulate the configuration and facility specifications, as set forth in this chapter, of spaces used by more than one (1) individual to view adult entertainment. In particular, it is necessary to require that any group viewing area for such videos and films have a minimum of eight (8) seats which may be accessed by customers without reservation in order to prevent or diminish a sense of privacy and intimacy which would be conducive to and enabling of sexual conduct between customers.
- O. To assure that minors are not subjected to adult entertainment, it is necessary to prohibit adult entertainment businesses from allowing adult entertainment performances, or pictorial representations of adult entertainment performances displaying nudity or sexual conduct, from being visible from outside the business.
- P. To discourage customers of bars and other alcohol-serving businesses from moving to adult entertainment businesses at two (2) a.m. for "after hours" activities, and the increased likelihood of breaches of the peace and other criminal conduct that arise from those customers, and to reduce the adverse secondary effects of adult entertainment businesses on minors and the community, it is necessary to restrict the closing time of adult entertainment businesses.
- Q. The detrimental secondary effects are serious and pose the greatest threat to the welfare of the citizens of Moses Lake when conducted in close proximity to places where minors gather. The need to protect minors from the criminal and other unlawful activities associated with adult entertainment establishments is compelling. Regulation is necessary to ensure that adult entertainment businesses are located a reasonable distance away from places where minors regularly gather, to reduce the likelihood of minors becoming victims of crimes or gaining access to such businesses.
- R. Protecting the character of residential neighborhoods is important to the welfare of the citizens of Moses Lake. Adult entertainment businesses are not compatible with residential neighborhoods due to the documented secondary effects. The setback from residential areas required by this ordinance are necessary to minimize these secondary effects.
- S. Adult entertainment businesses have adverse secondary effects on the economic vitality of nearby businesses. Adult entertainment businesses also cause declines in property values in both commercial and residential areas that are near such businesses.
- T. The adverse economic and social effects and the increased criminal activity that adult entertainment businesses can bring to a community cannot be understated. Allowing concentration of these businesses only serves to further magnify the level of these secondary effects. The requirement for significant distance between these businesses will reduce these effects and will ensure that no one (1) area will be burdened with a disproportionate number of these businesses. (Ord. 2130, 10/28/03)

18.73.010 Definitions: For the purpose of this chapter and unless the context plainly requires otherwise, the following definitions are adopted:

- A. "Adult cabaret or adult entertainment business" means any commercial premises, including any cabaret premises, to which any member of the public is invited or admitted and where an entertainer provides live adult entertainment to any member of the public.
- B. "Adult entertainment" means:
 - 1. Any exhibition, performance or dance of any type conducted in a premises where such exhibition, performance, or dance involves a person who is unclothed or in such costume, attire, or clothing as to expose any portion of the female breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or genitals, or wearing any device or covering exposed to view which simulates the appearance of any portion of the female breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or genitals, or human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
 - 2. Any exhibition, performance or dance of any type conducted in a premises where such exhibition, performance or dance is distinguished or characterized by a predominant emphasis on the depiction, description, simulation or relation to the following specified sexual activities:
 - a. Human genitals in a state of sexual stimulation or arousal,
 - b. Acts of human masturbation, sexual intercourse or sodomy, or
 - c. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast; or
 - 3. Any exhibition, performance or dance which is intended to sexually stimulate any member of the public and which is conducted on a regular basis or as a substantial part of the premises activity. This includes, but is not limited to, any such exhibition, performance or dance performed for, arranged with or engaged in with fewer than all members of the public on the premises at that time, with separate consideration paid, either directly or indirectly, for such performance, exhibition or dance and which is commonly referred to as table dancing, couch dancing, taxi dancing, lap dancing, private dancing or straddle dancing.
- C. "Adult Entertainment Business" means an establishment to which customers are invited or permitted access, and which, for consideration of any kind, offers adult materials to such customers when any live, video, or film materials are displayed to customers while on the premises. Adult entertainment businesses include, but are not limited to, any adult mini-theater, adult motion picture theater, adult arcade, or live adult entertainment establishments, as defined below.
- D. "Adult arcade", "adult panorama theater" or "adult panorama" means any place to which the public is permitted or invited and where coin operated or slug operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to persons in booths or viewing rooms where the images so displayed depict or describe "specified sexual activities" or "specified anatomical areas."
- E. "Adult material" means any material, conveyed or communicated by live performance, still photograph, printed or pictorial matter, motion picture film, slide, video cassette, digital video disk, recorded graphic or visual imagery, human conduct, or any other medium, which material is intended to provide sexual stimulation or sexual gratification, and which is distinguished or

characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas. "Adult material" also includes any instrument, device, or paraphernalia designed for use in connection with specified sexual activities.

- F. "Adult motion picture theater" means an enclosed or drive-in theater with a capacity of 8 or more persons used for presenting material distinguished or characterized by an emphasis on matters depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.
- G. "Adult mini theater" means an enclosed or drive-in theater used for presenting material distinguished or characterized by an emphasis on matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.
- H. "Adult panorama theater" or "adult panorama" means any place to which the public is permitted or invited and where coin operated or slug operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to persons in booths or viewing rooms where the images so displayed depict or describe "specified sexual activities" or "specified anatomical areas."
- I. "Applicant" means the individual or entity seeking a cabaret license in the city of Moses Lake.
- J. "Applicant control persons" means all partners, corporate officers and directors and any other individuals in the applicant's business organization who hold a significant interest in the adult cabaret or adult entertainment business, based on responsibility for management of the adult cabaret or adult entertainment business.
- K. "Cabaret" means any room, place or space whatsoever in the city in which any music, singing, dancing, or other similar entertainment is permitted in connection with any hotel, restaurant, café, club, tavern, eating place, directly selling, serving, or providing the public, with or without charge, food or liquor. The words "music and entertainment" as used herein, shall not apply to radios or mechanical devices.
- L. "Employee" means any and all persons, including managers, entertainers and independent contractors, who work in or at or render any services directly related to the operation of an adult entertainment business.
- M. "Entertainer" means any person who provides live adult entertainment within an adult entertainment business as defined in this Section whether or not a fee is charged or accepted for entertainment.
- N. "Entertainment" means any exhibition or dance of any type, pantomime, modeling or any other performance.
- O. "Liquor" means all beverages defined in RCW 66.04.200.
- P. "Live Adult Entertainment Establishment" means any building or portion of a building to which any member of the public is invited or admitted and where any employee or entertainer, on a regular basis or as a substantial part of the premises activity, conducts any exhibition, performance, or dance of any type which contains:
 - 1. Specified sexual activities;
 - 2. Any display of specified anatomical areas; or

3. Any conduct intended to sexually stimulate any member of the public, including but not limited to any such exhibition, performance, or dance performed for, arranged with, or engaged in with fewer than all members of the public on the premises at that time, with separate consideration paid either directly or indirectly for such activity, and commonly referred to as table dancing, couch dancing, taxi dancing, lap dancing, private dancing, or straddle dancing.
- Q. "Manager" means any person who manages, directs, administers or is in charge of the affairs and/or conduct of any portion of any activity involving adult entertainment occurring at any adult cabaret or adult entertainment business, and includes assistant managers working with or under the direction of a manager to carry out such purposes.
- R. "Operator" means any person applying for or operating, conducting, or maintaining any adult entertainment business.
- S. "Operator Control Person" means all partners, corporate officers and directors and any other individuals in the Operator's business organization who hold a significant interest in the adult entertainment business, based on the responsibility for management of the adult entertainment business.
- T. "Person" means any individual, partnership, corporation, trust, incorporated or unincorporated association, marital community, joint venture, governmental entity, or other entity or group of persons however organized.
- U. "Member of the public" means any customer, patron, club member, or person, other than an employee as defined in this section, who is invited or admitted to a cabaret.
- V. "Public Place" means any area generally visible to public view and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, and automobiles, whether moving or not.
- W. "Sexual Conduct" means any act of:
1. Sexual intercourse within its ordinary meaning, occurring upon any penetration, however slight;
 2. Any penetration of the vagina or anus, however slight, by an object;
 3. Any contact between persons, involving the sex organs of one person, whether clothed or unclothed, and the mouth or anus of another, whether clothed or unclothed;
 4. Masturbation, manual or instrumental, of oneself or of one person by another; or
 5. Touching of the sex organs or anus, whether clothed or unclothed, of oneself or of one person by another.
- X. "Specified sexual activities" means:
1. Human genitals in a state of sexual stimulation or arousal;
 2. Acts of human masturbation, sexual intercourse, or sodomy;
 3. Fondling or other erotic touching of human genitals, pubic region, buttocks, or female breast.
- Y. "Specified anatomical areas" means:

1. Less than completely or opaquely covered:
 - a. Human genitals, pubic hair, vulva;
 - b. Buttocks, anus; and
 - c. Female breasts below a point immediately above the top of the areola; and
2. Human male genitals in a discernibly turgid state, even if completely or opaquely covered. (Ord. 2130, 10/28/03)

18.73.020 License Required:

- A. It is unlawful for any person to conduct, manage or operate a cabaret unless such person is the holder of a valid and subsisting license from the city to do so, obtained in the manner provided in this chapter.
- B. It is unlawful for any person to conduct, manage or operate an adult cabaret or adult entertainment business unless such person is the holder of a valid and subsisting license from the city to do so, obtained in the manner provided in this chapter.
- C. It is unlawful for any entertainer, employee or manager to knowingly work in or about, or to knowingly perform any service or entertainment directly related to the operation of an unlicensed adult cabaret or adult entertainment business.
- D. It is unlawful for any entertainer to perform in an adult cabaret or adult entertainment business unless such person is the holder of a valid and subsisting license from the city to do so.
- E. It is unlawful for any manager to work in an adult cabaret or adult entertainment business unless such person is the holder of a valid and subsisting license from the city to do so. (Ord. 2130, 10/28/03)

18.73.030 License Prohibited to Certain Classes: No license shall be issued to:

- A. A natural person who has not attained the age of twenty-one (21) years, except that licenses may be issued to persons who have attained the age of eighteen (18) years with respect to cabarets where no intoxicating liquors are served or provided.
- B. A person whose place of business is conducted by a manager or agent, unless such manager or agent possesses the same qualifications required of the licensee, or in the case of a manager of an adult cabaret or adult entertainment business, the manager has obtained a manager's license.
- C. A copartnership, unless all the members thereof are qualified to obtain a license as provided in this chapter. Such license shall be issued to the manager or agent thereof.
- D. A corporation, unless all the officers and directors thereof are qualified to obtain a license as provided herein. Such license shall be issued to the manager or agent thereof. (Ord. 2130, 10/28/03)

18.73.040 Application:

- A. Cabaret License: Any person desiring a cabaret license required under the provisions of this chapter shall file written application with the Community Development Department on forms provided by the Department for that purpose. All applications shall be signed by the applicant and notarized or certified as true under penalty of perjury. A failure to provide all information required on the form will constitute an incomplete application and will not be processed. The

Community Development Director upon presentation of a complete application and before acting upon the same shall refer such application to the police department for a full investigation as to the truth of the statements contained therein, and as to any or all other matters which would aid the Community Development Director in determining whether or not such application should be granted. After the Police Department has reported back to the Community Development Director the result of such investigation, and within fourteen (14) days of the date of filing of the complete application, if the Community Development Director is satisfied that the statements contained in such application are true and that the applicant meets all requirements of this chapter, the Community Development Director shall issue the license applied for, provided however, that if the application does not meet the requirements of this code, then the Community Development Director shall deny such license application.

B. Adult Cabaret or Adult Entertainment Business License:

1. All applications for an adult cabaret or adult entertainment business license shall be submitted to the Community Development Department in the name of the person or entity proposing to conduct an adult cabaret or adult entertainment business on the business premises and shall be signed by such person and certified as true under penalty of perjury. All applications shall be submitted on a form supplied by the city, which shall require the following information:
 - a. For the applicant and for each applicant control person, provide: Names, any aliases or previous names, driver's license number, if any, social security number if any, and business, mailing, and residential address, and business telephone number.
 - b. If a partnership, whether general or limited; and if a corporation, date and place of incorporation, evidence that it is in good standing under the laws of Washington, and name and address of any registered agent for service of process.
 - c. Whether the applicant or any partner, corporate officer, or director of the applicant holds any other licenses under this chapter or any license for similar adult entertainment or sexually oriented business, including motion picture theaters and panoramas, from the city or another city, county or state, and if so, the names and addresses of each other licensed business.
 - d. A summary of the business history of the applicant and applicant control persons in owning or operating the adult entertainment or other sexually oriented businesses, providing names, addresses and dates of operation for such businesses, and whether any business license or adult entertainment license has been revoked or suspended, and the reason therefor.
 - e. For the applicant and all applicant control persons, any and all criminal convictions or forfeitures within five years immediately preceding the date of the application, other than parking offenses or minor traffic infractions including the dates of conviction, nature of the crime, name and location of court and disposition.
 - f. For the applicant and all applicant control persons, a description of business, occupation or employment history for the three years immediately preceding the date of the application.
 - g. Authorization for the city, its agents and employees to seek information to confirm any statements set forth in the application.
 - h. The location and doing-business-as name of the proposed adult cabaret or adult entertainment business, including a legal description of the property, street address, and telephone number, together with the name and address of each owner and lessee of the property.

- i. Two (2) two-inch (2") by two-inch (2") color photographs of the applicant and applicant control persons, taken within six (6) months of the date of application showing only the full face.
 - j. A complete set of fingerprints for the applicant and each applicant control person, by Moses Lake police department employees.
 - k. A scale drawing or diagram showing the configuration of the premises for the proposed adult cabaret or adult entertainment business, including a statement of the total floor space occupied by the business, and marked dimensions of the interior of the premises. Performance areas, seating areas, manager's office and stations, restrooms and service areas shall be clearly marked on the drawing. An application for a license for an adult cabaret or adult entertainment business shall include building plans which demonstrate conformance with MLMC 18.73.070.
2. An application shall be deemed complete upon the applicant's provision of all information requested above, including identification of "none" where that is the correct response, and the applicant's verification that the application is complete. The Community Development Director may request other information or clarification in addition to that provided in a complete application where necessary to determine compliance with this chapter.
3. A non-refundable application fee of two hundred fifty dollars (\$250) must be paid at the time of filing an application in order to defray the costs of processing the application. This is in addition to any fees imposed for other services performed by city departments for other services such as fingerprinting.
4. Each applicant shall verify, under penalty of perjury that the information contained in the application is true.
5. If any person or entity acquires, subsequent to the issuance of an adult cabaret or adult entertainment business license, a significant interest based on responsibility for management or operation of the licensed premises or the licensed business, notice of such acquisition shall be provided in writing to the city Community Development Department, no later than twenty-one (21) days following such acquisition. The notice required shall include the information required for the original adult cabaret or adult entertainment business license application.
6. The adult cabaret or adult entertainment business license, if granted, shall state on its face the name of the person or persons to whom it is issued, the expiration date, the doing-business-as name and the address of the licensed adult cabaret or adult entertainment business. The permit shall be posted in a conspicuous place at or near the entrance to the adult cabaret or adult entertainment business so that it can be easily read at any time the business is open.
7. No person granted an adult cabaret or adult entertainment business license pursuant to this chapter shall operate the adult cabaret or adult entertainment business under a name not specified on the license, nor shall any person operate an adult cabaret or adult entertainment business under any designation or at any location not specified on the license.
8. Upon receipt of the complete application and fee, the Community Development Director shall provide copies to the Health Department, Fire Department, Police Department, and the Building Official for their investigation and review to determine compliance of the proposed adult entertainment business with the laws and regulations which each department administers. Each department shall, within thirty (30) days of the date of such application, inspect the application and premises and shall make a written report to the Community Development Director whether such application and premises comply with the

laws administered by each department. No license may be issued unless each department reports that the application and premises comply with the relevant laws. In the event the premises is not yet constructed, the departments shall base their recommendation as to premises compliance on their review of the drawings submitted in the application. Any adult entertainment business license approved prior to premises construction shall contain a condition that the premises may not open for business until the premises have been inspected and determined to be in substantial conformance with the drawings submitted with the application. A department shall recommend denial of a license under this subsection if it finds that the proposed adult entertainment business is not in conformance with the requirements of this chapter or other law in effect in the city. A recommendation for denial shall cite the specific reason therefor, including applicable laws.

9. An adult cabaret or adult entertainment business license shall be issued by the Community Development Director within thirty (30) days of the date of filing a complete license application and fee, unless the Community Development Director determines that the applicant has failed to meet any of the requirements of this chapter or provide any information required under this subsection or that the applicant has made a false, misleading or fraudulent statement of material fact on the application for a license. The Community Development Director shall grant an extension of time in which to provide all information required for a complete license application upon the request of the applicant. If the Community Development Director finds that the applicant has failed to meet any of the requirements for issuance of an adult cabaret or adult entertainment business license, the Community Development Director shall deny the application in writing and shall cite the specific reasons therefor, including applicable law. If the Community Development Director fails to issue or deny the license within thirty (30) days of the date of filing of a complete application and fee, the applicant shall be permitted, subject to all other applicable law, to operate the business for which the license was sought. If the Community Development Director determines that the license should have been denied, the Community Development Director shall provide written notice of such decision to the applicant and shall schedule a hearing before a judge of the Municipal Court for a judicial review of the Community Development Director's decision to deny the license. Such notice shall contain a written statement of the reasons why the license should be denied and shall cite the specific reasons therefor, including applicable laws. At such judicial hearing, the Community Development Director shall submit the evidence relied upon to determine the license should have been denied, including reports from the agencies and departments contacted by the Community Development Director to review the application. If the court determines the Community Development Director has established on a more probable than not basis a reason to deny the license, the burden of going forward and establishing the evidence used by the Community Development Director is not sufficient to meet that burden shall shift to the applicant. Pending such hearing, the applicant shall be permitted to continue to operate the business applied for as provided above.
10. Upon request, the Community Development Director will schedule a pre-licensing conference with all pertinent city departments to assist the applicant in meeting the regulations and provisions of this ordinance.

C. Adult Cabaret or Adult Entertainment Manager and Entertainer Licenses:

1. No person shall work as a manager, assistant manager or entertainer at an adult cabaret or adult entertainment business without an entertainer's or manager's license from the city. Each applicant for a manager's or entertainer's license shall complete an application on forms provided by the city containing the information identified below. A non-refundable application fee of one hundred dollars (\$100) shall accompany the application. A copy of the application shall be provided to the Police Department for its review, investigation and recommendation. All applications for a manager's or entertainer's license shall be signed by the applicant and certified to be true under penalty of perjury. The manager's or entertainer's license application shall require the following information:

- a. The applicant's name, home address, home telephone number, date and place of birth, fingerprints taken by Moses Lake Police Department employees, social security number, and any stage names or nicknames used in entertaining.
 - b. The name and address of each business at which the applicant intends to work.
 - c. Documentation that the applicant has attained the age of eighteen (18) years. Any two (2) of the following shall be accepted as documentation of age:
 - i. A motor vehicle operator's license issued by any state bearing the applicant's photograph and date of birth;
 - ii. A state issued identification card bearing the applicant's photograph and date of birth;
 - iii. An official passport issued by the United States of America;
 - iv. An immigration card issued by the United States of America; or
 - v. Any other identification that the city determines to be acceptable.
 - d. A complete statement of all convictions of the applicant for any misdemeanor or felony violations in this or any other city, county, or state within five (5) years immediately preceding the date of the application, except parking violations or minor traffic infractions.
 - e. A description of the applicant's principal activities or services to be rendered.
 - f. Two (2) two-inch (2") by two-inch (2") color photographs of applicant, taken within six (6) months of the date of application showing only the full face.
 - g. Authorization for the city, its agents and employees to investigate and confirm any statements set forth in the application.
 - h. Every adult entertainer shall provide his or her license to the adult cabaret or adult entertainment business manager on duty on the premises prior to his or her performance. The manager shall retain the licenses of the adult entertainers readily available for inspection by the city at any time during business hours of the adult cabaret or adult entertainment business.
2. The Community Development Director may request additional information or clarification when necessary to determine compliance with this chapter.
 3. An adult cabaret or adult entertainment manager's or an adult entertainer's license shall be issued by the Community Development Director within fourteen (14) days from the date the complete application and fee are received unless the Community Development Director determines that the applicant has failed to provide any information required to be supplied according to this chapter, has made any false, misleading or fraudulent Ordinance No. 2130 statement of material fact in the application, or has failed to meet any of the requirements for issuance of a license under this chapter. If the Community Development Director determines that the applicant has failed to qualify for the license applied for, the Community Development Director shall deny the application in writing and shall cite the specific reasons therefor, including applicable laws. If the Community Development Director has failed to approve or deny an application for an adult cabaret or adult entertainment business manager's license within fourteen (14) days of filing of a complete application, the applicant may, subject to all other applicable laws, commence work as an adult cabaret or adult entertainment business manager in a duly licensed adult cabaret or

adult entertainment business. If the Community Development Director determines that the license should have been denied, the Community Development Director shall provide written notice of such decision to the applicant and shall schedule a hearing before a judge of the Municipal Court for a judicial review of the Community Development Director's decision to deny the license. Such notice shall contain a written statement of the reasons why the license should be denied and shall cite the specific reasons therefor, including applicable laws. At such judicial hearing, the Community Development Director shall submit the evidence relied upon to determine the license should have been denied, including reports from the agencies and departments contacted by the Community Development Director to review the application. If the court determines the Community Development Director has established on a more probable than not basis a reason to deny the license, the burden of going forward and establishing the evidence used by the Community Development Director is not sufficient to meet that burden shall shift to the applicant. Pending such hearing, the applicant may continue to work as an adult cabaret or adult entertainment business manager in a duly licensed adult cabaret or adult entertainment business as provided above.

4. An applicant for an adult entertainer's license shall be issued a temporary license upon receipt of a complete license application and fee. Said temporary license will automatically expire on the fourteenth (14th) day following the filing of the complete application and fee, unless the Community Development Director has failed to approve or deny the license application in which case the temporary license shall remain valid. If the Community Development Director determines that the license should have been denied, the Community Development Director shall provide written notice of such decision to the applicant and shall schedule a hearing before a judge of the Municipal Court for a judicial review of the Community Development Director's decision to deny the license. Such notice shall contain a written statement of the reasons why the license should be denied and shall cite the specific reasons therefor, including applicable laws. At such judicial hearing, the Community Development Director shall submit the evidence relied upon to determine the license should have been denied, including reports from the agencies and departments contacted by the Community Development Director to review the application. If the court determines the Community Development Director has established on a more probable than not basis a reason to deny the license, the burden of going forward and establishing the evidence used by the Community Development Director is not sufficient to meet that burden shall shift to the applicant. Pending such hearing, the applicant may continue to work as an adult entertainer in a duly licensed adult cabaret or adult entertainment business as provided above. (Ord. 2130, 10/28/03)

18.73.050 License Fees:

- A. Any person desiring to obtain a cabaret license shall first pay a license fee of four hundred dollars (\$400) per year.
- B. Any person desiring to obtain an adult cabaret or adult entertainment business license shall first pay a license fee of seven hundred dollars (\$700) per year.
- C. Any person desiring to obtain an adult cabaret or adult entertainment manager's license shall first pay a license fee of one hundred dollars (\$100) per year.
- D. Any person desiring to obtain an adult cabaret or adult entertainment entertainer's license shall first pay a license fee of one hundred dollars (\$100) per year. (Ord. 2130, 10/28/03)

18.73.060 Appeal:

- A. Denial of License. Any person aggrieved by the action of the Community Development Director in refusing to issue or renew any license issued under this chapter shall have the right to appeal such action to the City Council, or to such other hearing body as may hereafter be

established by the City Council for the hearing of license appeals, by filing a notice of appeal with the Community Development Department within fourteen (14) days of notice of the refusal to issue or renew. The appeal shall be processed under MLMC Chapter 20.11. The City Council or other hearing body shall set a date for hearing such appeal, to take place within forty-five (45) days of the date of receipt of the notice of appeal. At such hearing the appellant and other interested persons may appear and be heard, subject to rules and regulations of the City Council or other hearing body. The City Council or other hearing body shall render its decision on the appeal within fifteen (15) days following the close of the appeal hearing.

- B. Appeal to Superior Court. Any person aggrieved by the decision of the hearing examiner or hearing body may appeal to the superior court for a writ of review, prohibition or mandate. (Ord. 2130, 10/28/03)

18.73.070 Standards of Conduct and Operation - Adult Cabaret or Adult Entertainment Business:

- A. The following standards of conduct must be adhered to by employees of any adult cabaret or adult entertainment business while in any area in which members of the public are allowed to be present:
 - 1. No employee or entertainer shall be unclothed or in such less than opaque and complete attire, costume or clothing so as to expose to view any portion of the female breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or genitals, except upon a stage at least eighteen inches (18") above the immediate floor level and removed at least eight feet (8') from the nearest member of the public.
 - 2. No employee or entertainer mingling with members of the public shall be unclothed or in less than opaque and complete attire, costume or clothing as described in subdivision 1 of this subsection, nor shall any male employee or entertainer at any time appear with his genitals in a discernibly turgid state, even if completely and opaquely covered, or wear or use any device or covering which simulates the same.
 - 3. No employee or entertainer mingling with members of the public shall wear or use any device or covering exposed to view which simulates the breast below the top of the areola, vulva, genitals, anus, any portion of the pubic region, or buttocks.
 - 4. No employee or entertainer shall caress, fondle or erotically touch any member of the public. No employee or entertainer shall encourage or permit any member of the public to caress, fondle or erotically touch any employee or entertainer.
 - 5. No employee or entertainer shall perform actual or simulated acts of sexual conduct as defined in this chapter, or any act which constitutes a violation of Chapter 7.48A RCW, the Washington Moral Nuisances Statute.
 - 6. No employee or entertainer mingling with members of the public shall conduct any dance, performance or exhibition in or about the non-stage area of the adult cabaret or adult entertainment business unless that dance, performance or exhibition is performed at a distance of no less than four feet (4') from any member of the public.
 - 7. No tip or gratuity offered to or accepted by an adult entertainer may be offered or accepted prior to any performance, dance or exhibition provided by the entertainer. No entertainer performing upon any stage area shall be permitted to accept any form of gratuity offered directly to the entertainer by any member of the public. Any gratuity offered to any entertainer performing upon any stage area must be placed into a receptacle provided for receipt of gratuities by the adult cabaret or adult entertainment business or provided through a manager on duty on the premises. Any gratuity or tip offered to any adult entertainer conducting any performance, dance or exhibition in or about the non-stage area of the adult cabaret or adult entertainment business shall be placed into the hand of the

adult entertainer or into a receptacle provided by the adult entertainer, and not upon the person or into the clothing of the adult entertainer.

8. No employee may perform actual or simulated acts of sexual conduct as defined in this chapter, or an act that constitutes a violation of chapter 7.48 RCW, Washington's moral nuisance statute, or any other provisions regulating offenses against public morals.
- B. At any adult cabaret or adult entertainment business, the following are required:
1. City employees in the performance of their duties shall be permitted into all areas of the cabaret during business hours and upon reasonable notice to the operator thereof for purposes of making inspections to confirm the cabaret is in compliance with this chapter and all city laws including the building codes enforced by the city and all health and safety codes.
 2. Admission must be restricted to persons of the age of eighteen (18) years or more. It is unlawful for any owner, operator, manager or other person in charge of an adult cabaret or adult entertainment business to knowingly permit or allow any person under the minimum age specified to be in or upon such premises.
 3. Neither the performance nor any photograph, drawing, sketch or other pictorial or graphic representation thereof displaying any portion of the breasts below the top of the areola or any portion of the pubic hair, buttocks, genitals, and/or anus may be visible outside of the adult cabaret or adult entertainment business.
 4. No member of the public shall be permitted at any time to enter into any of the nonpublic portions of the adult cabaret or adult entertainment business, which shall include but are not limited to: the dressing rooms of the entertainers or other rooms provided for the benefit of employees, and the kitchen and storage areas; except that persons delivering goods and materials, food and beverages, or performing maintenance or repairs to the premises or equipment on the premises may be permitted into nonpublic areas to the extent required to perform their job duties.
- C. The responsibilities of the manager of an adult cabaret or adult entertainment business shall include but are not limited to:
1. A licensed manager shall be on duty at an adult cabaret or adult entertainment business at all times adult entertainment is being provided or members of the public are present on the premises. The name and license of the manager shall be prominently posted during business hours. The manager shall be responsible for verifying that any person who provides adult entertainment within the premises possesses a current and valid entertainer's license.
 2. The licensed manager on duty shall not be an entertainer.
 3. The manager or an assistant manager licensed under this chapter shall maintain visual observation of each member of the public at all times any entertainer is present or video or movie is showing in the public or performance areas of the adult cabaret or adult entertainment business. Where there is more than one performance area, or the performance area is of such size or configuration that one manager or assistant manager is unable to visually observe, at all times, each adult entertainer, each employee, and each member of the public, a manager or assistant manager licensed under this chapter shall be provided for each public or performance area or portion of a public or performance area visually separated from other portions of the adult cabaret or adult entertainment business.

4. The manager shall be responsible for and shall assure that the actions of members of the public, the adult entertainers and all other employees shall comply with all requirements of this chapter.

D. Premises - Specifications:

1. Performance Area. The performance area of the adult cabaret or adult entertainment business where adult entertainment as described in MLC § 18.73.070.A.1 is provided shall be a stage or platform at least eighteen inches (18") in elevation above the level of the patron seating areas, and shall be separated by a distance of at least eight feet (8') from all areas of the premises to which members of the public have access. A continuous railing at least three feet (3') in height and located at least eight feet (8') from all points of the performance area shall separate the performance area and the patron seating areas. The stage and the entire interior portion of cubicles, rooms or stalls wherein adult entertainment is provided must be visible from the common areas of the premises and at least one manager's station. Visibility shall not be blocked or obstructed by doors, curtains, drapes or any other obstruction whatsoever.
2. Lighting: Sufficient lighting shall be provided and equally distributed throughout the public areas of the premises so that all objects are plainly visible at all times. A minimum lighting level of thirty (30) lux horizontal, measured at thirty inches (30") from the floor and on ten foot (10') centers is hereby established for all areas of the adult cabaret or adult entertainment business where members of the public are admitted.
3. Signs: A sign at least two feet (2') by two feet (2'), with letters at least one inch (1") high shall be conspicuously displayed in the public area(s) of the premises stating the following:

THIS ADULT ENTERTAINMENT BUSINESS IS REGULATED BY THE CITY OF MOSES LAKE. ENTERTAINERS ARE:

- A. NOT PERMITTED TO ENGAGE IN ANY TYPE OF SEXUAL CONDUCT
- B. NOT PERMITTED TO APPEAR SEMI-NUDE OR NUDE, EXCEPT ON STAGE
- C. NOT PERMITTED TO ACCEPT TIPS OR GRATUITIES IN ADVANCE OF THEIR PERFORMANCE
- D. NOT PERMITTED TO ACCEPT TIPS DIRECTLY FROM PATRONS WHILE PERFORMING UPON ANY STAGE AREA

4. Record Keeping Requirements:

- a. All papers, records, and things required to be kept pursuant to this chapter shall be open to inspection by the city during the hours when the licensed premises are open for business, upon two (2) days' written notice. The purpose of such inspections shall be to determine whether the papers, records, and things meet the requirements of this chapter.
- b. Each adult entertainment business shall maintain and retain for a period of two (2) years the name, address, and age of each person employed or otherwise retained or allowed to perform on the premises as an adult entertainer, including independent contractors and their employees, as an entertainer. This information shall be open to inspection by the city during hours of operation of the business upon twenty-four (24) hours' notice to the licensee.

5. Inspections: In order to insure compliance with this chapter all areas of licensed adult cabarets or adult entertainment business which are open to members of the public shall be open to inspection by city agents and employees during the hours when the premises are open for business. The purpose of such inspections shall be to determine if the licensed premises are operated in accordance with the requirements of this chapter. It is hereby expressly declared that unannounced inspections are necessary to insure compliance with this chapter.
 6. No person shall operate or maintain a warning device or system for the purpose of warning or aiding and abetting the warning of an entertainer, employee, customer, or other person that the police, health, fire or building inspector, or other public official is approaching or entered the premises.
- E. It is unlawful for any adult cabaret or adult entertainment business to be operated or otherwise open to the public between the hours of 2:00 a.m. and 10:00 a.m.
- F. This chapter shall not be construed to prohibit:
1. Plays, operas, musicals, or other dramatic works that are not obscene;
 2. Classes, seminars and lectures which are held for serious scientific or educational purposes and which are not obscene; or
 3. Exhibitions, performances, expressions or dances that are not obscene.
- These exemptions shall not apply to the sexual conduct defined in MLMC 18.73.010, or the sexual conduct described in RCW 7.48A.010(2)(b)(ii) and (iii).
- G. Whether or not activity is obscene shall be judged by consideration of the following factors:
1. Whether the average person, applying contemporary community standards, would find that the activity taken as a whole appeals to a prurient interest in sex; and
 2. Whether the activity depicts or describes in a patently offensive way, as measured against community standards, sexual conduct as described in RCW 7.48A.010(2)(b); and
 3. Whether the activity taken as a whole lacks serious literary, artistic, political or scientific value.
- H. Location: An adult entertainment business is allowed only in the C-2 Zone. Adult entertainment businesses are prohibited in all other zones. No adult entertainment business shall be located:
1. Within five hundred feet (500') of the following uses, as measured property line to property line:
 - a. any residential zone;
 - b. any public or private school or preschool, or any trade or vocational school that on a regular basis has at least one student under the age of eighteen (18) years;
 - c. any church or other religious facility or institution;
 - d. any park or any public facility;

- e. any property used for organizations, associations, facilities, and businesses which provide, as a substantial portion of their activities, function, or business, the provision of services to children and/or youth, so that the premises of the organization, facility or business would have children and youth in attendance or at the location during a predominant portion of the operational hours of an adult entertainment facility;
 - f. Any state-licensed day care facility.
2. Within fifteen hundred feet (1500') of another adult entertainment business. (Ord. 2130, 10/28/03)

18.73.073 Mini-theaters and Motion Picture Theaters: Every mini-theater and motion picture theater offering adult entertainment must meet the following standards:

- A. Seats must be equipped with immovable armrests between the seats. No bench seats allowing for more than one (1) person in a seat is permitted.
- B. A manager or other employee must walk through the theater portion of the building at ten (10) minute intervals when a film is showing and the lights are down. This employee and the manager or owner must ensure that no sexual conduct occurs in the theater, either by patrons or employees.
- C. Full house lights must comply with MLMC 18.73.060.A, and must come on for at least ten (10) minutes at the end of each feature. (Ord. 2130, 10/28/03)

18.73.076 Adult Arcades: Every adult arcade must meet the following standards:

- A. Every adult arcade must have a manager's station located in the common area of the premises. All adult arcade stations or booths must open to the public room so that the area and occupant inside the booth are fully and completely visible by direct line of sight to the manager located at the manager's station which shall be located at the main entrance way to the public room containing the arcade stations or booths. No curtain, door, wall, merchandise, display rack, or other non-transparent enclosure, material, or application may obscure in any way the manager's view of any portion of the activity or occupant of the adult entertainment establishment.
- B. The interior of the premises of an adult arcade must be configured so there is an unobstructed view from the manager's station of every area of the premises to which any patron is permitted access except restrooms. Restrooms may not contain video reproduction equipment.
- C. If the premises has two (2) or more managers' stations, then the interior of the premises shall be configured so there is an unobstructed view of every area of the premises to which any patron is permitted access from at least one (1) of the managers' stations. The view required in this subsection must be by direct line-of-sight from the managers' station.
- D. The owners, manager, and any employees present in the premises, must ensure that the view area specified in subsections B and C remains unobstructed by any doors, walls, merchandise, display racks, or other materials at all time, and 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.
- E. No viewing room may be occupied by more than one (1) person at any time. (Ord. 2130, 10/28/03)

18.73.080 License term — Assignment — Renewals:

- A. There shall be no prorating of the license fees set out in MLMC 18.73.050, and such licenses shall expire on the thirty-first (31st) day of December of each year, except that in the event that

the original application is made subsequent to June 30th, then one-half (½) of the annual fee may be accepted for the remainder of said year. Licenses issued under this chapter shall not be assignable.

- B. Application for renewal of licenses issued hereunder shall be made to the Community Development Department no later than thirty (30) days prior to the expiration of adult cabaret or adult entertainment business licenses, and no later than fourteen (14) days prior to the expiration of cabaret licenses and adult cabaret or adult entertainment business manager and entertainer licenses. The renewal license shall be issued in the same manner and on payment of the same fees as for an original application under this chapter. There shall be assessed and collected by the Community Development Department, an additional charge, computed as a percentage of the license fee, on applications not made on or before said date, as follows:

Days Past Due Percent of License Fee

7 - 30: 25%

31 - 60: 50%

61 and over: 75%

- C. The Community Development Director shall renew a license upon application unless the Community Development Director is aware of facts that would disqualify the applicant from being issued the license for which he or she seeks renewal, and further provided that the application complies with all provisions of this chapter as now enacted or as the same may hereafter be amended. (Ord. 2130, 10/28/03)

18.73.090 License Suspension and Revocation — Hearing:

- A. The Community Development Director may, upon the recommendation of the Chief of Police or his designee and as provided in subsection B below, suspend or revoke any license issued under the provisions of this chapter at any time where the same was procured by fraud or false representation of fact; or for the violation of, or failure to comply with, the provisions of this chapter or any other similar local or state law by the licensee or by any of his servants, agents or employees when the licensee knew or should have known of the violations committed by his servants, agents or employees; or for the conviction of the licensee of any crime or offense involving prostitution, promoting prostitution, or transactions involving controlled substances (as that term is defined in Chapter 69.50 RCW) committed on the premises, or the conviction of any of his servants, agents or employees of any crime or offense involving prostitution, promoting prostitution, or transactions involving controlled substances (as that term is defined in Chapter 69.50 RCW) committed on the premises in which his cabaret is conducted when the licensee knew or should have known of the violations committed by his servants, agents or employees.
- B. A license procured by fraud or misrepresentation shall be revoked. Where other violations of this chapter or other applicable ordinances, statutes or regulations are found, the license shall be suspended for a period of thirty (30) days upon the first such violation, ninety (90) days upon the second violation within a twenty-four (24) month period, and revoked for third and subsequent violations within a twenty-four (24) month period, not including periods of suspension.
- C. The Community Development Director shall provide at least ten (10) days' prior written notice to the licensee of the decision to suspend or revoke the license. Such notice shall inform the licensee of the right to appeal the decision to the hearing examiner or other hearing body and shall state the effective date of such revocation or suspension and the grounds for revocation or suspension. The City Council or other hearing body render its decision within fifteen (15) days following the close of the appeal hearing. Any person aggrieved by the decision of the

City Council or other hearing body shall have the right to appeal the decision to the superior court by writ of review or mandate within twenty-one (21) days of the filing of the examiner's written decision with the city Community Development Department. The decision of the Community Development Director shall be stayed during the pendency of any appeal except as provided in subsection D below.

- D. Where the Moses Lake Building Official or Fire Chief or their designees or the Grant County Health District find that any condition exists upon the premises of a cabaret, adult cabaret or adult entertainment business which constitutes a threat of immediate serious injury or damage to persons or property, said official may immediately suspend any license issued under this chapter pending a hearing in accordance with subsection C above. The official shall issue notice setting forth the basis for the action and the facts that constitute a threat of immediate serious injury or damage to persons or property, and informing the licensee of the right to appeal the suspension to the hearing examiner or other designated hearing body under the same appeal provisions set forth in subsection C above; provided, however, that a suspension based on threat of immediate serious injury or damage shall not be stayed during the pendency of the appeal. (Ord. 2130, 10/28/03)

18.73.100 Liquor Regulations: Any license issued pursuant to this chapter shall be subject to any rules or regulations of the Washington State Liquor Control Board relating to the sale of intoxicating liquor. In the event of a conflict between the provisions of this chapter and the applicable rules and regulations of the Washington State Liquor Control Board, the rules and regulations of the Washington State Liquor Control Board shall control. (Ord. 2130, 10/28/03)

18.73.110 Violation an Infraction: Any person violating any of the provisions of this chapter is guilty of an infraction punishable by a civil penalty of two thousand dollars (\$2,000) together with all applicable assessments and penalties attached to infractions to the fullest extent permitted by law. (Ord. 2130, 10/28/03)

18.73.120 Nuisance Declared:

- A. Public Nuisance. Any adult cabaret or adult entertainment business operated, conducted, or maintained in violation of this chapter or any law of the City of Moses Lake or the State of Washington shall be, and the same is, declared to be unlawful and a public nuisance. The city attorney may, in addition to or in lieu of any other remedies set forth in this chapter, commence an action to enjoin, remove or abate such nuisance in the manner provided by law and shall take such other steps and apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such public nuisance, and restrain and enjoin any person from operating, conducting or maintaining an adult cabaret or adult entertainment business contrary to the provisions of this chapter.
- B. Moral Nuisance. Any adult cabaret or adult entertainment business operated, conducted or maintained contrary to the provisions of Chapter 7.48A RCW, Moral Nuisance, shall be, and the same is declared to be, unlawful and a public and moral nuisance and the City Attorney may, in addition to or in lieu of any other remedies set forth herein, commence an action or actions, to abate, remove and enjoin such public and moral nuisance, or impose a civil penalty, in the manner provided by Chapter 7.48A RCW. (Ord. 2130, 10/28/03)

18.73.130 Additional Enforcement: The remedies found in this chapter are not exclusive, and, the city may seek any other legal or equitable relief, including but not limited to enjoining any acts or practices which constitute or will constitute a violation of any business license ordinance or other regulations herein adopted. (Ord. 2130, 10/28/03)