

West Wendover City - 2024 Initiative Petition – City Ordinance Measure

THE PEOPLE OF THE CITY OF WEST WENDOVER DO ENACT AS FOLLOWS:

Section 1. Short Title.

Sections 1 to 31, inclusive, may be cited as the **West Wendover Brothel Ordinance**.

Section 2. Preamble.

In the interest of the public health and safety, the People of the City of West Wendover, find and declare that brothels, also known as houses of prostitution, must be legal within West Wendover City.

Brothels have been legal in Elko County since 1971, in the incorporated cities of Elko, Wells and Carlin. In 1971, West Wendover was not an incorporated city. Now that West Wendover is an incorporated city, legalizing brothels in West Wendover will ensure that residents and tourists will have the same access to brothels as those who live in and visit other Elko County incorporated cities.

The People of West Wendover agree that the city shall have only 2 (two) brothels established, in order to help save city resources on regulating brothels.

The People of West Wendover believe that the brothels shall be located in either the Restricted Commercial, light industrial or general industrial zones.

Section 3. Definitions.

As used in sections 1 to 31, inclusive, of this Act: The words "shall", "must" and "will" are mandatory.

1. "City" means the geographical area of West Wendover City.
2. "House of prostitution" means a licensed brothel.
3. "Licensed Brothel" means a building that is licensed and regulates the act of prostitution.
5. "Minor" means any person who is under the age of eighteen.
6. "Out date" means a date that a sex worker and a patron go on outside of the premises of the brothel, but remains within city limits and doesn't include any sexual activity.
6. "Owner" means a person, LLC or corporation who owns and manages a brothel.
7. "Party" means a paid encounter between a patron and a sex worker that can be either sexual or non-sexual.
7. "Patron" means a person, above the age of eighteen, who solicits a sex worker for sexual activity.
8. "Prostitution" means engaging in sexual intercourse, oral-genital, oral-anal, or anal-genital contact, or any touching of the sexual organs, pubic region of a person or male or female breast with the intent of arousing or gratifying the sexual desire of either person for monetary consideration, whether by credit, cash, check, charge or barter.

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9. “Regulated” means the act of ensuring that laws are followed.

10. “Sex worker” means an adult over the age of eighteen who is licensed to work in a licensed brothel.

11. “Solicits” means to communicate to another person for the purpose of paying for sexual activity.

12. “Stealth” means to remove one’s condom without the knowledge and consent of his or her partner.

13. “Trafficking” means to force a person against their will to work as a sex worker in or outside of a licensed brothel.

Section 4. Limitations.

Sections 1 to 31 do not permit any person to engage in and do not prevent the imposition of any civil, criminal or other penalty for:

(a) working as a prostitute outside of a licensed brothel, except for an outdate arranged through a licensed brothel, as explained in section 8 of this chapter.

(b) soliciting a prostitute outside of a licensed brothel.

(c) trafficking any individual in or outside of a licensed brothel. who does not wish to work in a licensed brothel.

(d) trafficking any individual of any age outside of a licensed brothel.

(e) assault or battery on a sex worker.

(f) assault or battery on a patron.

(g) assault or battery on a brothel owner.

Section 5. PRIVILEGE LICENSE:

No applicant for a license under this chapter or other matters requiring affirmative Board approval in order to operate a brothel has any right to the license or the granting of the approval sought. Any license issued or other Board approval granted pursuant to the provisions of this chapter is a revocable privilege and no holder, licensee or other recipient of the license or approval acquires any vested right therein or thereunder.

Section 6: Distinguished from other businesses of a sexual nature

For the purposes of distinguishing, separating and maintaining business regulations and practices, brothels shall not fall under the regulations of WWCC 8-12-1 and shall not be classified as “sexual oriented businesses”, but shall be referred to as “brothels” or “houses of prostitution”.

Section 7. PROSTITUTION NOT AN OFFENSE OR A NUISANCE IF CONDUCTED IN A LICENSED BROTHEL:

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The operation of a licensed brothel or house of prostitution within the City in accordance with the provisions of this chapter does not constitute a public nuisance or an offense to public decency.

Section 8: UNLAWFUL UNDER CERTAIN CONDITIONS:

1. It is unlawful for any person, firm or corporation to engage in prostitution, or keep, own or operate a brothel or house of prostitution of any description within the City, except as provided in this chapter.
2. It is unlawful for any owner, operator, bartender, manager or other employee of a licensed brothel to allow any person to practice prostitution or to solicit business for a sex worker or to procure any person for the purpose of prostitution within the City, except within the premises of a licensed brothel and within the boundaries, as set forth in the City Zoning Code and this ordinance.

Section 9. Out-dates allowed within the city.

1. Brothels may allow sex workers to go on “out-dates”; meaning, sex workers can be hired to accompany a patron outside of the brothel at which the sex worker is employed.
2. All activity that occurs on an “out-date”, outside of a brothel, must remain non-sexual and the date must remain in public places, such as in casinos, restaurants, concert venues.
3. The out-date must not go to a patron’s hotel room or to a patron’s home.
4. The out-date must not extend beyond 8 hours, not including time spent at the brothel.
5. For a patron to book an out-date, he or she must provide the brothel with a valid driver’s license or government issued ID for the brothel to make a photo copy of.
6. The patron must make the out-date request at least 48 hours in advance, so that the brothel may do a background check on the patron.
7. An out-date must be canceled for the safety of the sex worker if the patron has any felony or misdemeanor convictions for the following:
 - A. assault, battery or any bodily injury crime convictions.
 - B. Any sexual assault or sex crime convictions.
 - C. Any convictions involving robbery or burglary.
8. A brothel and a sex worker may cancel an out-date for any reason.
9. Once the patron has been approved for an out-date, he or she must travel to the out-date destination, accompanied with the sex worker, in a vehicle that he or she doesn’t own. This vehicle must be a commercial vehicle, registered in the City to transport guests around for leisure.
10. The sex worker is to check in with the brothel every two hours he or she is on the out-date.
11. The brothel and sex worker may charge more for an out-date.

Section 10. LICENSING AND CONTROL BOARD CREATED:

1. City Council Designated: The City Council, referred to herein as the "Board", shall act as a Prostitution Licensing and Control Board.

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2. Duty: It shall be the duty of the Board to carry out and enforce the provisions of this chapter.
3. Schedule Of Fees: The Board shall follow the schedule of fees established in this chapter.
4. Powers: Powers of the Board shall include, but shall not be limited to, the power to:
 - A. Receive all license applications submitted under the provisions of this chapter;
 - B. Investigate all applicants for a license under the provisions of this chapter;
 - C. Grant or refuse to grant the license provided for in this chapter;
 - D. Receive complaints concerning alleged violations of this chapter;
 - E. Revoke or temporarily suspend or place restrictions and conditions on licenses issued under the terms of this chapter;
 - F. Place licensees on probation;
 - G. Exercise any proper power and authority necessary to perform its duties pursuant to this chapter; and
 - H. Hear appeals from decisions of the police.
 - I. The powers of the Board enumerated above are not exclusive and shall not be interpreted in such a manner as to limit any other powers that the Board may otherwise possess.

Section 11. Brothel LICENSE APPLICATION, CONTENTS:

1. Any person desiring to own or operate a brothel within the City (individually or collectively referred to as the "applicant" or "applicants") shall first apply to the Board for a brothel license. The license application shall satisfy the following requirements and contain the following information about the owner, the operator and any person who will act on behalf of the owner or operator as a manager or other agent with management authority, together with all other information identified in each subsection pertaining to the brothel and the house of prostitution:
 - A. Names, ages and addresses of all persons who have or will have any financial interest in the brothel or house of prostitution, including the owner of the real property if the real property is leased to the owner or operator of the brothel; provided, in the event the person having the financial interest in the brothel or house of prostitution is a corporation, limited liability company or other business association, only persons having an ownership interest of one-third (1/3) or more in the corporation, limited liability company or other business association shall be identified on the application.
 - B. Names, ages and addresses of persons who are or will be personally responsible for the conduct and management of the brothel;
 - C. A recent photograph and complete set of fingerprints of all persons listed in subsections A and B of this section;
 - D. Names and addresses of all other businesses in which the applicant has any financial interest, including the type of such business and the nature of the applicant's interest;
 - E. Names and addresses of all employers of the applicant for the preceding ten (10) years;
 - F. All of the applicant's addresses for the preceding ten (10) years;
 - G. A list of all prior convictions of the applicant for any crime, excluding minor traffic violations, which list shall include a statement of the offense, the place of its occurrence, the date of its occurrence, and the disposition of the case;

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H. The street address of the property upon which the proposed brothel is to be operated, together with copies of all deeds, mortgages, deeds of trusts, liens or other encumbrances, leasehold interests, or other interests in or relating to the house of prostitution;

I. Names, ages and addresses of all persons with leasehold interests in the house of prostitution;

J. The business history of the applicant with respect to brothels and houses of prostitution, to include prior or concurrent ownership, management, employment or any other legal relationship the applicant has or has had with a brothel or house of prostitution;

K. Whether the applicant, in previously operating any business at any location in the United States, has had a business license or privilege license revoked or suspended and, if so, the reason(s) therefor and a description of the business activity or occupation that was subject to the suspension or revocation;

L. Any information needed to update or correct any information required by this chapter that is already on file with the City;

M. All information required under this section shall, upon enactment of this chapter and thereafter, be promptly updated and corrected by the applicant whenever necessary to ensure that all such information on file with the City is current and accurate.

Section 12: LICENSE APPLICATION, FILING AND INVESTIGATION:

A. Filing; Investigation Fee: All license applications submitted under the provisions of this chapter shall be filed with the City Clerk, along with a non-refundable fee of \$1,000.

B. Investigation: Upon presentation of any license application to the City Clerk, the City Clerk shall refer such application to the police for investigation. The police shall conduct a full investigation of all information contained in the license application, which investigation shall include, but shall not be limited to, the following:

1. A complete review of all records of the Federal Bureau of Investigation and any other appropriate governmental organization concerning the criminal record of any applicant;

2. A personal interview with each applicant.

C. Report Of Investigation Results: Within ninety (90) days the police shall report the results of the foregoing investigation in writing to the Board, which report shall include, but shall not be limited to, the following:

1. A complete statement of the results of all portions of the investigation;

2. A list of any errors or omissions found in the application;

3. An evaluation of the personal qualifications and background of the applicant.

D. Board Action: Within thirty (30) days after receiving the foregoing police report, the Board may:

1. Refer the application back to the police for additional investigation;

2. Require a personal interview with the applicant;

3. Require the applicant to submit additional information relative to the application; and/or

4. Grant, conditionally grant or refuse to grant a license under the provisions of this chapter.

E. Refusal To Grant License: The Board may refuse to grant a license to any applicant based on a determination that the applicant or the application fails to satisfy any of the requirements of this chapter, or because granting the application would not be in the best

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interest of public health, safety or welfare. The Board may take into consideration any recommendation provided by the police in refusing to grant a license to an applicant.

F. Revocation Or Suspension Of License: The Board may permanently revoke, or temporarily or conditionally suspend a license issued under this chapter; provided, the revocation or suspension shall be for cause; further provided, the revocation or suspension shall be made by the Board following a public hearing conducted in accordance with this chapter; further provided, in the event a license is revoked or suspended, the licensee or former licensee shall not be entitled to a refund of any money previously paid to the City for or in anticipation of issuance of the license.

G. Grounds For Refusal, Revocation Or Suspension: The following shall, without limitation, constitute grounds for refusal to grant a license to an applicant, or revocation or suspension of a license by the Board:

1. The applicant/licensee or the applicant's/licensee's spouse or any other individual listed on the application that would have any interest in the brothel, has been convicted of a felony;
 2. The applicant/licensee has willfully omitted or incorrectly stated any material fact in the license application;
 3. The applicant/licensee has a financial interest in or is associated with a business that is illegal where the business is located;
 4. The house of prostitution is not in the correct zoning district;
 5. The applicant/licensee is a foreign business association that is not properly registered with the Nevada Secretary of State;
 6. The applicant/licensee is a Nevada business association that is not in active status with the Nevada Secretary of State;
 7. The applicant/licensee intends to utilize a manager or other agent to operate the brothel when the owner is not present and the manager or other agent would not qualify for a license under this chapter;
 8. A person who would not qualify for a license under this chapter has an ownership or possessory interest in the brothel or house of prostitution;
 9. The maximum number of brothels permitted under this chapter has been reached.
- H. Resubmittal; Time Limit: Upon denying any application for a license under the provisions of this chapter, the applicant shall have thirty (30) days within which to cure any defect in the application, and such application may be again submitted to the Board for reconsideration within thirty (30) days after such denial.

Section 13: LICENSE RESTRICTIONS:

1. Brothel licenses issued under the provisions of this chapter shall have the following restrictions:

A. Maximum Number Permitted: The maximum number of brothels permitted within the City limits shall be 2 (two).

Section 14: Number of Sex Workers Employed in a Brothel.

1. The maximum number of sex workers that shall be employed in a brothel is 100.

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Section 15. **Brothel Must Practice Fair Treatment Towards Sex Workers:**

1. Sex workers must be over the age of eighteen (18).
2. Sex workers must be classified as independent contractors, per NRS 608.0155.
3. The brothel must ensure that sex workers are treated fairly, kindly and with respect.
4. As independent contractors, the sex workers must be allowed:
 - A. To choose whom they want to see and be allowed to reject whom they don't want to see.
 - B. Set their own hours.
 - C. Once their daily shift is over, be allowed to leave the premises of the brothel, with the understanding that they can't do independent sex work within the City, nor can they meet with brothel clients outside of the brothel, even in a friendly, non-patronizing manner.
5. A sex worker must not bring immediate family to the brothel or visitors that she or he is intimately familiar with in her or his personal life.
6. The brothel must ensure that each sex worker has her or his own room and her or his own shower and restroom at the brothel.
7. The brothel may not set a daily room rent fee for a sex worker higher than \$50.00.
8. The brothel may hire both male and female sex workers, but must ensure that sex workers' work and living quarters are segregated by gender on opposite sides of the brothel.
2. The brothel may not take no more than 50% of each party transaction.
3. A licensed sex worker may bring a lawsuit against any brothel owner who violates this section.

Section 16. **Condom use mandatory**

1. All brothels must ensure that condom use is practiced for each and every party that includes sex.
2. All brothels must provide the sex workers with condoms.
3. All brothels must have signs outside of each sex worker's door that says: "**condom use is mandatory.**"

Section 17. **Advertising**

1. All houses of prostitution shall be designated by:
 - A. One sign no larger than twenty four (24) square feet, to be located to the entrance of the house of prostitution and to only contain the following words and nothing else:

"BROTHEL

or

HOUSE OF PROSTITUTION"

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2. . The board may allow such other sign(s) as in the board's determination is found to be necessary to the safety and welfare of the inhabitants of a particular area within the county;
3. Signs shall not be placed in locations prohibited by Nevada Revised Statutes 201.430.
4. No signs may be placed anywhere in the city advertising the brothel.
5. Any type of print advertising, whether it be in newspapers, magazines, brochures and the like, or online advertising, is allowed.
6. Advertising on TV, radio and CB radio is allowed.

Section 18: ZONING:

1. The two allowed brothels shall be located in either the Restricted Commercial, general industrial or light industrial zones of the City.
2. As long as the brothels are established on the east side of the Union Pacific Railroad tracks, they would not be required to have a separation distance between brothel and any other building.

Section 19: LICENSE ISSUANCE:

A. Content Of License: Upon approval of all applications associated with a brothel, the Board shall issue a license for the brothel to the applicant, which license shall state:

1. The name and address or location of the brothel;
2. The date of issuance of the license;
3. The date of expiration of the license.

B. Term Of License: All licenses shall be issued for a term of no more than one year, commencing on January 1 of the year the application was approved or the date of approval, whichever is later, and continuing thereafter until January 1 of the following year.

C. Renewal: No later than thirty (30) days before the expiration date of any license, in the event the licensee seeks to continue to operate the brothel for an additional year after the term, the licensee shall apply to the City Clerk, on forms provided by the City, for a renewal. The City Clerk shall forthwith notify the police that a renewal application has been filed, and if any written complaint regarding the brothel shall have been received during that current license period, the police may cause the renewal application to be placed on the agenda of the next Board meeting, at which meeting the Board shall either renew or deny the license. If placed on the agenda, the Board shall conduct a hearing, and may summon witnesses, interview the licensee, interview any complainant, require additional investigation by the police, or do any and all other acts which the Board deems necessary or appropriate for its determination. If no such complaints have been received, the City Clerk shall issue the renewed license upon compliance with and subject to the provisions of this chapter.

D. Failure To Renew: Failure of any licensee to apply for a renewal in the manner required by subsection C of this section shall be grounds for the Board to revoke the license at its first regular meeting in January. Any license thus revoked may be reinstated only upon compliance by the licensee with all requirements of this chapter applicable to original license applications.

E. Changes In Ownership: In the event a brothel is owned by a business association, the business association shall not acquire a new owner unless:

1. The licensee furnishes to the police a list of all proposed persons who desire to acquire an interest in the brothel.

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2. The Board approves the new owner(s) in accordance with the same substantive and procedural requirements applicable to new license applicants; and

3. The brothel pays a nonrefundable investigation fee in an amount set by resolution of the Board.

Section 20. LICENSE FEES:

A. Required: Every licensee shall pay the following fee schedule.

B. Fee Schedule:

Application fee: \$1,000.00

In the First Year of Operation:

Category A: Any operation having 1 to 5 prostitutes: \$1,500 per quarter.

Category B: Any operation having 6 to 10 prostitutes: \$3,000 per quarter.

Category C: Any operation having 11 to 20 prostitutes: \$4,500 per quarter.

Category D: Any operation having more than 20 prostitutes: \$6,000 per quarter.

In the Second and All Subsequent Years of operation:

Annual Renewal fee: \$5,000.00

Category A: Any operation having 1 to 5 prostitutes: \$3,000 per quarter.

Category B: Any operation having 6 to 10 prostitutes: \$6,000 per quarter.

Category C: Any operation having 11 to 20 prostitutes: \$9,000 per quarter.

Category D: Any operation having more than 20 prostitutes: \$12,000 per quarter.

C. The fee shall be paid quarterly.

D. Timing Of Payment; Due Date; Termination: The license fee shall be submitted with the annual renewal application form, which shall be due on or before December 15 of each year during the term of the license. The failure of a licensee to submit a complete application and license fee in the proper amount on or before December 15 shall result in the termination of the license at the end of the current term.

E. The Board shall not increase the fees found in this chapter.

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F. Partial Years; Timing Of Payment; Fee Amounts: The amount of the license fee for a license granted for a portion of a calendar year which becomes effective on or before June 30 of that year shall be the amount required for a full year. The amount of the license fee for a license that becomes effective after June 30 shall be one-half (1/2) of the amount required for a full year.

Section 21: SEX WORKER REQUIREMENTS

1. For a person to work as a sex worker in a licensed brothel, he or she must meet the following requirements:
2. A. Sex workers must be over the age of eighteen (18).
3. B. Sex workers must be classified as independent contractors.
4. C. Sex workers must not have HIV or AIDS.
5. D. He or she must obtain a work permit.

Section 22: WORK PERMIT REGISTRATION REQUIREMENTS:

A. Permit Required: It is unlawful for any person to work as a sex worker, bartender or manager at a brothel, or for any employee, independent contractor or agent of the brothel, to reside on the premises of a licensed house of prostitution, unless such person is the holder of a valid current work permit issued by the police in accordance with this chapter.

B. Registration: Every sex worker, bartender, manager or employee working and/or residing on the premises of a licensed house of prostitution shall be registered with the police on a form provided by the police, referred to herein as a "work card", which shall include:

1. The name, age, address, physical description and current picture identification of the applicant, together with a certified copy of the person's birth certificate;
2. A full set of fingerprints of the person, which shall be updated every six (6) years;
3. Complete employment record of the applicant for the preceding five (5) years;
4. All street and mailing address(es) of the person;
5. Complete criminal record of the person, including all convictions, except minor traffic violations, which record shall include a list with a statement of each offense, and for each offense, the place of its occurrence, the date of its occurrence, its severity and its disposition;
6. The work card application for a sex worker must be accompanied by either an application fee or an annual renewal as set forth below:

7. Sex worker Application fee: \$100.00
Sex worker Renewal Fee: \$200.00

8. The work card application for a person who is not a sex worker must be accompanied by an application fee in amount equal to the fee required to obtain a bar employee work permit under title 3, chapter 2 of this Code;

8. The work card shall be renewed annually.

9. A work card for a sex worker must be renewed each time the sex worker commences work at a different brothel within the City.

C. Investigation: The police shall investigate, through all available means, the accuracy of all information supplied by any applicant on the registration form.

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D. Prohibited Employees: No person may work as a sex worker or bartender, manager, or as an employee, independent contractor or other agent who resides on the premises of a licensed house of prostitution, who:

1. Has been convicted of the possession, use, sale or furnishing of any narcotic, hallucinogenic or dangerous drug within the past five (5) years;
2. Is on probation resulting from a conviction of a felony;
3. Has been convicted of any crime involving theft, embezzlement or misappropriation of funds within the past five (5) years;
4. Has been convicted of any crime involving violence or the use of any deadly or dangerous weapon within the past five (5) years;
5. Has been convicted of any crime involving the illegal use of firearms within the past five (5) years;
6. Has willfully made any false statement or omission in the registration form required by subsection B of this section; or
7. Is a person under eighteen (18) years of age.
8. Those handling alcohol must be at least twenty-one (21) years of age.

E. Denial Or Revocation Authority: The police may deny or revoke the work permit of a sex worker or of a bartender, manager, or of an employee, independent contractor or other agent who resides on the premises of a house of prostitution, who does not qualify under this section or who is found to be violating this Code or State law. The person whose work card has been denied or revoked may file an appeal to the Board within thirty (30) calendar days from the date in which the work card was denied or revoked.

F. Card Requirements; Restrictions:

1. Each sex worker, bartender, manager, and each employee, independent contractor or other agent who resides on the premises of a house of prostitution, shall file and maintain a current work card with the operator of the brothel before commencing work at the brothel. No work card shall be transferable. All work cards shall state the name of the licensed brothel where the work card holder works. No sex worker shall change his or her place of work from one brothel to another without first notifying the police of the proposed change and obtaining a revised work card.
2. No person may possess more than one work card at a time or work for more than one brothel at a time.

G. Security Requirements/Inspections For Brothels:

1. A brothel may be operated with business entrance and exit doors that are either locked or unlocked. If the brothel elects to keep the business entrance and exit doors unlocked, they must remain unlocked at all times during posted business hours and the business hours must be posted on the entrance door. Upon complying with these conditions, the brothel need not provide keys to the Police Chief. If the brothel elects to keep the business entrance and exit doors locked during business hours, the owner or manager shall provide the police keys to all entrance and exit doors of the brothel. If door locks are changed, then current keys must be immediately provided to the police.

2. a. A brothel license granted pursuant this chapter is a revocable privilege. By applying for and receiving a brothel license, a person thereby gives consent and authorizes the police, or any other authorized representative of the City to enter the brothel business premises or any

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part of the house of prostitution under the control of the licensee and the principal office of the brothel at any time during brothel business hours for the purpose of examining the premises or the books of account of the brothel to ascertain the truth or veracity of statements made on the brothel license application and to verify that the licensee and the brothel are in compliance with requirements of the license, this Code and State law;

b. The person in charge of a licensed brothel shall cooperate with the State Board of Health or any other agency with jurisdiction during:

(1) Any investigation into the circumstances or cause of a case or suspected case, or of an outbreak or suspected outbreak of an infectious, contagious or communicable disease;

(2) The carrying out of measures for the prevention, suppression or control of an infectious, contagious or communicable disease, including procedures of exclusion, isolation and quarantine; and

c. The failure of an owner, manager, employee, independent contractor or agent of a brothel to cooperate with an inspection authorized by this section: 1) shall be grounds for the revocation or suspension of the brothel license; and 2) shall be punishable as a misdemeanor.

3. A brothel may employ armed security.

Section 23: MEDICAL EXAMINATION REQUIRED OF ALL SEX WORKERS:

A. Examination Requirements: Every licensee shall ensure that the requirements of the State Board of Health or any other agency with jurisdiction are satisfied and that all medical examinations required by State Statutes and regulations, this Code and the license, are undergone by all sex workers working at the brothel. The foregoing medical examinations shall:

1. Be performed at least once a week. Medical examinations must be completed and the examination results made available to the police weekly prior to medical exam record checks being conducted by the Police Department;

2. Be performed by or under the supervision of a physician or doctor of osteopathy duly licensed to practice medicine in this State;

3. Include all tests specified by the State Board of Health for the detection and diagnosis of sexually transmitted diseases including, but not limited to, weekly tests for gonorrhea and chlamydia; and a monthly blood test for syphilis and human immunodeficiency virus (HIV), which tests shall be processed at a licensed and approved clinical laboratory;

4. Include monthly tests approved by the State Board of Health for the detection of HIV. Appropriate specimens are to be submitted to and processed at a licensed and approved medical laboratory;

5. Include other medically approved tests deemed advisable by the physician or doctor of osteopathy for determining whether the sex worker is afflicted with any infectious, communicable or contagious disease;

6. Be performed at the location of the licensed operation, at the physician's office, at a hospital or clinic, as determined by the physician;

7. Have all samples and specimens submitted to a State licensed and approved medical laboratory for testing, with all tests performed and reported in accordance with NAC 441A.800 et seq., and all other applicable State requirements; provided, without limitation, no person may work as a sex worker at a brothel if such test results show the presence of chlamydia, syphilis, gonorrhea or the antibody to the human immunodeficiency virus;

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8. a. Sex workers who have registered with the Police Department but are awaiting the required test results may reside at the house of prostitution. The owner and the manager shall ensure that all sex workers awaiting test results and residing at the house of prostitution remain off the floor, which includes the bar area, and that such sex workers do not engage in any type of sexual activity until such test results have been received from the physician or doctor of osteopathy who performed the examination;

b. If any sex worker's test results are positive for an infectious, contagious or communicable disease, the sex worker must be pulled off the brothel floor immediately and the sex worker's work card turned over to the Police Department. The sex worker must wait at the house of prostitution until the State Board of Health notifies the sex worker. Once contact by the State Board of Health with the sex worker has taken place, nothing in this chapter shall prohibit the sex worker from leaving the premises of the house of prostitution. If the sex worker chooses to remain at the house of prostitution, the sex worker must remain off the floor, which includes the bar area, and not engage in any type of sexual activity until a clearance to return to work has been communicated to the Police Department by the physician or doctor of osteopathy who performed the examination. If the owner is not physically present, the manager of the brothel shall notify the Police Department when a sex worker leaves the brothel for any period in excess of twenty four (24) hours. Prior to returning to work after an absence of more than twenty four (24) hours, a sex worker must get a medical examination, must obtain a clearance from a licensed physician or doctor of osteopathy, and must pick up his or her work card at the Police Department;

9. All sex workers shall be tested to determine if they are infected with the hepatitis B virus (HBV) by a licensed and approved medical laboratory. If antibody testing shows a positive result for HBV, the sex worker will not be issued a work permit. If the results of the HBV are negative, it will be the responsibility of the sex worker to follow up with the vaccine series. Sex workers who are undergoing the hepatitis B vaccine series shall not be prohibited from working in a licensed brothel.

B. Physician Duties: After performing the examination required in subsection A of this section, the examining physician or doctor of osteopathy shall:

1. Notify the Police Department of every person examined and found not to be infected with a sexually transmitted, infectious, contagious or communicable disease;
2. Notify the Police Department of every person examined and found to be infected with a sexually transmitted, infectious, contagious or communicable disease;
3. Report the results of such examinations weekly to the police;
4. If any sex worker examined is found to be infected with a sexually transmitted, infectious, contagious or communicable disease, the physician or doctor of osteopathy shall immediately notify the police and the brothel owner, operator and manager of such condition.

C. Denial Based On Positive Result Of Test: No person who has been found to be infected with a sexually transmitted, infectious, contagious or communicable disease by an examining physician or doctor of osteopathy may again work as a sex worker in any brothel until such person has received and presented to the police examination results from an examining physician or doctor of osteopathy stating that the disease which resulted in the denial of the work permit has been cured and that the person is now free of any sexually transmitted, infectious, contagious or communicable disease.

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D. Authority Of Board: Nothing contained in this section shall prevent the Board on its own motion or upon complaints or reports from any person, from inquiring into the existence of any condition on the premises of any brothel or house of prostitution which might constitute or cause a health hazard.

Section 24. VISUAL EXAMINATION REQUIRED OF ALL PATRONS

1. Before a patron shall pay a sex worker to engage in sexual intercourse, the patron must be taken to a designated room and have his or her genital area examined for any signs of STDs.
2. If after paying, a party commences and a sex worker discovers signs of an STD on a patron, the worker must get the second opinion of a manager to confirm the presence of STDs. If it is determined that the patron has an STD, the patron must be reimbursed in full for the total amount he or she paid for the party.
3. After the patron is reimbursed, the patron's name must be placed on a "do not sell to" list and must not be allowed to solicit sex from any other sex worker in the brothel.
4. At the worker's choice, she or he may also use UV lights and any other method in determining if a patron has STDs.

Section 25. ASSUMPTION OF RISK — NO CIVIL LIABILITY FOR CONTRACTING STDs

1 A patron engages in patronizing sex workers at his or her own discretion and thus assumes all risk and waives any civil tort (negligent or intentional) claim for contracting an STD except for the provisions as found in section 3 of this subsection.

2 A sex worker engages in sex work in his or her full mental capacity and choice and thus assumes all risk and waives any civil tort (negligent or intentional) claim for contracting an STD except for the provisions as found in section 3 of this subsection.

3 Exceptions:

- A. A patron may bring a civil claim against a brothel owner only if it is found that the patron contracted HIV/AIDS from an infected sex worker and the brothel owner was aware of the infection, yet still employed the infected sex worker. The patron may claim actual damages and treble damages.
- B. A sex worker may bring a civil claim against a brothel owner if the brothel allows a patron who has been placed on the "do not sell to" list to have sex with the sex worker and the sex worker contracts an STD from the flagged patron. A sex worker may claim actual and treble damages.
- C. A sex worker may bring a civil claim against a patron if the patron deliberately attempts to "stealth" a sex worker. Intent is shown by a patron poking holes in his

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condom or by removing his condom and attempting to penetrate the sex worker. A sex worker may bring actual and punitive damages. A sex worker may also bring criminal charges against a patron who stealths her or him.

Section 26: GENERAL PROVISIONS:

A. Minors:

1. It is unlawful for any person under the age of eighteen (18) years to enter a house of prostitution or be a patron of any brothel.

2. It is unlawful for any licensee, or for any sex worker or employee of such licensee, to compel, entice, encourage, permit or suffer any person under the age of eighteen (18) years, to enter a house of prostitution or be a patron of any brothel.

C. Work Without Permit: It is unlawful for any brothel, licensee or employee of any licensee to allow any sex worker, bartender or manager, or any employee who resides on the premises of a house of prostitution, to work for or on behalf of a brothel without that person first obtaining a valid work card from the police. Notwithstanding the foregoing, persons performing part time maintenance or repair work or delivering supplies to a brothel or house of prostitution are not required to obtain a work permit for the performance of such duties unless they reside on the premises of the brothel or within the house of prostitution.

D. Translators: In the event a sex worker does not speak fluent English, a translator shall be supplied whenever communication between the sex worker and City staff is requested by either the sex worker or the City or otherwise required. The foregoing includes, without limitation, the requirement that there is a translator whenever a police officer seeks to communicate directly with a sex worker. The translator must be a natural person who is properly trained and competent to translate between English and the native language of the sex worker. The translator may be present by telephone or other electronic means, so long as the means of communication is reliable and audible.

Section 27: LICENSE NOT TRANSFERABLE:

1. All licenses granted under this chapter shall be limited to operations conducted on the property described in the application and no brothel shall be expanded or moved without a new license application and approval.

Section 28: DEATH OR RESIGNATION OF PERSON LISTED ON LICENSE:

1. In the event of the death or resignation of a person listed on a brothel license whose participation in the brothel is necessary for its continued operation, in order to prevent undue hardship to the licensee, the City Clerk, with the concurrence of the police, may issue a ninety (90) day "temporary license" to the licensee's attorney-in-fact or guardian, the personal representative of the licensee's estate, or the trustee of the licensee's trust, or any other person determined by the City to be otherwise eligible to serve as a licensee in accordance with this chapter, pending the processing of an application for a new brothel license; provided, however, that at the time any such temporary license is issued by the City Clerk, a full and complete application for a new brothel license shall be on file with the City Clerk, along with a nonrefundable investigation fee in an amount set by resolution of the Board; further provided,

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that at the time any such temporary license is issued by the City Clerk, the matter shall be referred to the police for a complete investigation of the new application for a new brothel license. The police shall thereafter submit the investigative findings and recommendation for denial or approval of a new brothel license to the Board.

Section 29: CRIMINAL PENALTY:

1. Any person who violates any provision of this chapter or of this Code, amended by this chapter, shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not to exceed one thousand dollars (\$1,000.00), or by imprisonment for a term not to exceed six (6) months, or by both fine and imprisonment.

Section 30: SEPARABILITY:

1. If any section, subsection, sentence, clause, phrase or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 31: Not subject to Initiative Vote Until 2044

1. The People of West Wendover agree that this ordinance may not be put to another vote on whether to repeal this Ordinance until the general election of the year 2044, unless countervailing, emergency circumstances arise that would prompt the Board to put such a question to a vote.