

Title 5

Business Taxes, Licenses & Regulations

Chapters:

5.04	Business Licenses Generally.....	5 - 1
5.08	Business License Fees.....	5 - 8
5.12	Liquor Law	5 - 12
5.16	Sexually Oriented Business (S.O.B.)	5 - 29
5.18	Home Occupations	5 - 43
5.20	Residential Solicitation.....	5 - 44

Title 5

Business Taxes, Licenses & Regulations

Chapter 5.04 - Business Licenses Generally 5 - 1

- 5.04.010 Purpose. 5 - 1
- 5-04-015 Definitions..... 5 - 1
- 5.04.020 License-Required. 5 - 1
- 5.04.030 License-Nontransferable. 5 - 1
- 5.04.040 License-Ineligible Business. 5 - 1
- 5.04.050 Rules and Regulations Posting. 5 - 1
- 5.04.060 License Application-Requirement Generally. 5 - 2
- 5.04.070 License Application-Contents. 5 - 2
- 5.04.080 License Application-Filing. 5 - 2
- 5.04.085 License Application-Denial or approval by the City Recorder. 5 - 2
- 5.04.090 License Application-Referral and Investigation. 5 - 2
- 5.04.110 License Application-Report of Investigation. 5 - 3
- 5.04.120 License Application-Action Following Report. 5 - 3
- 5.04.130 License Application-Denial-Factors. 5 - 3
- 5.04.140 License Application-Denial. 5 - 3
- 5.04.150 License Fee-License Period..... 5 - 3
- 5.04.160 License Fee-Combination. 5 - 3
- 5.04.170 License Fee-Non-Refundable. 5 - 4
- 5.04.180 Investigation-Refusal Prohibited. 5 - 4
- 5.04.190 Certificate-Contents. 5 - 4
- 5.04.200 Certificate-Posting. 5 - 4
- 5.04.210 Certificate-Official Inspection. 5 - 4
- 5.04.220 Certificate-Misuse Prohibited. 5 - 4
- 5.04.230 Pornography Violation-Applicability. 5 - 4
- 5.04.240 Pornography Violation-License Revocation. 5 - 4
- 5.04.250 Pornography Violation-New License Refusal. 5 - 4
- 5.04.260 Pornography Violation-License Issuance Refusal. 5 - 4
- 5.04.270 Pornography Violation-License Refusal Hearing. 5 - 5
- 5.04.280 Pornography Violation-Hearing Procedure. 5 - 5
- 5.04.290 Pornography Violation-Operation of Business Prohibited. 5 - 5
- 5.04.300 Failure to Pay Assessment. 5 - 5
- 5.04.310 Fee Recovery-Civil Action. 5 - 5
- 5.04.320 Prosecution of Civil Action. 5 - 5
- 5.04.330 Enforcement not to Conflict with Penalties. 5 - 5
- 5.04.340 License Suspension, Revocation, Refusal to Renew License 5 - 5
- 5.04.345 Suspension, Revocation, Refusal to Renew License - Hearing..... 5 - 6
- 5.04.350 License Suspension, Revocation, Refusal to Renew License- Effect 5 - 6
- 5.04.360 License Suspension 5 - 6
- 5.04.370 Reciprocal Recognition of Licenses. 5 - 6
- 5.04.380 Violation. 5 - 7
- 5.04.390 Temporary Licenses. 5 - 7

Chapter 5.08 - Business License Fees 5 - 8

- 5.08.010 Fees Established. 5 - 8
- 5.08.020 Fees for Occupations Not Covered. 5 - 8
- 5.08.030 Standards Established. 5 - 8
- 5.08.040 Auctioneer. 5 - 8
- 5.08.050 Bakery. 5 - 8
- 5.08.060 Cabaret. 5 - 9
- 5.08.070 Carnival-Circus. 5 - 9
- 5.08.080 Cleaning and Dyeing Establishments. 5 - 9
- 5.08.090 Confectionery. 5 - 9
- 5.08.100 Contractors. 5 - 9
- 5.08.110 Dance Hall. 5 - 9
- 5.08.120 Entertainment Devices. 5 - 9
- 5.08.130 Food, Dry Goods and Groceries. 5 - 10
- 5.08.140 Gasoline Dealer-Retailer Service Station. 5 - 10
- 5.08.150 Gasoline Dealer-Wholesale. 5 - 10
- 5.08.160 Hotels-Motels. 5 - 10
- 5.08.170 Junk Collection. 5 - 10
- 5.08.180 Junk Dealer-Salvage Yard. 5 - 10
- 5.08.190 Rental Unit. 5 - 10
- 5.08.200 Restaurants 5 - 10
- 5.08.210 Slaughter Houses, Etc. 5 - 11
- 5.08.220 Theater. 5 - 11

Chapter 5.12 - Liquor Laws 5 - 12

- 5.12.010 Definitions. 5 - 12
- 5.12.015 Business Areas. 5 - 15
- 5.12.020 Restaurant Liquor Licenses. 5 - 16
- 5.12.030 Application and Renewal Requirements. 5 - 17
- 5.12.040 Restaurant Qualifications. 5 - 17
- 5.12.050 Private Clubs. 5 - 18
- 5.12.060 Single Event Permits. 5 - 18
- 5.12.070 Single Event Qualifications. 5 - 18
- 5.12.080 License Requirements. 5 - 19
- 5.12.090 Beer Retailer License. 5 - 19
- 5.12.100 Beer Retailer Qualifications. 5 - 20
- 5.12.110 Beer Retail Application and Renewal Requirements. 5 - 21
- 5.12.120 Package Stores. 5 - 21
- 5.12.130 Qualification of Employees. 5 - 21
- 5.12.140 Duty to Report Change of Ownership. 5 - 21
- 5.12.145 Cessation of Business 5 - 22
- 5.12.150 Investigation by Chief of Police. 5 - 22
- 5.12.160 Investigation by Health Department. 5 - 22
- 5.12.170 Investigation by Fire Chief. 5 - 22
- 5.12.180 Issuance of Licenses; Renewal. 5 - 23
- 5.12.190 Display of License. 5 - 23

5.12.200 Transfer of License.	5 - 23
5.12.210 Discretion of Council; Licenses Revocable.	5 - 23
5.12.220 Prohibited to Intoxicated Person.	5 - 23
5.12.230 Selling to Minors.	5 - 23
5.12.240 Licensee Permitting Minor on Premises.	5 - 23
5.12.250 Minor Serving Alcohol.	5 - 24
5.12.260 Parent or guardian Permitting Minor on Premises.	5 - 24
5.12.270 Minor on Premises.	5 - 24
5.12.271 Minor in Possession.	5 - 24
5.12.280 Entering Premises Violating State and City Laws.	5 - 24
5.12.290 Days of Sale; Closure.	5 - 25
5.12.300 Advertising Requirements.	5 - 25
5.12.310 Consumption On Off-Premises License.	5 - 25
5.12.320 Illumination of Premises.	5 - 25
5.12.330 Nuisances on Licensed Premises.	5 - 25
5.12.340 Beer Acquired from Brewer or Wholesaler.	5 - 25
5.12.350 On - Premises Employee.	5 - 25
5.12.360 Gambling Devices in Licensed Premises.	5 - 25
5.12.370 Restrictions on Brewer, Jobber, and Wholesaler.	5 - 25
5.12.380 Premises Accessibility to Police Officer.	5 - 26
5.12.390 Warning of Approach of Police.	5 - 26
5.12.400 Disorderly Conduct On - Premises.	5 - 26
5.12.410 Lewd Conduct On - Premises.	5 - 26
5.12.420 Solicitation for Immoral Purposes On - Premises.	5 - 26
5.12.430 Begging Drinks On - Premises.	5 - 27
5.12.440 Sale During License Revocation or Suspension.	5 - 27
5.12.450 Licensee Responsibility.	5 - 27
5.12.460 Search of Licensed Premises.	5 - 27
5.12.470 Penalty for Violation.	5 - 27
Chapter 5.16 - Sexually Oriented Business (S.O.B.).....	5 - 29
5.16.010 Title	5 - 29
5.16.020 Purpose	5 - 29
5.16.030 Applicability.....	5 - 29
5.16.040 Definitions.....	5 - 29
5.16.050 Statutory Provisions.....	5 - 31
5.16.060 Location and Name Restrictions	5 - 31
5.16.070 Legitimate and Artistic Modeling	5 - 32
5.16.080 Categories of Licenses; Number Limited	5 - 32
5.16.090 License Required.....	5 - 33
5.16.100 Application; Disclosures	5 - 33
5.16.110 Fees.....	5 - 35
5.16.120 Bond Required.....	5 - 35
5.16.130 Issuance Conditions	5 - 35
5.16.140 Term of License.....	5 - 37
5.16.150 Notice of Change of Information	5 - 37
5.16.160 Transfer Limitations	5 - 37

5.16.170 Display of License 5 - 37

5.16.180 Statement in Advertising..... 5 - 37

5.16.190 Regulations and Unlawful Activities 5 - 37

5.16.200 Outcall Services; Operation Requirement..... 5 - 38

5.16.210 Design of Premises 5 - 39

5.16.220 Alcohol Prohibited..... 5 - 40

5.16.230 Prohibited Activities 5 - 40

5.16.240 Defenses to Prosecution 5 - 40

5.16.250 Existing Businesses; Compliance Time Limits..... 5 - 41

5.16.260 Suspension or Revocation of License..... 5 - 41

5.16.270 Violation; Penalty 5 - 42

Chapter 5.18 - Home Occupations 5 - 43

5.18.010 Conditions. 5 - 43

5.18.020 Public Nuisance. 5 - 43

5.18.030 Criminal Prosecutions. 5 - 43

5.18.040 Nonconforming Uses. 5 - 43

5.18.050 Home Occupation-Exempt. 5 - 44

Chapter 5.20 - Residential Solicitation 5 - 44

5.20.010 Purpose. 5 - 45

5.20.020 No Other City License or approval Required. 5 - 45

5.20.030 Definitions. 5 - 45

5.20.040 Exemptions from Chapter. 5 - 49

5.20.050 Solicitation Prohibited. 5 - 49

5.20.060 Registration of Solicitors. 5 - 49

5.20.070 Application Form. 5 - 49

5.20.080 Written Disclosures. 5 - 51

5.20.090 When Registration Begins. 5 - 51

5.20.100 Issuance of Certificates. 5 - 51

5.20.110 Form of Certificate and Identification Badge. 5 - 52

5.20.120 Maintenance of Registry. 5 - 52

5.20.130 Non-Transferability of Certificates 5 - 53

5.20.140 Denial, Suspension or Revocation of a Certificate of Registration. 5 - 53

5.20.150 Appeal..... 5 - 54

5.20.160 Deceptive Soliciting Practices Prohibited. 5 - 55

5.20.170 "No Soliciting" Notice. 5 - 55

5.20.180 Duties of Solicitors. 5 - 55

5.20.190 Time of Day Restrictions. 5 - 56

5.20.200 Buyer's Right to Cancel. 5 - 56

5.20.210 Penalties. 5 - 56

Chapter 5.04 - Business Licenses Generally

5.04.010 Purpose. The provisions of this chapter are designed and enacted for the purpose of promoting the safety, health and prosperity and for improving the morals, peace, good order, comfort and convenience of the city and the inhabitants thereof, protecting property therein and regulating various types of businesses and business activity defined in this title and for raising revenue there from. (Prior code §15-3-1)

5.04.015 Definitions. For the purpose of this chapter, the following terms shall have the meaning herein prescribed:

- A. Business. Includes all activities together with any devices, machines, or vehicles used therein for the purpose of gain or economic profit.
- B. Engaging in Business: One act constitutes engaging in business, and includes, but is not limited to, the sale of tangible personal or real property and the rendering of personal services for others for a consideration by persons engaged in any craft, business, occupation, or other calling.
- C. New Business: Any activity that results in gain or economic profit, which has not been conducted just previously by another licensee on the premises.
- D. Person: An individual, individuals, tenants in common, joint tenants, a corporation, partnership, firm, limited partnership, or any other association of individuals, however comprised or designated.
- E. Temporary or Seasonal Merchant: A person who sells products for a given period of time at a temporary location; i.e. fruit, vegetables, flowers, Christmas trees, hand crafted items etc.
- F. Home Occupation: The use of a portion of a dwelling or accessory building, studio, or work room for occupation at home and subject to rules and regulations or the city zoning ordinance. (Ord.2000-27, 12/12/00)

5.04.020 License-Required. It is unlawful for any person to engage in or carry on or operate any business in the city or use any property for such business, or allow any property to be used for any such business until the person has first made application for and obtained a valid license for the business, and have paid in advance the appropriate license fees for the business as provided for in this title. (Prior code §15-3-2)

5.04.030 License-Nontransferable. No license granted or issued under the provisions of this chapter or any other chapter dealing with the licensing of businesses, shall be in any manner assignable or transferable, or shall authorize any other business than that specifically mentioned therein; provided, that any person to whom one or more licenses have been issued to transact or carry on some business at some definite location in the city, except as provided in this title, may make application for the transfer of any or all of his said licenses for the sole purpose of transacting or carrying on the same business as authorized in the license or licenses at some other definite location in the city by filing an application for such transfer with the city recorder. No application shall be approved unless the business as conducted in the new location shall be conducted in the same manner and by the same persons as was the case when such business was conducted in the original location. The city council or city recorder, after examination of all appropriate reports, may, in their discretion, deny or grant the transfer of such licenses strictly within the above limitations. (Ord.2000-27, 12/12/00: prior code §15-3-3)

5.04.040 License-Ineligible Business. It shall be unlawful to peddle or offer for sale in any place except a duly licensed business establishment licensed for such purpose, any medicine, nostrum or remedy of any character or description, and no license shall be issued for such purpose, except that this shall not apply to the sale of medicines, nostrums or remedies, packaged or labeled in compliance with the requirements of the Federal Food, Drug and Cosmetic Act and regulations there under, and similarly applicable laws and regulations of the state. (Prior code §15-3-4)

5.04.050 Rules. and Regulations Posting. Rules and regulations covering health, safety, morals, peace, good

order, comfort and convenience of the general public with respect to any business covered under this title shall be adopted by the city council' and copies of such rules and regulations shall be made available to and displayed by the licensees affected thereby in a conspicuous place upon the licensed premises. (Prior code §15-3-5)

5.04.060 License Application--Requirement Generally. All applications for licenses shall be made in writing and submitted to the city recorder upon a prepared form which may be obtained from such department. (Prior code §15-4-1)

5.04.070 License Application-Contents. Each application shall show the following:

A. The name and address of the person desiring a license. If there is more than one owner or such is a corporation or entity, the names and addresses of all partners, officers and directors, including the business address of the corporation or entity(s) desiring to own or operate the business.

B. The kind of license desired, stating the business to be performed, practiced or carried on.

C. The class of license desired, if such licenses are divided into classes.

D. The place where such business is to be carried on, giving the street number, if such business is to be carried on in any building or enclosure or stated location.

E. The period of time for which such license is to be issued.

F. Such other facts and information as may be required by ordinance, the statutes of the State of Utah and the city. Business operation and owner specific information may also be required by the city recorder as the specific business and circumstances warrant. (Ord. 2010-10, 4/13/10: prior code § 15-4-2)

5.04.080 License Application-Filing. Each application for a license under this chapter shall be filed by the applicant with the city recorder and shall be accompanied by the license fee required to be paid for the issuance of the license desired. The fee may be in the form of cash or check made payable to the city, certified cashier's check, or an accepted credit card. (Ord. 2010-10, 4/13/10: prior code § 15-4-3)

5.04.085 License Application –Denial or Approval by the City Recorder.

A. The city recorder has the authority to grant or deny a business license.

B. In the event the city recorder shall approve any application for a license pursuant with the provisions of this section, the city recorder shall issue such license to the applicant.

C. In the event the city recorder shall deny any application for a license pursuant with the provisions of this section, the city recorder inform the applicant of the option of appealing that decision to the city council. Upon receiving a formal written request, the city recorder shall schedule the matter for a hearing before the city council at the next available meeting.

D. In the event the city recorder is in doubt as to the approval or denial of any particular license application, the recorder may refer the matter to the city council for determination.

E. The city recorder shall submit to the city council at a regular meeting of each month a list of applications approved or denied by the city recorder. (Ord. 2010-10, 4/13/10)

5.04.090 License Application-Referral and Investigation. After receipt of an application for a license or for the renewal of a license, if, in the judgment of the city recorder, as required by this chapter, or the city council upon appeal, it is determined that further review of the application is necessary to determine compliance with the requirements of this chapter, the application shall be referred to the chief of police or the city building inspector, or other official or body, for the investigation and inspection of the general reputation and character of the person making the application, or directly interested therein, the general reputation of those who would patronize the business if such license were granted, the nature and kind of the applicant's business, whether such place has been conducted in a lawful manner and in accordance with the standards of the community of Pleasant View as a whole where the application is for the continued operation of a business theretofore permitted by the laws of the city to so operate, to determine if the operation of the business has and will meet the health and safety requirements required for similar businesses, together with any fact or facts which might

have an effect on the granting or denial of the license. (Ord. 2010-10, 4/13/10: prior codes Ord, 2000-27, 12/12/00, and §15-4-4)

5.04.110 License Application-Report of Investigation. Upon being requested to do so the city recorder, chief of police, building inspector or other official or body shall conduct the investigation and inspection provided for in this section, and within five days after receiving such request, the person shall submit a report of the investigation to the city recorder, together with that person's recommendations as to whether the license should be granted or denied. (Ord. 2010-10, 4/13/10: prior codes Ord, 2000-27, 12/12/00, and §15-4-6)

5.04.120 License Application-Action Following Report.

A. After receiving the report and recommendation prescribed in Section 5.04.110, if, in the opinion of the city recorder that there are extenuating circumstances of health, safety and welfare concerns, the city recorder shall deny the application and inform the applicant of appeal options.

B. Upon appeal, the city council shall make such disposition respecting the granting or denying of the license applied for, or may order further investigation concerning the application as it shall, in its sole discretion, deem necessary to achieve the purpose of the provisions in this title. (Ord. 2010-10, 4/13/10: prior codes Ord, 2000-27, 12/12/00, and §15-4-7)

5.04.130 License Application Denial-Factors.

A. An application for a business license may be denied a license to operate a business within the City if any of the following conditions are met:

1. The person or business has previously engaged in operating a business within the city without first obtaining a license, unless the person or business has first paid all back business license fees to the city for the time they engaged in business in the city without a license;
2. There are misrepresentations made by the applicant on the application for a business license;
3. The business would be in violation of city zoning laws;
4. The business when operating would be in violation of any city ordinances enacted to protect health, limit noise, reduce nuisances, maintain peace, or provide for the comfort and enjoyment of residents within the city. (Ord. 2010-10, 4/13/10)

5.04.140 License Application-Denial. In the event the city council or city recorder shall deny any application for a license, the reasons for such denial shall be placed on the application so denied by the recorder who shall return the application together with any fees deposited with the application to the applicant. (Ord. 2010-10, 4/13/10: prior codes Ord, 2000-27, 12/12/00, and §15-4-9)

5.04.150 License Fee-License Period.

A. All licenses provided for in this title shall, except as provided in this title, be payable annually in advance commencing January first, and unless revoked as provided in this chapter, shall be effective through the following December 31st unless otherwise provided for. A license fee thereof shall be in the same proportion to the yearly fee as the remainder of the license year shall bear to the whole license year.

B. All license fees shall be paid to the city recorder. (Ord. 2010-10, 4/13/10: prior code §15-4-10)

5.04.160 License Fee-Combination. Where two or more duly licensed businesses are conducted within a single establishment by the same license applicant a combination license may be issued. However, such combination license shall not include licenses for beer or amusement devices or machines. The annual fee for such combination license shall be the total of the highest single license fee contained in such combination license plus one-half of the single license fee or fees for each other business contained in the combination license. The license certificate shall enumerate the various types of businesses for which the combination license is granted. (Ord. 2010-10, 4/13/10: prior code §15-4-11)

5.04.170 License Fee-Non-Refundable. No license fee or any part thereof shall be refunded for any reason once the license has been granted by the city and issued in compliance with the provisions of this title. (Ord. 2010-10, 4/13/10: prior codes Ord.2000-27, 12/12/00, and §15-4-12)

5.04.180 Investigation-Refusal Prohibited. It is unlawful for any person licensed under the provisions of this title to refuse permission to any inspector sent by the city to enter his premises and inspect the same. (Ord. 2010-10, 4/13/10: prior code §15-4-13)

5.04.190 Certificate-Contents. Every certificate of license shall bear upon its face sufficient information to identify the operator, place, type and term of the business, as well as other items as determined by the city recorder. (Ord. 2010-10, 4/13/10: prior codes Ord.2000-27, 12/12/00, and §15-5-1)

5.04.200 Certificate-Posting. Every certificate of license issued shall be posted by the licensee in a conspicuous place in which such licensed business is to be carried on so that the same may easily be seen. No expired certificate shall be displayed at any place or in any manner after the expiration thereof and any willful violation of this prohibition shall be grounds for refusing to issue a new license for the same business. (Prior code §15-5-2)

5.04.210 Certificate-Official Inspection. It shall be the duty of each and every person to whom a certificate of license has been issued pursuant to this title to show the same at all reasonable times to any person authorized by the city or the provisions of this chapter to inspect such certificates. (Prior code §15-5-3)

5.04.220 Certificate-Misuse Prohibited. It is unlawful to counterfeit a business license or to deface or mutilate the same during the period in which the license certificate is required by this section to be displayed. It is also unlawful to remove or attempt to remove the certificate from a place of proper display except for purposes of destroying the same upon expiration thereof, or to use or permit the same to be used at any place other than that designated therein, or to use or permit the same to be used in conjunction with any business or device prohibited or declared to be unlawful by the laws of this city, county or state. (Prior code §15-5-4)

5.04.230 Pornography Violation-Applicability. Notwithstanding any other licensing provisions contained in this title, all licenses issued by the city on or after June 1977, shall be subject to the condition, controls and regulations provided in Sections 5.04.240 through 5.04.290 of this chapter. (Ord. dated 6/28/77 (part))

5.04.240 Pornography Violation-License Revocation. The city council, upon notice and hearing, as provided in Sections 5.04.230 through 5.04.290, may revoke any license issued by the city upon the conviction of the licensee or any officer, employee or partner of the licensee of any state, county or city ordinance or law relating to lewdness, profanity, nudity and pornography. In addition, the city council may refuse to issue a license of any kind to that licensee, its officers, partners or the convicted employee in the event of such conviction of the licensee, his officers, employees or partners for a period of not to exceed one year after that conviction. (Ord. dated 6/28/77 (part))

5.04.250 Pornography Violation-New License Refusal. The council may, after notice of hearing as provided in Sections 5.04.230 through 5.04.290, refuse to issue a business license of any kind to any person, corporation or officer thereof, or other business association including any partner of a partnership for a period of one year after that person, corporation or business association or his or its officers, employees or partners have been convicted of any violation of the above-mentioned ordinance or state law concerning pornographic and harmful materials and performances. (Ord. dated 6/28/77 (part))

5.04.260 Pornography Violation-License Issuance Refusal. The city council may, after notice of hearing, as provided in Section 5.04.270, refuse to issue any city business license for any business at the premises where a violation of the above-mentioned ordinance or state law concerning pornographic and harmful materials and

performances had occurred for a period of one year after such conviction. (Ord. dated 6/28/77 (part))

5.04.270 Pornography Violation-License Refusal Hearing. The notice to be given by the council of the hearing to consider action to revoke or refuse to issue license under Sections 5.04.230 through 5.04.290 shall be a written notice mailed first class mail, postage prepaid, addressed to the licensee at the address shown on the application for business license sought to be revoked or on the license application which is sought to be refused. The notice required, if the non-licensing of the premises is involved, shall be to the owner of those premises at the address then shown on the records of the Weber County Recorder for that property. (Ord. dated 6/28/77 (part))

5.04.280 Pornography Violation-Hearing Procedure. The hearing provided for in Sections 5.04.230 through 5.04.290 shall be informal and at a regular city council meeting with the licensee or applicants for license, or the property owner to have reasonable opportunity to be heard. (Ord. dated 6/28/77 (part))

5.04.290 Pornography Violation-Operation of Business Prohibited.

A. It is unlawful for any corporation, for the officer of any corporation, any person, and other business associate and any partner or other business associate, who or which as a licensee had that license revoked, or as an applicant for a license had that license refused by the council under Section 5.04.230 through this section to operate any business: in the city requiring a city business license until the time of revocation or refusal expires and a valid license is obtained.

B. Any person, firm or corporation attempting to operate a business, after the license therefor has been revoked or refused under this chapter, and any owner of any interest in the premises where such license has been revoked or refused, and the council has determined that no other license will be issued for that property, who allows any business to be operated therein requiring a city license shall be guilty of a misdemeanor. (Ord. dated 6/28/77 (part))

5.04.300 Failure to Pay Assessment. If any person neglects, fails or refuses to pay the amount assessed the person's business according with the assessment due, a penalty of twenty-five percent of such assessment shall be added to the assessment by the city recorder and payment thereof shall be enforced by the city recorder as provided for herein. If the license is not paid within sixty days from due date a fifty percent penalty shall be imposed; and if not paid within ninety days from due date a one hundred percent penalty shall be imposed. (Prior code §15-6-1)

5.04.310 Fee Recovery-Civil Action. In all cases where the assessment required by this title to be paid for the operation of a business for which a license is required is not paid according to the requirements of this chapter, a civil action may be brought in the name of the city against the person failing to pay such license fee, in any court of this state having jurisdiction of such action, to recover the amount of the assessment and any penalties which may attach as well as court costs and reasonable attorney's fees. Where more than one such assessment shall be unpaid in violation of the provisions of this title such claims may be joined as separate causes of action in the complaint. (Prior code §15-6-2)

5.04.320 Prosecution of Civil Action. It shall be the duty of the attorney for the city to prepare, bring and prosecute the civil actions contemplated by this title upon request of the city council. (Prior code §15-6-3)

5.04.330 Enforcement not to Conflict with Penalties. Nothing in this chapter shall be construed to prevent or in any manner interfere with the enforcement of any penalty provisions contained in any other ordinance of the city. (Prior code §15-6-4)

5.04.340 License Suspensions, Revocation or Refusal to Renew. The City Council may suspend, revoke, or refuse to issue a license for any of the following reasons:

A. Fraud or misrepresentation in its procurement.

- B. Violation of this ordinance or failure to comply with all of the provisions of this ordinance.
- C. Failure to pay any license fee levied when due.
- D. Failure to comply with the requirements imposed by the Pleasant View City Zoning Ordinances.
- E. Violation of any City Ordinance or State or Federal Statute concerning pornographic or harmful materials or performances at the licensed premises.
- F. Conduct or acts of the licensee or his employees or any act permitted by them on the premises where such business is conducted tending to render the premises a public nuisance as defined in the ordinances of the city, or a menace to the health, peace, safety, or general welfare of the city.
- G. A violation of City Ordinance or State or Federal Statute relating to the business or activity which is licensed and resulting from the conduct of such business or activity.
- H. For any other good cause shown. (Ord.2000-27, 12/12/00: prior code §15-7-1)

5.04.345 Suspension, Revocation or Refusal to Renew License - Hearing.

- A. Hearing. Before the city council shall suspend, revoke, or refuse to issue or renew any license as provided in this Chapter, it shall first afford the licensee an opportunity, in a hearing, to, show cause as to why the license should not be suspended or revoked.
- B. Notices. The date, time, and place of the hearing shall be fixed by the city council and notice thereof shall be personally served on the licensee or mailed to the licensee at the address' shown on his last application at least 5 working days prior to the date of the hearing. The city council must take all possible steps to assure that the licensee gets actual notice. The notice shall indicate the purpose of the hearing and the action contemplated.
- C. Hearing Procedure. At the hearing, the licensee or applicant shall have the right to appear personally or by counsel, to cross-examine witnesses appearing, and to produce evidence and witnesses on his behalf.
- D. Notice of Action Taken. After such hearing and upon due deliberation, the city council shall notify the licensee of its findings and determination. (Ord.2000-27, 12/12/00)

5.04.350 License Suspension, Revocation or Refusal to Renew-Effect. If at any time a license under the provisions of this title is denied or revoked, it is unlawful for any person to operate such business or to permit or otherwise allow any other person to so operate the business with respect to which such license has been revoked or denied until the city council shall deem it proper to reissue such license. Each revocation shall work a forfeiture of any license fees paid, and in the event the license is renewed it shall be renewed according to the provisions of this title dealing with the issuance of licenses as though the same were a new license. (Ord.2000-27, 12/12/00: prior code §15-7-3)

5.04.360 License Suspension. Revocation or Refusal to Renew-New license Waiting Period. No person who has been denied a license or whose license has been revoked under the provisions of this title, and no person associated or connected with such person in the conduct of such business shall be granted a license for such business for a period of six months after such revocation or denial. The city council may, in its sole discretion, waive the prohibition against the associates or persons connected with such business of its licensee, and may grant permission for the issuance of a license to the associated persons. (Ord.2000-27, 12/12/00: prior code §15-7-4)

5.04.370 Reciprocal Recognition of Licenses.

- A. No license shall be required under this title of any person whose only business in this city is the delivery of goods to person in this city where such goods have been sold by him/her at a regular place of business maintained by him/her outside the city, where:
 1. Such person's business is at the time of such delivery a licensed business by the municipality or county in which the business is located; and
 2. The authority licensing the business grants to the licensees of the city making deliveries within its jurisdiction the same privileges and upon substantially the same terms as are granted by this section; and

3. Neither the property delivered nor any of the facilities by which it is manufactured, produced or processed are subject to inspection to authority of this city for compliance for health. or sanitary standards prescribed by this city; and

4. The truck or other conveyance by which such delivery is made, prominently displays at all times a license plate or symbol issued by the licensing authority to evidence such business license. Such plate or license shall identify the licensing authority by which it is issued, and that it is in fact a license issued, thereby, and shall specify the year or term for which it is effective.

B. The clerk shall certify a copy of this section to any licensing authority in the state who shall request the same. (Prior code §15-8-27)

5.04.380 Violation: Violation of any of the provisions of the title by and person, firm or corporation is a class B misdemeanor. (Ord. 2010-10, 4/13/10; prior code Ord.87-5.04, 1987)

5.04.390 Temporary Licenses: Licenses for temporary or seasonal merchants, as defined in this chapter, may be approved or denied by the city recorder, following the procedures outlined in this chapter for regular licenses, and subject to a review and recommendation by the community development director. (Ord. 2010-10, 4/13/10)

Chapter 5.08 - Business License Fees

5.08.010 Fees Established. The fees for all licenses and types as found in the Title shall be as established by the city council in the Fee Schedule of the city. (Ord. 2010-10, 4/13/10)

5.08.020 Fees for Occupations Not Covered. Fees for any profession, trade, calling, business or occupation not listed in the fee schedule shall be the base license fee for a regular business or shall be submitted to the city council for the fixing of a license fee. (Ord. 2010-10, 4/13/10)

5.08.030 Standards Established.

A. The definitions and standards found in this chapter are meant to supplement and compliment others found in this title.

B. Definitions and standards for any profession, trade, calling, business or occupation not listed herein shall be determined by the city record based on common practices and definitions or be submitted to the city council for establishing such criteria. (Ord. 2010-10, 4/13/10)

5.08.040 Auctioneer.

A. For purposes of this section an "auctioneer" is a person who conducts a public sale of property by outcry to the highest bona fide bidder; and an "auction house" is defined as a place where property is sold by an auctioneer.

B. The provisions of this section shall not apply to any auction held for charitable or benevolent purposes, or any church affair, festival or bazaar, or to judicial sales or sales by executor or administrators, including sales by the chief of police.

C. Before any sale is made at auction, the licensee must attach to each article to be sold, which has a retail value of twenty-five dollars or more, a card with an identifying number endorsed thereon, and each licensee shall maintain a list of all articles sold by him/her at such auction at a retail price of twenty-five dollars or more, giving any identifying number or mark which may be on the articles so sold; and indicate whether the same article or articles are new or used. The licensee shall also indicate, shall keep and maintain such list for a period of one year following the date of the last sale shown on such list.

D. Each licensee shall, at the time of selling an article at public auction, issue a receipt to the purchaser thereof containing the name of the licensee, date of the sale, description of the articles sold and the identifying number assigned to such articles, and any other relevant information.

E. When any merchant or auction house advertises or announces a specific stock or merchandise for sale at any auction, such stock shall not be fed or replenished.

F. It shall be the duty of all licensed auctioneers to receive all articles which may be offered them for sale at auction giving a receipt for each such article. At the close of any sale, which shall be at the time of the close of the entire auction or as the owner of the article(s) shall otherwise direct, the auctioneer shall deliver a fair account of the proceeds thereof to the owner of each article sold, and shall pay the same to the owner forthwith, less any reasonable fee for conducting the sale.

G. All auctioneers are forbidden to conduct their sales in such manner as to cause people to gather in crowds or the sidewalks so as to obstruct the same; they shall not use immoral or indecent language in crying their sales, or make or cause to be made noise or sounds such as the ringing of bells, blowing of whistles or otherwise similar contrivances in public places in the conduct of drawing attention to such sales; nor shall he/she otherwise use any means other than the usual auctioneer's flag and lights where necessary in the conduct of the sale to attract attention to such sale. (Ord. 2010-10, 4/13/10: prior codes: ord. 12(Amendment No. 2(part)), 1964, and § 15-8-1)

5.08.050 Bakery.

For the purpose of this section a "bakery" is any establishment where pies, cakes, cookies, doughnuts and other similar bakery products are produced and sold at retail or wholesale. (Ord. 2010-10, 4/13/10: prior codes: Res. 94-0, 1/10/95, and § 15-8-3)

5.08.060 Cabaret.

For purposes of this section "cabaret" means any room, place, building or structure open to public patronage, where food and drink is prepared, served or offered for sale, or sold for human consumption on or off the premises, and whose patrons may be entertained by performers who sing or dance or perform theatrical acts. (Ord. 2010-10, 4/13/10: prior codes: Res. 94-0, 1/10/95, and § 15-8-6)

5.08.070 Carnival-Circus.

A. For the purpose of this section, any enterprise known by the name of "carnival," "circus," "rodeo," "menagerie," "wild west show," "dog or pony show," "skilled animal shows," "side shows" or other such entertainment using tents or temporary seating facilities which is open to the public for charge, is a carnival or circus. (Ord. 2010-10, 4/13/10: prior code § 15-8-7)

5.08.080 Cleaning and Dyeing Establishments.

For the purposes of this subsection a "cleaning and dyeing establishment" is a plant, factory or facility for the cleaning and dyeing of any garment, fabric, substance or article by the process of washing or immersing in a volatile inflammable oil or liquid. (Ord. 2010-10, 4/13/10: prior codes: Res. 94-0, 1/10/95, and § 15-8-8)

5.08.090 Confectionery.

"Confectionery" is defined as any place which exclusively sells or offers for sale to the public such commodities as ice cream, ice cream products, candy, nuts and soft drinks. (Ord. 2010-10, 4/13/10: prior codes: Res. 94-0, 1/10/95, and § 15-8-9)

5.08.100 Contractors.

For the purpose of this section a "contractor" is defined as a person, corporation or association engaged in the performance of work or furnishing goods, materials or supplies on a contract basis. Each subcontractor under a general contract shall come within the provisions of this definition and be individually subject to licensing. (Ord. 2010-10, 4/13/10: prior codes: Res. 94-0, 1/10/95, and Ord. 12(Amendment No. 2(part)), 1964, and § 15-8-10)

5.08.110 Dance Hall.

For the purpose of this section a "public dance hall" is any room, place or space, open to public patronage in which a public dance is held regardless of whether a charge is made. However, these provisions shall not apply to church or charitable organizations where the returns or proceeds are used entirely for religious or charitable purposes. (Ord. 2010-10, 4/13/10: prior code § 15-8-11)

5.08.120 Entertainment Devices. For the purpose of this section:

A. Amusement Device. An "amusement device" is any machine, device or contrivance other than a marble machine, pinball machine, shuffle board, automatic baseball machine, billiard table, pool table or bowling alley which is designed or intended to be operated or used for amusement in the playing of a game upon or in response to payment of some charge, or the insertion of some coin, slug or check. No such device shall be lawful if it "pays off" or returns to or offers the possibility of return to the player of any money, merchandise, goods, services or other thing of value or any kind; and no license for such devices shall issue. Amusement devices as defined herein shall not include musical devices.

B. Shuffle Board. A "shuffle board" is any game known as shuffle board or other similar names where the object is to slide a weighted object from one end of the board to a designated point on the opposite end of the same board, where such is not prohibited by the laws of this state or the city and where the object of the game is for amusement purposes only if the same is played upon or in response to the payment of some charge.

C. Automatic Baseball Machine. An "automatic baseball machine" is any electronically actuated device played by one or more players where the object of the game is to hit a small ball and make a score similar to the game of baseball and which is not unlawful under the laws of the state at the city; designed to be played for amusement only and which is played upon or in response to the payment of some charge.

D. Marble Machine or Pinball Machine. A "marble machine" or "pinball machine" is a device

electronically actuated by small balls hitting into and causing the connection of electrical circuits which in turn record a score for each hit but which is not unlawful under the law of the state or the city, which is played for amusement upon or in response to the payment of a charge.

E. Billiard Hall. A "billiard hall" is any building or place containing one or more billiard tables or pool tables, which are designed to be used by the public upon or in response to the payment of some charge. (Ord. 2010-10, 4/13/10: prior codes: Res. 94-0, 1/10/95, and § 15-8-1)

5.08.130 Food, Dry Goods and Groceries.

Every person, firm or corporation before commencing or carrying on the business of dealing at wholesale or retail in any meat, fish, fowl, dairy, ice cream, candy and other perishable food products or groceries used for human consumption, or dry goods in the city, and not otherwise provided for in the title, must procure a license so to do. (Ord. 2010-10, 4/13/10: prior codes: Res. 94-0, 1/10/95, and § 15-8-22)

5.08.140 Gasoline Dealer-Retailer Service Station.

For the purpose of this section a "retail service station" is defined to include any place where lubricants or fuel oils or motor fuels in total quantity of ten gallons or more are carried or made available for sale or are sold exclusively at retail price to the general public. (Ord. 2010-10, 4/13/10: prior codes: Res. 94-0, 1/10/95, and § 15-8-20)

5.08.150 Gasoline Dealer-Wholesale.

A. For the purpose of this section a "wholesale gasoline dealer" is defined as any person carrying on the business of buying and selling, at wholesale, oils, gasoline and naphtha or other motor fuels or lubricants in total quantity of ten gallons or more and who does not offer the same for sale to the general public.

B. It is unlawful for any person operating as a wholesale gasoline dealer to sell or have on hand for sale any lubricating oil, motor oil or gasoline which does not conform to the minimum specifications established for oil and gasoline by the state. (Ord. 2010-10, 4/13/10: prior code § 15-8-21)

5.08.160 Hotel/Motels: For the purpose of this section, a "hotel" is defined as any building, structure or place where rooms are rented for lodging or sleeping purposes by the day, week or month, where such rental does not include board and which place is sufficient to accommodate twenty persons or more. Every person or the agent or employee of such person operating or conducting any hotel as defined in this section shall be deemed to be a hotel keeper. (Ord. 2010-10, 4/13/10: prior code § 15-8-12)

5.08.170 Junk Collection. For the purpose of this subsection a "junk collector" is defined to be a person not having a fixed place of business in the city who goes from house to house or place to place gathering, collecting, buying, selling or otherwise dealing in old rags, glass, sacks, bottles, cans, papers, metal, rubber or other articles commonly known as junk. (Ord. 2010-10, 4/13/10: prior codes: Res. 94-0, 1/10/95, and § 15-8-13)

5.08.180 Junk Dealer-Salvage Yard. For the purpose of this section a "junk dealer" is defined as a person principally engaged in buying and selling old metal, glass, rags, rubber, paper or other junk from a fixed place of business. (Ord. 2010-10, 4/13/10: prior codes: Res. 94-0, 1/10/95, and § 15-8-14)

5.08.190 Rental Unit. For purposes of this section "rental unit" means a building or portion of a building that is:

A. used or designated for use as a residence by one or more persons, and

B. either;

1. available to be rented, loaned, leased, or hired for a period of one month or longer, or

2. arranged, designed, or built to be rented, loaned, leased or hired for a period of one month

or longer. (Ord. 2010-10, 4/13/10: prior code Ord. 2002-9, 8/13/02/)

5.08.200 Restaurants.

For the purpose of this section a "restaurant" is defined as any place where food or drink is prepared, served or offered for sale or sold for human consumption on or off the premises. (Ord. 2010-10, 4/13/10: prior codes: Res. 94-0, 1/10/95, and § 15-8-16)

5.08.210 Slaughter Houses, Etc. Renderies, bone factories, packing houses, slaughter houses; tanneries; soap factories; canneries-and dairies. (Ord. 2010-10, 4/13/10; prior codes: Res. 94-0, 1/10/95, and § 15-8-17)

5.08.220 Theater. For purposes of this section, a "theater" is any place known as a theater, motion picture show building, outdoor motion picture theater, concert hall or other place where there may be held a motion picture show, concert, dramatic production, ball, dance, lecture, exhibition or show and where an admission is charged there for. (Ord. 2010-10, 4/13/10; prior code § 15-8-19)

Chapter 5.12 - Liquor Laws

5.12.010 Definitions. The following words when used in this Chapter shall have the following meanings:

A. "**Alcoholic beverage**" means "**beer**" and "**liquor**" as the terms are defined in this Chapter.

B. "**Alcoholic products**" means all products that contain at least 63/100 of one percent of alcohol by volume or at least one-half of one percent by weight, and are obtained by fermentation, infusion, decoction, brewing, distillation, or any other process that uses any liquids or combinations of liquids, whether drinkable or not, to create alcohol in an amount greater than the amount prescribed in this Chapter. "**Alcoholic products**" does not include common extracts, vinegars, ciders, essences, tinctures, food preparations, or over-the-counter drugs and medicines that otherwise come within this definition.

C. "**Beer**," "**light beer**," "**malt liquor**," or "**malted beverages**" means all products that contain 63/100 of one percent of alcohol by volume or one-half of one percent of alcohol by weight, but not more than four percent (4%) of alcohol by volume, or three and two-tenths percent by weight, and are obtained by fermentation, infusion, or decoction of any malted grain. Beer may or may not contain hops or other vegetable products. The use of the term "**beer**" includes the terms "**light beer**", "**malt liquor**", "**malt coolers**", and "**malted beverages**" where applicable.

D. "**Beer retailer**" means any business establishment engaged, primarily or incidentally, in the retail sale or distribution of beer to public patrons, whether for consumption on or off the establishment's premises, and that is licensed to sell beer by the commission, by a local authority, or both.

E. "**On premises beer retailer**" means any beer retailer engaged primarily or incidentally, in the sale or distribution of beer to public patrons for consumption on the beer retailer's premises. It includes taverns.

F. "**Tavern**" means any business establishment engaged primarily in the retail sale or distribution of beer to public patrons for consumption on the establishment's premises, and that is licensed to sell beer under this Chapter. "**Taverns**" include beer bars, parlors, lounges, cabarets, and nightclubs where the revenue from the sale of beer exceeds the revenue of the sale of food, although food need not be sold in such establishments.

G. "**Church**" means a building set apart primarily for the purpose in which religious services are held and with which clergy is associated, and the main body of which is kept for that use and not put to any other use inconsistent with its primary purpose, and which is tax exempt under the laws of this state.

H. "**Club**" and "**private club**" means any nonprofit corporation operating as a social club, recreational, fraternal, or athletic association, or kindred association organized primarily for the benefit of its stockholders or members.

I. "**Code enforcement officer**" means the officer employed by Pleasant View City for the purpose of the enforcement of Pleasant View City code violations.

J. "**Cork-finished wine**" means a container of wine stopped by a cork and finished by foil, lead, or other substance by the manufacturer.

"**General food store**" means any business establishment primarily engaged in selling food and grocery supplies to public patrons for off premises consumption.

K. "**Guest**" means a person accompanied by an active member or visitor of a club

who enjoys only those privileges derived from the host for the duration of the visit to the club.

L. **"Heavy beer"** means all products which contain more than four percent (4%) alcohol by volume obtained by fermentation, infusion, or decoction or any malted grain. **"Heavy beer"** is considered liquor for the purpose of this Chapter.

M. **"Interdicted person"** means any person to whom the sale, gift, or provision of an alcoholic beverage is prohibited by law or court order.

N. **"License"** means the right to engage in the type of conduct hereafter described, as evidenced by a written document issued by this City. Licenses issued pursuant to this chapter shall be of one of the following types and shall authorize the type of conduct, and only the type of conduct, indicated after each designation:

1. Class A Liquor License; Single Event Permit: Authorizes the licensee, which shall be a bona fide corporation, church, political organization or incorporated association or a recognized subordinate lodge, chapter or other local unit and which is conducting a convention, civic or community enterprise, to store, sell, service and consume liquor for a period not to exceed seventy two (72) consecutive hours in strict compliance with the Utah Alcoholic Beverage Control Act of 1990. No more than two (2) special event permits shall be issued to the same group in any calendar year.

2. Class B Liquor License; Package Agency: Authorizes the licensee to operate a "package agency", as defined by the Utah Alcoholic Beverage Control Act of 1990, in strict compliance with said act, upon the licensed premises.

3. Class C Liquor License; Restaurant: Authorizes the licensee to sell liquor on premises occupied by a restaurant, in strict compliance with the Utah Alcoholic Beverage Control Act of 1990, and upon the licensed premises.

4. Class D Liquor License; Private Club: Authorizes the licensee to sell liquor on premises occupied by a private club in strict compliance with the Utah Alcoholic Beverage Control Act of 1990 and Utah Code Annotated section 16-6-18 et seq., upon the licensed premises.

5. Class A Beer License; Off Premises: Authorizes the licensee to sell beer on the licensed premises in original containers for consumption off the licensed premises.

6. Class B Beer License; Restaurant: Authorizes the licensee to sell beer on the licensed premises occupied by a restaurant in the original containers for consumption either on or off the licensed premises; or in open containers in any size not exceeding two (2) liters and in strict compliance with the Utah Alcoholic Beverage Control Act of 1990.

7. Class C Beer License; Tavern Or Private Club: Authorizes the licensee to sell beer on the licensed premises occupied by a tavern or private club on draft or in open containers in any size not exceeding two (2) liters or in the original containers for consumption either on or off the licensed premises and in strict compliance with the Utah Alcoholic Beverage Control Act of 1990.

8. Class D Beer License; Temporary: Authorizes the licensee to sell beer on the licensed premises on draft or in open containers in any size not exceeding two (2) liters or in the original containers for consumption on the licensed premises for a period not to exceed thirty (30) days and in strict compliance with the Utah Alcoholic Beverage Control Act of 1990.

O. **"Licensee"** means any person issued a license by the City to sell,

manufacture, store, or allow consumption of alcoholic beverages on premises owned or controlled by the person.

P. "**Liquor**" means alcohol, or any alcoholic, spirituous, vinous, fermented, malt, or other liquid, or combination of liquids, a part of which is spirituous, vinous, or fermented, and all other drinks, or drinkable liquids, that contain more than one-half of one percent of alcohol by volume and is suitable to use for beverage purposes. "**Liquor**" does not include any beverage defined as beer, malt liquor, or malted beverages that has an alcohol content of less than four percent (4%) alcohol by volume.

Q. "**Local authority**" means the Pleasant View City legislative body.

R. "**Manufacture**" means to distill, brew, rectify, mix, compound, process, ferment, or otherwise make an alcoholic product for the personal use or for sale or distribution to others.

S. "**Member**" means a person, who after paying regular dues, has full privileges of a club under this Chapter.

T. "**Minor**" means any person under the age of twenty one (21) years.

U. "**Outlet**" means a location other than a state store or package agency where alcoholic beverages are sold pursuant to a license issued by local authority.

V. "**Package**" means any container, bottle, vessel, or other receptacle containing liquor.

W. "**Person**" means any individual, partnership, firm, corporation, association, business trust, or other form of business enterprise, including a receiver or trustee, and the plural as well as the singular member, unless the intent to give a more limited meaning is disclosed by the context.

X. "**Premises**" means any building, enclosure, room, or equipment used in connection with the sale, storage, service, manufacture, distribution, or consumption of alcoholic products, unless otherwise defined in this Chapter.

Y. "**Public building**" means any building or permanent structure owned or leased by the state, a county or local government entity that is used for public education, transacting public business, or regularly conducting government activities. "**Public building**" does not mean or refer to any building owned by the state, or a county or local government entity when the building is used by anyone, in whole or in part, for proprietary functions.

Z. "**Public entrances and exits,**" as used in this Chapter, shall mean access points that are required to remain unlocked during business hours that are to be used by the general public, and does not include emergency or other exits or access points.

AA. "**Public place**" means and refers to any of the following that are open to and generally used by the public:

1. Streets, roads, and alleys of incorporated cities and towns;
2. State or county highways or roads;
3. Buildings and grounds used for school purposes, and public dance halls and adjacent grounds;
4. Any place of public resort or amusement, unless otherwise defined in this Chapter;
5. Lobbies, halls, and dining rooms of hotels, restaurants, theaters, stores, garages, and service stations;
6. Any public conveyance, and its depots and waiting rooms that are open

to unrestricted use and access by the public;

7. Publicly owned bathing beaches, parks, or playgrounds; and

8. All other places that, under this Chapter have been declared to be a public place.

BB. "**Residence**" means the principal place of abode within Utah of a person who has a present intention to continue residency within Utah permanently or indefinitely.

CC. "**Restaurant**" means any business establishment where a variety of foods are prepared and complete meals are served to the general public, located on a premises having adequate culinary fixtures for food preparation and dining accommodations, and that is engaged primarily in serving meals to the general public.

DD. "**Retailer**" means any person engaged in the sale or distribution of alcoholic beverages to the consumer.

EE. "**Sell**," "**sale**," and "**to sell**" means any transaction, exchange, or barter whereby, for any consideration, an alcoholic beverage is either directly or indirectly, transferred, solicited, ordered, delivered for value, or by any means or under any pretext is promised or obtained, whether done by a person as a principal, proprietor, or as an agent, servant, or employee, unless otherwise defined in this Chapter.

FF. "**School**" means any building, public or private, used primarily for the general education of minors. "**School**" in addition to its common usage, includes, but is not limited to, nursery schools or infant day care centers, or trade or technical schools.

GG. "**Transaction**," as used in the Chapter, means the particular portion of the exchange of legal tender for alcoholic beverages wherein the age of the purchaser is determined and the amount of the purchase is entered manually or mechanically on the licensee's standard record keeping device. Acts incidental to the transaction shall not be considered part of the transaction or beer sales transaction.

HH. "**Visitor**" means a person holding limited privileges in a club by virtue of a visitor card purchased from the club and authorized by a sponsoring member of the club.

II. "**Warehouser**" means any person, other than a licensed manufacturer, engaged in the importation for sale, storage, or distribution of liquor regardless of the amount.

JJ. "**Wholesaler**" means any person, other than a licensed manufacturer, engaged in the importation for sale, or in the sale of beer, malt liquor, or malted beverages, in wholesale or quantities to retailers.

KK. "**Wine**" means any alcoholic beverage obtained by the fermentation of the natural sugar content of fruits, plants, honey, or milk, or any other like substance, whether or not other ingredients are added. "**Wine**" is considered liquor for the purpose of this Chapter. (Ord.2007-16, 11/13/07)

5.12.015 Business Areas. For purposes of this Chapter, any commercial zones that border on the boundaries listed below are hereby designated as the four (4) business areas within Pleasant View City. They are as follows:

A. Area 1 is described as follows:

Beginning at the location where the Pleasant View/North Ogden boundary intersects with 2700 North, then westerly along 2700 North to the Pleasant View/Farr West border.

B. Area 2 is described as follows:

Beginning at the location where SR 89 and the Pleasant View/Harrisville boundaries meet, then North along SR 89 to the Pleasant View/Box Elder County boundary

C. Area 3 is described as follows:

Beginning at the intersection of 900 West and Pleasant View Drive and then East along Pleasant View Drive to 850 West.

D. Area 4 is described as follows:

The entire business area North of 2700 North and West of SR 89. (Ord.2007-16, 11/13/07)

5.12.020 Restaurant Liquor Licenses. Before any restaurant may sell or allow the consumption of beer or liquor on its premises, it shall first obtain a restaurant liquor license from Pleasant View City. If the restaurant serves only beer it shall still be subject to state and City regulations regarding restaurant liquor licenses, except that the state restaurant liquor licenses need not be obtained. Pleasant View City may issue restaurant liquor licenses for the purpose of establishing restaurant liquor outlets at places and in numbers it considers proper for the storage, sale, and consumption of liquor on premises operated as public restaurants.

A. Restaurant liquor licensee premises may not be established within five hundred feet (500') of any public or private school, church, public library, public playground, school playground, or park as measured from the nearest entrance of the restaurant by following the shortest route of either ordinary pedestrian traffic or, where applicable, vehicular travel along public thoroughfares, whichever is the closer, to the property boundary of the public or private school, church, public library, public playground, school playground, or park. Restaurant liquor licensee premises may not be established within two hundred feet (200') of any public or private school, church, public library, public playground, school playground, or park, measured in a straight line from the nearest entrance of the proposed outlet to the nearest property boundary of the above named.

B. The restrictions contained herein govern unless one of the following exemptions applies:

1. The restaurant is located within one of the designated business areas and the Pleasant View City Council finds that it is in the best interest of the City for the establishment of business.

2. The Pleasant View City Council finds, that compliance with distance requirements would result in peculiar and exceptional practical difficulties or exceptional and undue hardships in the granting of a restaurant liquor license. In that event, the City Council may, after giving full consideration to all the attending circumstances, following a public hearing authorize a variance from the distance requirements to relieve the difficulties or hardships if the variance may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this Chapter, and the City's master plan. If such a variance is granted the Council may impose additional restrictions upon a licensee to ensure the purpose of the intended restrictions.

In determining whether to grant an exemption the City Council shall give consideration to the following:

- a. The locality and neighborhood within which the proposed licensed premises will be located and the prospective impact of the same upon such locality and neighborhood.
- b. The proximity of the proposed licensed premises to existing licensed premises.
- c. The extent of present or anticipated tourist traffic within the area of the proposed licensed premises.
- d. The proximity of the proposed licensed premises to any school, church, library, public playground or park.
- e. The extent to which the application makes a full, complete and candid disclosure of all information required thereby.
- f. The integrity, character and reputation of the applicant, its partners, directors, trustees, officers, lessors, managers and operators.
- g. The business acumen and experience of the applicant, its partners, directors, trustees, officers, lessors, managers and operators.
- h. The prospective impact of the licensed premises upon vehicular traffic, congestion and parking.
- i. The number of liquor and beer licenses in existence in the city.
- j. Whether all employees of an applicant who sells, serves or furnishes liquor to the public for consumption on the premises have completed an approved alcohol education and training seminar.
- k. In the case of a Class A beer license, whether all employees between eighteen (18) years old and twenty one (21) years old are supervised by a person on the store premises who is older than twenty one (21) years.
- l. Whether the granting of the requested license is in the greatest public interest and in the interest of the general health and welfare of the city's residents.
- m. Such other facts or circumstances which may be considered material.

3. Nothing in this Chapter prevents the Council from considering the proximity of any educational, religious, and recreational facility or any other relevant factor in reaching a decision on a proposed location. For the purposes of this Chapter, educational facility includes nursery schools, infant day care centers, and trade and technical schools. (Ord.2007-16, 11/13/07)

5.12.030 Application and Renewal Requirements. A person seeking a restaurant license under this Chapter shall file a written application with this City, in a form prescribed by the licensing department. The restaurant license fee and an initial non-refundable application fee are as set forth in the City's Consolidated Fee Schedule. (Ord.2007-16, 11/13/07)

5.12.040 Restaurant Qualifications.

- A. The Council may not grant a restaurant liquor license to a restaurant whose proprietor has been convicted of:
1. a felony under any federal or state law;
 2. any violation of federal or state law of local ordinance concerning the

sale, manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages, or convicted of drunk driving within the three (3) years prior to application; or

3. any crime of moral turpitude.

B. In the case of a partnership or corporation, the offenses above applies if any partner, managing agent, officer, director, or stockholder, who holds at least twenty percent (20%) of the total issued and outstanding stock of an applicant corporation, has been convicted of any offense as provided in this Chapter.

C. Restaurants licensed to sell liquor may sell beer in open containers, in any size not exceeding two (2) liter, and on draft for on premises consumption without obtaining a separate on premises beer retailer license from the City. All liquor will be sold and stored in accordance with state law. Liquor shall not be sold on any day after 12:00 midnight and before 12:00 noon. No liquor will be sold or offered for sale the day of any state or national elections until the polls are closed. A quarterly investigation of the business establishment will be conducted by the code enforcement officer, to insure compliance, and a copy of finding will be furnished to the City Council and the Chief of Police. (Ord.2007-16, 11/13/07)

5.12.050 Private Clubs. Pleasant View City will not issue a beer or liquor license for any private club, social club, recreational, athletic, or kindred association incorporated under the Utah Nonprofit Corporation and Cooperative Association Act, which desire to maintain premises upon which beer or alcoholic beverages may be stored, sold, served, and consumed. (Ord.2007-16, 11/13/07)

5.12.060 Single Event Permits.

A. The Council may issue a single event permit to a bona fide incorporated association, corporation, church, or political organization, or to a recognized subordinate lodge, chapter, or public fairs, stock and other animal shows, celebrations, fiestas, occasional athletic contests, and similar events. Beer may be sold in the original containers only upon such premises and during such time as the City Council, upon application, may designate. The permit period shall not exceed seventy-two (72) hours.

B. The five hundred foot (500') and two hundred foot (200') proximity limitations to educational, religious, and recreational facilities do not apply to single event permits. Nothing in this Section, however, prevents the Council from considering the proximity of any educational, religious, or recreational facility, or any other relevant factor in deciding whether to grant a single event permit.

C. The City may not issue more than two (2) single event permits in any one (1) calendar year to the same association, incorporation, church, political organization, subordinate lodge, chapter, or local unit thereof. (Ord.2007-16, 11/13/07)

5.12.070 Single Event Qualifications.

A. In order to qualify for a single event permit, the applicant:

1. may not be the holder of or be affiliated with the holder of any other type of retail liquor package agency or license issued under this Chapter; and
2. shall have been in existence as a bona fide organization for at least one (1) year prior to the date of application.

B. The Council may not grant a single event permit to any person who has been:

1. convicted of a felony under any federal or state law;

2. convicted of any violation of any federal or state law or local ordinance concerning the sale, manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages, or convicted of drunk driving within three (3) years prior to application; or

3. convicted of any crime involving moral turpitude.

C. In the case of a partnership or corporation, the offenses above apply if any partner, managing agent, officer, director, or stockholder who holds at least twenty percent (20%) of the total issued and outstanding stock of an applicant corporation has been convicted of any offense as provided in this Section. The Council may not grant a single event permit to any person who has had any type of license, agency, or permit issued under this Title revoked within the last three (3) years. (Ord.2007-16, 11/13/07)

5.12.080 License Requirements. A person seeking a single event permit, under this Chapter, shall file a written application with the City, in a form prescribed by the licensing department. The fee for a nonrefundable single event permit is set forth in the City's Consolidated Fee Schedule. (Ord.2007-16, 11/13/07)

5.12.090 Beer Retailer License. Pleasant View City Council may issue a beer retailer license:

A. **Off premises license.** An off premises license may be issued to allow the licensee to sell beer on the licensed premises in original containers for consumption off the premises only, in accordance with state law and City ordinances. Beer may not be sold, provided, or possessed for off premises consumption in containers larger than two (2) liters. If malt beverage coolers or malt liquor is sold by a beer retailer for off premises consumption, the beer retailer shall display a sign at the location on the premises where malt beverages or malt liquor is sold stating: "Many malt beverages contain alcohol. Please read the label."

1. All employees involved in the transaction of off premises retail beer sales will be required to possess and display a "Beer Handler's Permit" while on duty.

2. Those businesses possessing this license that are open twenty-four (24) hours a day shall have all public entrances and exits and the transaction or cashier area monitored by video camera and recorder from the hours of 11:00 p.m. to 5:00 a.m. Said cameras shall be programmed in such a manner that the date and time shall appear on the video tape or film when being viewed through a monitor. The recorded tapes will be maintained by the business for a period of not less than seven (7) days from the day the recording ends. Said tapes will be made available to the City for review and auditing purposes upon twenty four (24) hours notice, absent exigent circumstances.

3. Any licensee may submit plans or proposals to the Chief of Police or designee to verify compliance with the intent of this Section. The objective of the review is to verify that people may be reasonably identifiable through the camera based on location, direction, and distance between the camera and monitored area. Any approval obtained through such a review is not a guarantee nor warranty of the effectiveness of the plan or approval but is only to determine whether the licensee's plan or proposal satisfies the intent hereof.

B. **On premises license.** A beer retailer on premises license may be issued to allow the licensee to sell beer, for consumption on the premises all to be exercised in accordance to state law and City ordinances. An on premises license shall be issued to an applicant engaged in good faith in the business of dispensing and selling beer at retail, in

the original containers or in draft, over a bar in these establishments.

1. **On premises license - Bowling Alley.** May be issued for the entire portion of the bowling alley used in the sport of bowling and recreation.

2. **On premises license - Golf Course.** May be issued for the area of the golf course used in the sport of golfing. Including the clubhouse, fairways, and greens. To include all areas identified as the golf course.

C. The location of these licensees shall be limited to two (2) licensed beer retailer on premises establishments or two (2) licensed private clubs, or a combination thereof, not to exceed two (2), within each designated commercial business area. Further, no new beer retailer on premises licensee shall be located closer than five hundred feet (500') to an existing beer retailer on premises licensee or private club. The five hundred feet (500') shall be measured in a straight line between the nearest property lines of the subject properties.

D. A beer retailer on/off-premises may not be established within five hundred feet (500') of any public or private school, church, public library, public playground, school playground, or park, measured from the nearest entrance of the on/off-premises beer retailer by following the shortest route of either ordinary pedestrian traffic, or where applicable, vehicle travel along public thoroughfares, whichever is the closer. A beer retailer licensed premises may not be established within two hundred feet (200') of any public or private school, church, public library, public playground, school playground, or park measured in a straight line from the nearest entrance of the proposed outlet to the nearest property boundary of the above named.

E. The restrictions contained in paragraph (D) of this Section govern unless the Pleasant View City Council finds, after a full investigation by the code enforcement officer, that compliance with the distance requirements would result in peculiar and exceptional practical difficulties or exception and undue hardships in the granting of a beer retailer license. Additional circumstances may be considered and include topography, existing permanent physical barriers, sight distance, land use issues, compatibility, travel distance, etc. In that event, the City Council may, after giving full consideration to all the attending circumstances, following a public hearing, authorize a variance from the distance requirements to relieve the difficulties or hardships if the variance may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this Chapter. If such a variance is granted the Council may impose additional restrictions upon the licensee to ensure the purpose of the intended restrictions. (Ord.2007-16, 11/13/07)

5.12.100 Beer Retailer Qualifications.

A. The Council may not grant a beer retailer license to an outlet whose proprietor has been convicted of:

1. A felony under federal or state laws;
2. Any violation of any federal or state law or local ordinance concerning the sale, manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages, or convicted of drunk driving within three (3) years prior to application; or
3. Any crime involving moral turpitude.

B. In the case of any partnership or corporation, the offenses above apply if any partner, managing agent, officer, director, or stockholder who holds at least twenty percent (20%) of the total issued and outstanding stock of an applicant corporation has been

convicted of any offense as provided in this Chapter.

C. If any such person is convicted of such an offense subsequent to the issuance of the license, the license shall be surrendered immediately. The licensee may request a hearing on the matter, in writing and within ten (10) days of a conviction by a trial court.

D. Retailers must sell and store beer in accordance with state law. On premises beer retailers may sell beer in open containers, in any size not exceeding two (2) liters, and on draft. Liquor may not be stored or sold on the premises.

E. Beer retailers can only sell beer during hours as stated below:

1. Off premises: Between the hours of 6:00 a.m. and 1:00 a.m.

2. On premises: Between the hours of 10:00 a.m. and 1:00 a.m.

F. The code enforcement officer will conduct quarterly inspection of the on premises retailer and furnish a written report to the City Council and the Chief of Police to insure compliance. (Ord.2007-16, 11/13/07)

5.12.110 Beer Retail Application and Renewal Requirements. A person seeking a beer retailer license under this Chapter shall file a written application with this City, in a form prescribed by the licensing department. The beer retailer license fee and the non-refundable application fee are as set forth in the City's Consolidated Fee Schedule. (Ord.2007-16, 11/13/07)

5.12.120 Package Stores. Package stores shall only be allowed within Pleasant View City, in compliance with state law, and in compliance with Pleasant View City zoning ordinances. The package store will comply with the distance requirements set forth in the preceding licenses. In the event a variance is required, the afore scribed policy will be adhered to. (Ord.2007-16, 11/13/07)

5.12.130 Qualification of Employees

A. Other than as provided in Section 5.12.260, any person employed by any licensee under this Chapter for work involving the transaction, sale, serving, or dispensing of alcoholic beverages on or about the licensed premises, whether as manager, agent, or servant shall be twenty-one (21) years of age or older, and shall be legally able to work in the United States.

B. No one shall be employed who has been convicted of a felony within five (5) years prior to employment or who has not secured a judicial pardon and expungement of the record of any felony conviction entered prior to such five (5) year period, or who has within three (3) years prior been convicted of any violation of any law or ordinance involving moral turpitude, controlled substances, or relating to alcoholic beverages, driving charges involving alcohol or drugs, or of keeping a gambling or disorderly house, or who has pleaded guilty to or has forfeited bail on any such charge.

C. This Section shall not operate to disqualify a person currently employed by a licensee under this Chapter, who was so employed on or before January 1, 1995, and whose employment with the same licensee has been without interruption from said date. However, any such conviction for an act after January 1, 1995, shall disqualify all such convicted persons, including current employees. (Ord.2007-16, 11/13/07)

5.12.140 Duty to Report Change of Ownership. If, during the term of the license year, after the license has been granted hereunder, there shall be any change in the personnel of any licensed partnership or of the officers or directors of any licensed corporation, the licensee

shall forthwith report any such changes in personnel to the license officer. (Ord.2007-16, 11/13/07)

5.12.145 Cessation of Business.

A. A licensee under this Chapter may not close or cease operation for a period longer than two hundred forty (240) hours, unless written notice is given to the license officer at least seven (7) days before the closing, and the closure or cessation of operation is first approved by the license officer.

B. In the case of emergency closure, immediate notice of closure shall be made to the license officer by telephone.

C. The license officer may authorize a closure of cessation of operation for a period not to exceed sixty (60) days. The license officer may extend the initial period an additional thirty (30) days upon written request of the licensee and upon a showing of good cause. A closure or cessation of operation may not exceed a total of ninety (90) days.

D. Any notice shall include the dates of closure or cessation of operation, the reason for the closure or cessation of operation, and the date on which the licensee will reopen or resume operation.

E. Failure of the licensee to provide notice and to obtain department authorization prior to closure or cessation of operation shall result in an automatic forfeiture of the license and the forfeiture of the unused portion of the license fee for the remainder of the license year effective immediately.

F. Failure of the licensee to reopen or resume operation by the approved date shall result in an automatic forfeiture of the license and the forfeiture of the unused portion of the club=s license fee for the remainder of the license year. (Ord.2007-16, 11/13/07)

5.12.150 Investigation by Chief of Police. Every applicant for an on premises beer license, together with such information as required to be attached thereto, shall be referred to the Chief of Police for inspection and report. The Chief of Police shall, within ten (10) days after receiving such application, report in writing to the Council the general reputation of the applicant, the character of the premises, and of the persons who habitually frequent the same; the nature and kind of business conducted at such place; whether intoxicating liquors are or have been served or permitted to be drunk in the place; whether said place is or has been conducted in a lawful, quiet, and orderly manner; the nature and kind of entertainment, if any, at the place; whether gambling is or has been permitted, or gambling devices are or have been displayed upon the premises, or by the applicant at any other place; whether there is any ground to believe any statement made in the application is untrue. The Chief of Police shall add such further information as he believes to be pertinent. The Chief of Police shall add thereto in writing his recommendation as to the granting or denying such application. (Ord.2007-16, 11/13/07)

5.12.160 Investigation by Health Department. The application shall also be referred immediately to the Health Department for inspection and report. He/she shall report in writing to the City Council whether the proposed licensed premises comply with all applicable laws, ordinances, and regulations relating to safety in the event of fire or panic, and whether the same are reasonably safe for use as licensed premises of the type of license applied for. (Ord.2007-16, 11/13/07)

5.12.170 Investigation by Fire Chief. The application shall also be referred immediately to the

Fire Chief for inspection and report. He/she shall report in writing to the City Council whether the proposed licensed premises comply with all applicable laws, ordinances, and regulations relating to safety in the event of fire or panic, and whether the same are reasonably safe for use as licensed premises of the type of license applied for. (Ord.2007-16, 11/13/07)

5.12.180 Issuance of Licenses; Renewal.

A. Upon receipt of the reports from the Chief of Police, the Fire Chief, and, if referral is made, the Health Department, and upon review of those reports and a determination by the license officer, that the applicant has complied with all applicable laws, ordinances and regulations, the license officer may, in the instance of an initial application, be directed by City Council to issue a license to the applicant for the retail sale of beer and/or liquor upon the licensed premises.

B. In the instance of a renewal application, the license officer, upon receiving the aforementioned reports and determining that the applicant has complied with all applicable requirements, may issue a renewal license to the applicant.

C. Under this Section, a renewal application will only be reviewed if it is for the same applicant and location as the previous license and for the year immediately following a licensed year. Otherwise, an initial application is required. (Ord.2007-16, 11/13/07)

5.12.190 Display of License. Every license issued hereunder shall be posted and prominently displayed upon the licensed premises. (Ord.2007-16, 11/13/07)

5.12.200 Transfer of License. Licenses issued under this Chapter shall not be transferable. (Ord.2007-16, 11/13/07)

5.12.210 Discretion of Council; Licenses revocable.

A. The City Council, may, with or without a hearing, in its discretion, when in the interest of public health, safety, and welfare, refuse to grant any license applied for. No license shall be issued if the applicant shall not possess all the qualifications required by state law. Licenses are revocable pursuant to Section 5.04.

B. Every police officer is an ex-officio inspector of license. Every such officer is authorized and empowered in his discretion and in addition to his enforcement powers, may inspect all licensed premises for compliance with state law and the City ordinances, reporting any violations to the City Council.

C. The Council may by resolution or ordinance establish rules and regulations to govern its procedure in considering and acting upon suspensions and revocations of licenses. (Ord.2007-16, 11/13/07)

5.12.220 Prohibited to Intoxicated Person. It is unlawful to sell any alcoholic beverage to any person intoxicated or under the influence of any alcoholic beverage. (Ord.2007-16, 11/13/07)

5.12.230 Selling to Minors. It is unlawful to sell any alcoholic beverage to any person under the age of twenty-one (21) years and anyone doing so is strictly liable therefor, and guilty of a class "B" misdemeanor. (Ord.2007-16, 11/13/07)

5.12.240 Licensee Permitting Minor on Premises. It is unlawful for any licensee, agent, or

employee of an on-premises license to permit any person under the age of twenty-one (21) years to be in, to loiter about, or to frequent the licensed premises, except with regards to bowling alleys and golf courses where a minor is legitimately involved in recreational activities. If a minor is legitimately on the premises of a bowling alley or golf course the licensee, agent, or employee shall not allow the minor to possess or consume any alcoholic beverages. (Ord.2007-16, 11/13/07)

5.12.250 Minor Serving Alcohol.

A. It is unlawful for any licensee under this Chapter to employ or to permit any person under the age of twenty-one (21) years to transact the sale of, serve, dispense, or handle alcoholic beverages.

B. Exceptions.

1. A licensee holding a restaurant license may employ persons eighteen (18) years of age through twenty (20) years of age to serve alcoholic beverages provided they are under the supervision of a person at least twenty-one (21) years of age and who is on the premises;

2. A licensee holding an off-premises license may employ persons eighteen (18) years of age through twenty (20) years of age to transact the sale of or handle beer in its sealed original containers provided they are under the supervision of a person at least twenty-one (21) years of age and who is on the premises; or

3. Said licensee may also employ persons sixteen (16) years of age through seventeen (17) years of age for the handling of beer, exclusive of transactions, in its sealed original containers provided they are under the supervision of a person at least twenty-one (21) years of age and who is on the premises. Said activity is limited to the locating, relocating, or transporting beer upon the premises. (Ord.2007-16, 11/13/07)

5.12.260 Parent or Guardian Permitting Minor on Premises. Except as provided for in Section 5.12.250 and 5.12.280, it is unlawful for any person having charge or custody of any minor, to take the minor into, or to suffer the minor to enter, be in, loiter about, or to frequent any beer tavern or any premises for which an on-premises license has been issued. (Ord.2007-16, 11/13/07)

5.12.270 Minor on Premises. It is unlawful for any person under the age of twenty-one (21) years to enter, to be in, to loiter about, or frequent a beer tavern, or any premises for which an on premises license has been issued. Minors will be allowed in the bowling alley and on golf courses for the purpose of recreation. (Ord.2007-16, 11/13/07)

5.12.271 Minor in Possession. It is unlawful for any minor to possess, consume, or possess by consumption, an alcoholic beverage. A violation of this Section is a class "B" misdemeanor and is punishable as such. (Ord.2007-16, 11/13/07)

5.12.280 Entering Premises Violating State and City Laws. It is unlawful for any person to visit, to loiter about, to frequent, or to resort to any house, building, room, or premises where any alcoholic beverages are kept, stored, sold, bartered, offered, or exposed for sale in violation of state law or City ordinances. (Ord.2007-16, 11/13/07)

5.12.290 Days of Sale; Closure.

A. The below listed are the dates of sale by license classification:

1. Restaurant From Sunday through Saturday.
2. Off premises From Sunday through Saturday.
3. On premises From Sunday through Saturday.
4. Single Event From Monday through to 1:00 a.m. on Sunday.

B. Beer retailers with "on-premises" consumption licenses shall be closed to customers and members and shall cease operation from 3:00 a.m. until 6:00 a.m. However, no liquor may be sold, offered for sale, or dispensed the day of any state or national elections until after the polls are closed. (Ord.2007-16, 11/13/07)

5.12.300 Advertising Requirements. It is unlawful for any person to advertise the sale of beer not in accordance with state law. (Ord.2007-16, 11/13/07)

5.12.310 Consumption On Off Premises License. It is unlawful for any licensee with an off-premises license to suffer or allow any person to consume any alcoholic beverage upon such premises or upon the lot or parcel of property on which the licensed premises is located. (Ord.2007-16, 11/13/07)

5.12.320 Illumination of Premises. It is unlawful for any licensee to fail to keep all parts of the licensed premises, to which customers have any access, illuminated with a minimum illumination of three foot (3') candles at all times it is occupied or open for business. (Ord.2007-16, 11/13/07)

5.12.330 Nuisances on Licensed Premises. It is unlawful for any person to commit, keep, or maintain a nuisance upon any licensed premises. It is unlawful for any person to suffer a nuisance to be maintained upon a licensed premises, owned, occupied, operated, or controlled by him/her or which may be in his/her charge. (Ord.2007-16, 11/13/07)

5.12.340 Beer Acquired from Brewer or Wholesaler. It is unlawful for any licensee to purchase or acquire or to have or possess, or to suffer to be kept upon the licensed premises, any beer except that lawfully acquired from a brewer or wholesaler licensed under the provisions of state law. (Ord.2007-16, 11/13/07)

5.12.350 On Premises Employee. It is unlawful for any on premises licensee to employ or to suffer to work for him upon the licensed premises, any person who does not meet the requirements of such employment. (Ord.2007-16, 11/13/07)

5.12.360 Gambling Devices in Licensed Premises. It is unlawful for any licensee hereunder to possess, store, or display upon the licensed premises any gambling device or tickets to be bought, kept, possessed, stored, or displayed upon the premises for any purpose whatsoever. (Ord.2007-16, 11/13/07)

5.12.370 Restrictions on Brewer, Jobber, and Wholesaler. No brewer, jobber, or beer wholesaler shall directly or indirectly supply, give, or pay for any furniture, furnishings, or fixtures of a retailer of beer, nor shall any brewer, beer dealer, or beer wholesaler advance, furnish money, or pay for any license fee for such a retailer or be financially interested, whether directly or indirectly, in the conduct or operation of the business of

any such retailer, or lend money or grant more than forty (40) days credit to any such retailer. (Ord.2007-16, 11/13/07)

5.12.380 Premises Accessibility to Police Officer. It is unlawful for any door or other means of ingress to or egress from any licensed premises to be locked or barred or barricaded in any way so as to interfere with the free entrance to the licensed premises by any City police officer at any time while the premises are occupied or open to the public, but all doors or other means of entrance thereto, during the time the premises are occupied or open to the public, shall be left unlocked or unfastened so that any police officer may enter the same without any hindrance or delay; provided, however, that there may be maintained upon the premises a locked storeroom for the keeping of goods and supplies used in the business. Such storerooms shall at all times be subject to search and inspection by any police officer upon compliance with procedural requirements. It is unlawful for any licensee to deny any police officer immediate access to the storeroom for search or inspection upon demand made for such access. It is unlawful for any licensee to suffer any person, except a bona fide employee of the licensee or police officer, to enter or remain in the storeroom. (Ord.2007-16, 11/13/07)

5.12.390 Warning of Approach of Police. It is unlawful for any person commonly known as a "lookout" to be stationed or maintained to give warning of the approach of any police officer to the premises. It is unlawful to maintain or operate any electrical or other device, which is used or capable of being used to give warning to persons within any such licensed premises of the approach of any police officer. (Ord.2007-16, 11/13/07)

5.12.400 Disorderly Conduct On Premises. It is unlawful for any licensee to suffer or allow any disorderly conduct to be committed, or to suffer or allow any, disorderly person to be or remain upon any licensed premises. (Ord.2007-16, 11/13/07)

5.12.410 Lewd Conduct On Premises. Licensees under this Chapter, whose license permits the consumption of alcoholic beverages on premises, shall not allow any conduct, by any person, on said premises, that is proscribed by state law. Further, the licensee shall not allow the fondling of human genitals, pubic region, buttocks, or female breasts, nor allow the ultimate sex act, normal or perverted, actual or simulated, including, but not limited to, intercourse, oral copulation, sodomy, masturbation, excretory functions, nor allow any showing of any visual reproductions showing the same. Further, the licensee shall not allow any person to expose, or be dressed in a manner so as to expose to the view of others, the human genitals, pubic regions, buttocks, the female breasts, at the point immediately above the top of the areola to the bottom of the breast, the human male genitals in a discernable turgid state, even if completely and opaquely covered, nor allow any visual reproductions showing the same. (Ord.2007-16, 11/13/07)

5.12.420 Solicitation for Immoral Purposes On-Premises. It is unlawful for any person to solicit any other person upon any licensed premises for illicit sexual intercourse or other immoral purpose, or to be upon such premises for the purpose of solicitation. It is unlawful for any licensee to suffer or allow any violation of the immediately preceding prohibition upon the licensed premises. (Ord.2007-16, 11/13/07)

5.12.430 Begging Drinks On premises. It is unlawful for any person upon any public street or upon any licensed premises to beg or solicit a gift of any alcoholic beverage. (Ord.2007-16, 11/13/07)

5.12.440 Sale During License Revocation or Suspension. It is unlawful for any person to sell alcoholic beverage after the revocation of any license issued to him/her, or during a period of suspension of such license. (Ord.2007-16, 11/13/07)

5.12.450 Licensee Responsibility. It is unlawful for any licensee hereunder, to fail to maintain full control of the conduct of the business upon the licensed premises, or to fail to inform himself/herself of the manner in which the business is conducted and of the activities of his/her agents, servants, and employees in and about the licensed premises, and by accepting a license hereunder, the licensee unconditionally guarantees to the City that neither he/she nor his/her agents, servants, or employees will violate the terms of this Chapter upon the licensed premises, and for breach of such guarantee the license may be revoked. (Ord.2007-16, 11/13/07)

5.12.460 Search of Licensed Premises. Every licensee, by accepting a license issued under the provisions of this Chapter, thereby irrevocably consents that any City police officer, upon compliance with procedural requirements, may at any time during the effective period of the license freely enter and inspect and search the licensed premises for any alcoholic beverage or for any other goods or chattels illegally possessed or kept thereon, or for evidence of any alleged crime under investigation by such police officer, and further consents to the seizure of any such alcoholic beverage, goods, chattels, or evidence, the property of the licensee, which may be found therein upon such a search. (Ord.2007-16, 11/13/07)

5.12.470 Penalty for Violation.

A. **General Provision.** A violation of this Chapter shall be a class "B" misdemeanor, unless otherwise established by state law.

B. Enhancement for Licensees.

1. This Subsection applies to any conviction of class "B" misdemeanors, or more serious classification of offenses, under this Chapter or similar state or county laws. It is specifically provided, that in case of a licensee's second conviction, within a twenty-four (24) month period, the minimum penalty prescribed shall be not less than Three Hundred Dollars (\$300.00), and in case of a licensee's third or subsequent conviction under this Chapter within a twenty-four (24) month period, the minimum penalty shall be not less than Six Hundred Dollars (\$600.00). For the purposes of this Chapter, the forfeiture of bail on a charge is deemed a prior conviction. This does not preclude the enforcement of any civil or administrative penalties applicable to said violations.

2. A licensee can reduce the time periods from twenty-four (24) months to twelve (12) months used to calculate second or subsequent convictions by implementing and conducting regular training for those employees involved in the transactions of alcoholic beverages. The training must be in the proper sales and handling of alcoholic beverages and must be in addition to the training set forth in this Chapter. The licensee must maintain a record of the subject matter of the training, the length thereof, and those in attendance. To qualify for the time period

reduction, training sessions must occur once each six (6) months, with ninety percent (90%) attendance, and no employee missing two (2) consecutive sessions. Said training sessions should last a minimum of fifty (50) minutes each.

C. Civil Penalties for Permittees. Violations of this Chapter by a holder of a Beer Handler's Permit shall result in the following administrative sanctions in addition to any criminal penalties assessed:

1. First violation, fourteen (14) day suspension of permit;
2. Second violation within a twenty four (24) month period, six (6) month suspension of permit;
3. Third violation within a forty eight (48) month period, one (1) year suspension of permit; and
4. Fourth violation within a forty eight (48) month period, permanent revocation of permit.

D. Any time period, during which a permit is suspended, shall be excluded when calculating the time period in determining the applicable enhancing civil penalty.

E. For purposes of this Chapter, a violation can be found either as the result of a criminal conviction or as the result of an administrative hearing under the licensing provisions of this Code. (Ord.2007-16, 11/13/07) (prior ordinance: Alcoholic Beverages Ord. 87-5.12 (part), 1987: Ord. 81-1 §1 (part), 1981)

Chapter 5.16 - Sexually Oriented Business (S.O.B.)

5.16.010 Title. The provisions codified in this Chapter shall be known and may be referred to as the Sexually Oriented Business and Employee Licensing Ordinance. (Ord.2000-3, 3/27/01)

5.16.020 Purpose. It is the purpose and object of this Chapter that the City establish reasonable and uniform regulations governing the time, place and manner of operation of sexually oriented businesses and employees of those businesses in the City. This Chapter shall be construed to protect the governmental interests recognized by this Chapter in a manner consistent with constitutional protections provided by the United States and Utah Constitutions. (Ord.2000-3, 3/27/01)

5.16.030 Applicability. This Chapter imposes regulatory standards and license requirements on certain business activities which of those businesses characterized as sexually oriented business employees. Except where the context or specific provisions require, this Chapter does not supersede or nullify any other related ordinances, including, but not limited to, those codified in this title. (Ord.2001-3, 3/27/01)

5.16.040 Definitions. For the purpose of this Chapter, the following words shall have the following meaning:

A. Adult Bookstore or Adult Video Store. A commercial establishment which:

1. Excludes minors from more than fifteen percent (15%) of the retail floor or shelf space of the premises; or

2. As one of its principal purposes, offers for sale or rental for any form of consideration, any one or more of the following: books, magazines, periodicals, printed matter, photographs, films, motion pictures, video cassettes, video reproductions, slides or other visual representations; the central theme of which depicts or describes "specified sexual activities" or "specified sexual anatomical areas" or instruments, devices or paraphernalia which are designed for use in connection with "specified sexual activities." Legitimate medically recognized contraceptives are excepted.

B. Adult Business. An adult motion picture theater, adult book store or adult video store.

C. Adult Motion Picture Theater. A commercial establishment which:

1. Excludes minors from the showing of two (2) consecutive exhibitions (repeated showings of any single presentation shall not be considered a consecutive exhibition); or

2. As its principal business, shows, for any form of consideration, films, motions pictures, video cassettes, slides or similar photographic reproductions which are primarily characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

D. Adult Theater. A theater, concert hall, auditorium or similar commercial establishment which:

1. Holds itself out as such a business; or

2. Excludes minors from the showing of two (2) consecutive exhibitions (repeated performance of the same presentation shall not be considered a consecutive exhibition); or

3. As its principal business, features persons who appear in live performances in a

state of semi-nudity or which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities”.

E. Employ. Hiring an individual to work for pecuniary or any other form of compensation, whether such person is on the payroll of the employer, as an independent contractor, as an agent or any form of employment relationship.

F. Escort. Any person who, for pecuniary compensation, dates, socializes, visits, consorts with or accompanies or offers to date, consort, socialize, visit or accompany another or others to or about social affairs, entertainment or places of amusement or within any place of public or private resort or any business or commercial establishment or any private quarters. Escort shall not be construed to include persons who provide business or personal services, such as licensed private nurses, aides for the elderly or handicapped, social secretaries or similar service personnel whose relationship with their patron is characterized by a bona fide contractual relationship having a duration of more than twelve (12) hours and who provide a service not principally characterized as dating or socializing. Escort shall also not be construed to include persons providing services such as singing telegrams, birthday greetings or similar activities characterized by appearances in a public place, contracted for by a party other than the person for whom the service is being performed and of a duration not longer than one hour.

G. Escort Service. An individual or entity who for pecuniary compensation, furnishes or offers to furnish escorts, or provides or offers to introduce patrons to escorts.

H. Escort Service Runner. Any third person, not an escort, who, for pecuniary compensation, acts in the capacity of an agent or broker for an escort service, escort or patron by contacting or meeting with escort services, escorts or patrons at any location within the City, whether or not such third person is employed by such escort service, escort, patron or by another business, or is an independent contractor or self-employed.

I. Nudity. A state of dress in which the areola of the female breast, or male or female genitals, pubic region or anus are covered by less than the covering required in the definition of semi-nude.

J. Operator. The manager or other natural person principally in charge of a sexually oriented business.

K. Outcall Services. Services of a type performed by a sexually oriented business employee outside of the premises of the licensed sexual oriented business, including, but not limited to, escorts, models, dancers and other similar employees.

L. Patron. Any person who contracts with or employs any escort services or escort, or the customer of any business licensed pursuant to this Chapter.

M. Pecuniary Compensation. Any commission, fee, salary, tip, gratuity, hire, profit, reward or any other form of consideration.

N. Person. Any person, unincorporated association, corporation, partnership or other legal entity.

O. Semi-Nude Dancing Agency. Any person, agency, firm, corporation, partnership or any entity or individual which furnishes bookings, or otherwise engages or offers to furnish bookings, or otherwise engage the service of a professional dancer licensed pursuant to this Chapter for performance or appearance at a business licensed for adult theaters.

P. Semi-Nude Entertainment Business. A business, including adult theater, where employees perform or appear in the presence of patrons of the business in a state of semi-nudity. A business shall also be presumed to be a semi-nude entertainment business if the business holds itself out as such a business.

Q. Sexually Oriented Business. “Semi-nude entertainment businesses”, sexually

oriented “outcall services”, “adult businesses” and “semi-nude dancing agencies”, as defined by this Chapter.

R. Sexually Oriented Business Employees. Those employees who work on the premises of a sexually oriented business in activities related to the sexually oriented portion of the business. This includes all managing employees, dancers, escorts, models and other similar employees, whether or not hired as employees, agents or as independent contractors. Employee shall not include individuals whose work is unrelated to the sexually oriented portion of the business, such as janitors, bookkeepers, and similar employees. Sexually oriented business employees shall not include cooks, serving persons and similar employees, except where they may be managers or supervisors of the business. All persons making outcall meetings under this Chapter, including escorts, models, guards, escort runners, drivers, chauffeurs and other similar employees, shall be considered sexually oriented business employees.

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

T. Specified Sexual Activities. Acts of:

1. Masturbation.
2. Human sexual intercourse.
3. Sexual copulation between a person and a beast.
4. Fellatio.
5. Cunnilingus.
6. Bestiality.
7. Pederasty.
8. Buggery.
9. Any anal copulation between a human male and another male, human female or beast.
10. Manipulating, caressing or fondling by any person of:
 - a. The genitals of a human.
 - b. The pubic area of a human.
 - c. The breast or breasts of a human female.

U. Flagellation, torture or sadomasochistic abuse by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of the one so clothed. (Ord.2001-3, 3/27/01)

5.16.050 Statutory Provisions.

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

B. Lewdness. Notwithstanding anything contained in this Chapter, nothing in this Chapter shall be deemed to permit or allow conduct or the showing or display of any matter which is contrary to the provisions of Utah Code Annotated section 76-5-401 et seq. (Ord.2001-3, 3/27/01)

5.16.060 Location and Name Restrictions.

A. Zoning. It is unlawful for any sexually oriented business to do business at any location within the City not zoned for such business. Sexually oriented businesses licensed as adult businesses or semi-nude entertainment businesses pursuant to this Chapter shall

only be allowed in areas zoned for their use pursuant to Title 18 of this Code.

B. Premises Licensed. It is unlawful to conduct business under a license issued pursuant to this Chapter at any location other than the license premise. Any location to which telephone calls are automatically forwarded by such business shall require a separate license.

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

D. Proximity to Specified Places. It is unlawful for any business licensed for semi-nude entertainment to be located within three hundred thirty feet (330') of a business licensed for the sale or consumption of alcohol. It is unlawful for any sexually oriented business to be located within one thousand feet (1000') of any church, school, public playground, public park. It is also unlawful for any sexually oriented business to be located within 500' of any residence. (Ord.2001-3, 3/27/01)

5.16.070 Legitimate and Artistic Modeling.

A. Intent. The City does not intend to unreasonably or improperly prohibit legitimate modeling which may occur in a state of nudity for purposes protected by the First Amendment or similar State protections. The City intends to prohibit prostitution and related offenses occurring under the guise of nude modeling. Notwithstanding the provisions of Section 5.16.190 of this Chapter, a licensed outcall employee may appear in a state of nudity before a customer or patron, providing that a written contract for such appearance was entered into between the customer or patron and the employee and signed at least twenty-four (24) hours before the nude appearance. All of the other applicable provisions of this Chapter shall still apply to such nude appearances.

B. Unlicensed Appearance; Unlawful Acts. In the event of a contract for nude modeling or appearance signed more than forty-eight (48) hours in advance of the modeling or appearance, the individual to appear nude shall not be required to obtain a license pursuant to this Chapter. During such unlicensed nude appearance, it is unlawful to:

1. Appear nude or semi-nude in the presence of persons under the age of eighteen (18).
2. Allow, offer or agree to any touching of the contracting party or other person by the individual appearing nude.
3. Allow, offer or agree to commit prostitution, solicitation of the prostitution, solicitation of a minor or committing activities harmful to a minor.
4. Allow, offer, commit or agree to any sex act as validly defined by City ordinances or State statute.
5. Allow, offer, agree or permit the contracting party or other person to masturbate in the presence of the individual contracted to appear nude.
6. Allow, offer or agree for the individual appearing nude to be within five feet (5') of any other person while performing or while nude or semi-nude. (Ord.2001-3, 3/27/01)

5.16.080 Categories of Licenses; Number Limited.

A. Number. It is unlawful for any business premises to operate or be licensed for more than one category of sexually oriented business, except that a business may have a license for both outcall service and a semi-nude dancing agency on the same premises.

- B. Categories. The categories of sexually oriented businesses are:
1. Outcall services.

2. Adult businesses.
3. Semi-nude entertainment businesses.
4. Semi-nude dancing agency. (Ord.2001-3, 3/27/01)

5.16.090 License Required.

A. Businesses; Exemptions.

1. It is unlawful for any person to operate a sexually oriented business, as specified herein, without first obtaining a general business license and a sexually oriented business license. The sexually oriented business license shall specify the type of business for which it is obtained.

2. The provisions of this Chapter shall not apply to any sex therapist or similar individual licensed by the State to provide bona fide sexual therapy or counseling, licensed medical practitioner, licensed nurse, psychiatrist, psychologist, nor shall it apply to any educator licensed by the State for activities in the classroom.

B. Employees. It is unlawful for any sexually oriented business to employ or for any individual to be employed by a sexually oriented business in the capacity of a sexually oriented business employee, unless that employee first obtains a sexually oriented business employee license. (Ord.2001-3, 3/27/01)

5.16.100 Application; Disclosures. Before any applicant may be licensed to operate a sexually oriented business or as a sexually oriented business employee pursuant to this Chapter, the applicant shall submit on a form to be supplied by the City license authority, the following:

A. Name. The correct legal name of each applicant, corporation, partnership, limited partnership or entity doing business under and assumed name.

B. Corporations, Partnerships, Assumed Names.

1. If the applicant is a corporation, partnership or limited partnership, or individual or entity doing business under an assumed name, the information required below for individual applicants shall be submitted for each partner and each principal of an applicant, and for each officer, director and any shareholder (corporate or personal) of more than ten percent (10%) of the stock of any applicant. Any holding company or any entity holding more than ten percent (10%) of the stock of any applicant, shall be considered an applicant for purposes of disclosure under this Chapter.

2. The shareholder disclosure requirements above shall only be applicable for outcall service licenses.

3. All corporations, partnerships or noncorporate entities included on the application shall also identify each individual authorized by the corporation, partnership or noncorporate entity to sign the checks for such corporation, partnership or noncorporate entity.

C. Personal Information. For all applicants or individuals, the application must also state:

1. Any other names or aliases used by the individual.
2. The age, date and place of birth.
3. Height.
4. Weight.
5. Color of hair.
6. Color of eyes.
7. Present business address and telephone number.

8. Present residence and telephone number.

9. Social security number.

D. Proof of Age. Acceptable written proof that any individual is at least eighteen (18) years of age.

E. Photographs; Fingerprints. Attached to the form, as provided above, two (2) color photographs of the applicant clearly showing the individual's face and the individuals fingerprints on a form provided by the Police Department. For persons not residing in the City, the photographs and fingerprints may be on a form from the law enforcement jurisdiction where the person resides. Fees for the photographs and fingerprint shall be paid by the applicant directly to the issuing agency.

F. Health Certificate. For any individual applicant required to obtain a sexually oriented business employee license as an escort or a semi-nude entertainer, a certificate from the Weber Count Health Department, stating that the individual has, within thirty (30) days immediately preceding the date of the original or renewal application, been examined and found to be free of any contagious or communicable diseases.

G. Employment History. A statement of the business, occupation or employment history of the applicant for three (3) years immediately preceding the date of the filing of the application.

H. License or Permit History. A statement detailing the license or permit history of the applicant for the five (5) year period immediately preceding the date of the filing of the application, including whether such applicant previously operated or sought to operate a sexually oriented business in this or any other county, city, state or territory, has ever had a license, permit or authorization to do business denied, revoked or suspended, or has ever had any professional or vocational license or permit denied, revoked or suspended. In the event of any such denial, revocation or suspension, state the date, the name of the issuing or denying jurisdiction and state in full the reasons for the denial, revocation or suspension. A copy of any order of denial, revocation or suspension shall be attached to the application.

I. Criminal Convictions. All criminal convictions or pleas of nolo contendere, except those which have been expunged, and the disposition of all such arrests for the applicant, individual or other entity subject to disclosure under this Chapter, for five (5) years prior to the date of the application. This disclosure shall include identification of all ordinance violations, excepting minor traffic offenses (any traffic offense designated as a felony shall not be construed as a minor traffic offense), stating that date, place, nature of each conviction or plea of nolo contendere, and sentence of each conviction or other disposition, identifying the convicting jurisdiction and sentencing court, and providing the court identifying case numbers or docket numbers. Application for a sexually oriented business or employee license shall constitute permission for disclosure of any criminal conviction or plea of nolo contendere for the purposes of any proceeding involving the business or employee license.

J. Lease or Rental of Property. In the event the applicant is not the owner of record of the real property upon which the business or proposed business is or is to be located, the application must be accompanied by a notarized statement from the legal or equitable owner of the possessory interest in the property specifically acknowledging the type of business for which the applicant seeks a license for the property. In addition to furnishing such notarized statement, the applicant shall furnish the name, address and phone number of the owner of record of the property, as well as the copy of the lease or rental agreement pertaining to the premises in which the service is or will be located.

K. Description of Services. A description of the services to be provided by the

business, with sufficient detail to allow reviewing authorities to determine what business will be transacted on the premises, together with a schedule of usual fees for services to be charged by the licensee and any rules, regulations or employment guidelines under or by which the business intends to operate. This description shall also include:

1. The hours that the business or service will be open to the public and the methods of promoting the health and safety of the employees and patrons and preventing them from engaging in illegal activity.

2. The methods of supervision preventing the employees from engaging in acts of prostitution or other related criminal activities.

3. The methods of supervising employees and patrons to prevent employees and patrons from charging or receiving fees for services or acts prohibited by this Chapter or other statutes or ordinances.

4. The methods of screening employees and customers in order to promote the health and safety of employees and customers and prevent the transmission of disease, and prevent the commission of acts or prostitution or other criminal activity.

L. False or Misleading Information. It is unlawful to knowingly submit false or materially misleading information on or with a sexually oriented business license application or to fail to disclose or omit information for the purpose of obtaining a sexually oriented business or employee license. (Ord.2001-3, 3/27/01)

5.16.110 Fees. Each applicant for a sexually oriented business or employee license shall be required to pay regulatory license fees as set by resolution and added in the consolidated fee schedule. The fees will be reviewed periodically. An application is not complete until all appropriated fees have been paid. (Ord.2001-3, 3/27/01)

5.16.120 Bond Required. Each application for a sexually oriented business license shall post with the city recorder, a cash or corporate surety bond payable to the City in the amount of two thousand dollars (\$2,000.00). Any fines assessed against the business, officers or managers for violations of City ordinances shall be taken from this bond if not paid in cash within ten (10) days after notice of fine, unless an appeal is filed as provided by this Chapter. In the event the funds are drawn against the cash or surety bond to pay such fines, the bond shall be replenished to two thousand dollars (\$2,000.00) within fifteen (15) days of the date of notice of any draw against it. (Ord.2001-3, 3/27/01)

5.16.130 Issuance Conditions.

A. Specified. The city recorder shall approve the issuance of a license to the applicant within thirty (30) days after receipt of a completed application, unless the official finds one or more of the following:

1. The applicant is under eighteen (18) years of age.

2. The applicant is overdue in payment to the City of taxes, fees, fines or penalties assessed against the applicant or imposed on the applicant in relation to a sexually oriented business.

3. The applicant has falsely answered a material question or request for information as authorized by this Chapter.

4. The applicant has violated a provision of this Chapter or similar provisions found in statutes or ordinances from any jurisdiction within two (2) years immediately preceding the application; a criminal conviction for a violation of a provision of this Chapter or similar provisions from any jurisdiction, whether or not it is being appealed,

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

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

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

6. The required license fees have not been paid.

7. All applicable sales and use taxes have not been paid.

8. An applicant for the proposed business is in violation of or not in compliance with this Chapter or similar provisions found in statutes or ordinances from any jurisdiction.

9. An applicant has been convicted or pleaded or pled nolo contendere to a crime involving: prostitution; exploitation of prostitution; aggravated promotion of prostitution; aggravated exploitation of prostitution; solicitation of sex acts; sex acts for hire; compelling prostitution; aiding prostitution; sale, distribution or display of material harmful to minors; sexual performance by minors, possession of child pornography, lewdness, indecent exposure, any crime involving sexual abuse or exposure, any crime involving sexual abuse or exploitation of a child, sexual assault or aggravated sexual assault, rape, forcible sodomy, forcible sexual abuse, incest, harboring a runaway child, criminal attempt, conspiracy or solicitation to commit any of the foregoing offenses, or offenses involving similar elements from any jurisdiction, regardless of the exact title of the offense for which:

a. Less than two (2) years have elapsed from the date of conviction, if the conviction is of a misdemeanor offense or less than five (5) years if the convictions are of two (2) or more misdemeanors within the five (5) years; or

b. Less than five (5) years have elapsed from the date of conviction, if the offense is of a felony.

c. The fact that a conviction is being appealed shall have no effect on the disqualification pursuant to this subsection.

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

1. Upon receipt of an application, all departments required to review the application shall determine within ten (10) working days whether or not the application is incomplete in items needed for processing. Incomplete applications shall immediately be returned to the applicant with a specification of the items which are incomplete.

2. The time for processing applications specified in the Section shall begin to run from the receipt of a complete application.

3. In the event that a license for semi-nude entertainment, semi-nude dancing agencies, adult businesses or semi-nude entertainment businesses has not been disapproved within thirty (30) days or the sixty (60) days allowed after an extension, the

City shall issue the license pending completion of the City's review.

4. Any license pursuant to subsection (B)(3) of this Section may be revoked by the City pursuant to the revocation procedure provide for herein, if the competed review determines that the license should have been denied. (Ord.2001-3, 3/27/01)

5.16.140 Term of License. Sexually oriented business and employee licenses issued pursuant to this Chapter shall be valid from the date of issuance through January 1, of each succeeding year. The license fees required under the consolidated fee schedule shall not be prorated for any portion of a year, but shall be paid in full for whatever portion of the year the license is applied for. (Ord.2001-3, 3/27/01)

5.16.150 Notice of Change of Information. Any change in the information required to be submitted under this Chapter for either a sexually oriented business license or sexually oriented business employee license shall be given, in writing, to the city recorder and the Police's Department within fourteen (14) days after such change. (Ord.2001-3, 3/27/01)

5.16.160 Transfer Limitations. Sexually oriented business licenses granted under this Chapter shall not be transferable. It is unlawful for a license held by an individual to be transferred. It is unlawful for a license held by a corporation, partnership or other noncorporate entity to transfer any part in excess of ten percent (10%) thereof, without filing a new application and obtaining prior City approval. If any transfer of the controlling interest in a business licensee occurs, the license is immediately null and void and the business shall not operate until a separate new license has been properly issued by the City as provided in this Chapter. (Ord.2001-3, 3/27/01)

5.16.170 Display of License. It is unlawful for any sexually oriented business location within the boundaries of the City to fail to display the license granted pursuant to this Chapter in a prominent location within the business premises. It is unlawful for any individual license pursuant to this Chapter to fail to carry, at all times while engaged in licensed activities within the corporate boundaries of the City, their employee license on their person. If the individual is nude, such license shall be visibly displayed within the same room the employee is performing. When requested by the Police's Department, City licensing or other enforcement personnel or health official, it is unlawful to fail to show the appropriate licenses while engaged in licensed activities within the corporate boundaries of the City. (Ord.2001-3, 3/27/01)

5.16.180 Statement in Advertising. It is unlawful for any advertisement by the sexually oriented business or employee to fail to state that the business or employee is licensed by the City, and shall include the City license number. (Ord.2001-3, 3/27/01)

5.16.190 Regulations and Unlawful Activities. It is unlawful for any sexually oriented business or sexually oriented business employee to:

A. Persons Under Eighteen.

1. Allow persons under the age of eighteen (18) years on the licensed premises, except that in adult businesses which exclude minors from less than all of the business premises, minors shall not be permitted in excluded areas.

2. Allow, offer, or agree to conduct any outcall business with persons under the age of eighteen (18) years.

B. Alcoholic Beverages. To allow, offer or agree to allow any alcohol to be stored, used or consumed on or in the license premises.

C. Locking Outside Door. Allow the outside door to the premises to be locked while any customer is in the premises.

D. Gambling. Allow, offer or agree to gambling on the licensed premises.

E. Touching. Allow, offer or agree to any sexually oriented business employee touching or being touched by any patron or customer; except that outcall employees and customers may touch, except that any touching of specified anatomical areas, whether clothed or unclothed, is prohibited.

F. Controlled Substances.

1. Allow, offer or agree to illegal possession, use, sale or distribution of controlled substances on the licensed premises.

2. Allow sexually oriented business employees to possess, use, sell or distribute controlled substances while engaged in the activities of the business.

G. Prostitution. Allow, offer or agree to commit prostitution, solicitation of prostitution, solicitation of a minor or permitting activities harmful to a minor to occur on the licensed premises or, in the event of an outcall employee or business, the outcall employee committing, offering or agreeing to commit prostitution, attempting to commit prostitution, soliciting prostitution, soliciting a minor or committing activities harmful to a minor.

H. Specified Sexual Activities. Allow, offer, commit or agree to any "specified sexual activity" as validly defined by City ordinances or State statute in the presence of any customer or patron.

I. Nudity. Allow, offer or agree to any outcall employee appearing before any customer or patron in a state of nudity.

J. Masturbation. Allow, offer or agree to allow a patron or customer to masturbate in the presence of the sexually oriented business employee or on the premises of a sexually oriented business. (Ord.2001-3, 3/27/01)

5.16.200 Outcall Services; Operation Requirement. It is unlawful for any business or employee providing outcall services contracted for in the City to fail to comply with the following requirements:

A. Contract. All businesses licensed to provide outcall services pursuant to this Chapter shall provide to each patron a written contract in receipt of pecuniary compensation for services. The contract shall clearly state the type of services to be performed, the length of time such services shall last, the cost to the patron and any special terms or conditions relating to the services performed. The contract need not include the name of the patron. The business licensee shall keep and maintain a copy of each written contract pursuant to this Section for a period not less than one year from the date of provision of services thereunder. The contracts shall be numbered and entered into a register listing the contract number, date, names of all employees involved in the contact and pecuniary compensation paid.

B. Office; Phone. All outcall businesses licensed pursuant to this Chapter shall maintain an open office or telephone at which the licensee or licensee's designated agent may be personally contacted during all hours outcall employees are working. The address and phone number of the license location shall appear and be included in all patron contracts and published advertisements. For outcall businesses which premises are licensed within the corporate limits of the City, private rooms or booths where the patrons may meet with the outcall employee shall not be provided at the open office or any other

location by the service, nor shall patrons meet outcall employees at the business premises.

C. Advertising. Outcall services shall not advertise in such manner that would lead a reasonably prudent person to conclude that specified sexual activities would be performed by the outcall employee.

D. Licensing Regardless of Business Location. All employees of outcall services who provide outcall services within the City shall be licensed in accordance with this Chapter, regardless of the primary location of the business. (Ord.2001-3, 3/27/01)

5.16.210 Design of Premises.

A. Adult Business.

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

a. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms.

b. Restrooms may not contain any video reproduction equipment or any of the business merchandise. Signs shall be posted requiring only one person be allowed in the restroom and only one person in any stall at a time, and requiring that patrons shall not be allowed access to manager's station areas.

c. For businesses which exclude minors from the entire premises, all windows, doors and other apertures to the premises shall be darkened or otherwise constructed to prevent anyone outside the premises from seeing the inside of the premises. Businesses which exclude minors from less than all of the premises shall be designed and constructed so that minors may not see into the area from which they are excluded.

d. The diagram required does not necessarily need to be a professional engineer's or architect's blueprint; however, the diagram must show marked internal dimensions, all overhead lighting fixtures and ratings for illumination capacity.

2. It shall be the duty of the licensee and the licensee's employees to ensure that the views from the manager's station in subsection A1 of this Section remain unobstructed by any doors, walls, merchandise, display racks or any other materials at all times that any patron is present in the premises and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.

3. The premise shall at all times be equipped and operated with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one foot-candle, measured at the floor level. It shall be the duty of the licensee and the licensee's employees present on the premises to ensure that the illumination described above is maintained at all times that any patron is present on the premises.

B. Semi-Nude Entertainment Business.

1. It is unlawful for business premises licensed for semi-nude entertainment to:

a. Permit a bed, sofa, mattress or similar item in any room on the premises, except that a sofa may be placed in a reception room open to the public or in any office to which patrons are not admitted, and except that in an adult theater, such

items may be on the stage as part of a performance.

b. Allow any door on any room used for business, except for the door to an office to which patrons shall not be admitted, outside doors and restroom doors to be lockable from the inside.

c. Provide any room in which the employee or employees and the patron are alone together without a separation by a solid physical barrier at least three feet high and six inches wide (3' x 6"). The patron or patrons shall remain on one side of the barrier and the employee or employees shall remain on the other side of the barrier.

2. Adult theaters shall also require that the performance area shall be separated from the patrons by a minimum of three feet (3'), which separation shall be delineated by a physical barrier at least three feet (3') high. (Ord.2001-3, 3/27/01)

5.16.220 Alcohol Prohibited.

A. It is unlawful for any business licensed pursuant to this Chapter to allow the sale, storage, supply or consumption of alcoholic beverages on the premises.

B. It is unlawful for any person to possess or consume any alcoholic beverage on the premises of any sexually oriented business. (Ord.2001-3, 3/27/01)

5.16.230 Prohibited Activities.

A. Semi-Nude Agencies.

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

2. It is unlawful for any individual or entity to furnish, book or otherwise engage or permit any person to perform as a professional dancer, model or performer in a state or semi-nudity or nudity, either gratuitously or for compensation, in or for any business licensed pursuant to this Chapter unless such person is licensed pursuant to this Chapter.

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

1. Touch in any manner any other person.

2. Throw any object or clothing off the stage area.

3. Accept any money, drink or any other object directly from any person.

4. Allow another person to touch such performer or to place any money or object on the performer or within the costume or person or the performer.

5. Place anything within the costume or adjust or move the costume while performing so as to render the performer in a state of nudity.

C. Patron. It is unlawful for any person or any patron of any business to touch in any manner any performer; to place any money or object on or within the costume or person of any performer; or to give or offer to give to any such performer any drinks, money or object while such performer is performing; except that money may be placed on the stage, which shall not be picked up by the performer except by hand. (Ord.2001-3, 3/27/01)

5.16.240 Defenses to Prosecution. It is a defense to prosecution or violation under this Chapter that a person appearing in a state of nudity did so in a modeling class operated:

A. By a proprietary school licensed by the State or a college, junior college or university supported entirely or partly by taxation.

B. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation. (Ord.2001-3, 3/27/01)

5.16.250 Existing Businesses; Compliance Time Limits. The provisions of this Chapter shall be applicable to all persons and businesses described herein, whether the herein described activities were established before or after the effective date hereof and regardless of whether such person and businesses are currently licensed to do business in the City.

A. Outcall Services: All such person and businesses requiring outcall service licenses shall have forty-five (45) days from the effective date hereof or until their current license expires, whichever is first in time, to comply with the provisions of this Chapter.

B. Semi-Nude Dancing Agencies: All semi-nude dancing agency licensee shall have seventy-five (75) days from the effective date hereof or until their license must be renewed, whichever is first, to comply with the provisions of this Chapter.

C. Adult Businesses; Semi-Nude Entertainment Businesses: All adult businesses and semi-nude entertainment businesses shall have one hundred thirty-five (135) days from the effective date hereof or until their current license must be renewed, whichever is first, to comply with the provisions of this Chapter. (Ord.2001-3, 3/27/01)

5.16.260 Suspension or Revocation of License.

A. Procedure. The denial, suspension or revocation of any license issued pursuant to this Chapter shall be done in accordance with Section 5.04.345 of this Title, which sets forth the applicant's right to present evidence why the license should not be denied, suspended or denied.

B. Conditions Specified. The City may issue a notice suspending or revoking a sexually oriented business license or employee license granted under this Chapter if a licensee or an employee of the licensee has:

1. Violated or is not in compliance with the provisions of this Chapter.
2. Refused to allow any inspection of the premise of the sexually oriented business specifically authorized by this Chapter or by any other statute or ordinance.
3. Failed to replenish the cost bond as provided in this Chapter (such a suspension shall extend until the bond has been replenished).
4. Given materially false or misleading information in obtaining the license.
5. Knowingly operated the sexually oriented business or worked under the employee license during the period when the business license or employee licensee=s license was suspended.
6. Committed an offense which would be grounds for denial of a license for which the time period required has not elapsed.
7. On two (2) or more occasions within a twelve (12) month period, a person committed in or on, or solicited for on the licensed premises, or an outcall employee solicited or committed on or off the premises, an offense which would be grounds for denial of a license for which a conviction has been obtained, and the person was an employee, whether or not licensed, of the sexually oriented business at the time the offenses were committed.
8. Delinquent in payment to the City for ad valorem taxes or sales taxes related to the sexually oriented business.

C. Effective Date. Suspension or revocation shall take effect within fifteen (15) days of the issuance of notice, unless an appeal is filed as provided by this Chapter.

D. Appeal No Effect on Revocation. The fact that a conviction is being appealed shall have no effect on the revocation of the license.

E. Length of Revocation. When a license issued pursuant to this Chapter is revoke, the revocation shall continue for one year from its effective date and the license shall not be reissued to the sexually oriented business or employee for one year from the date of such revocation. (Ord.2001-3, 3/27/01)

5.16.270 Violation; Penalty.

A. Suit for Injunction. An entity or individual who operated or causes a sexually oriented business to be operated without a valid license, or who employs or is employed as an employee of a sexually oriented business, or who operates such a business or functions as such an employee in violation of the provisions of this Chapter is subject to a suit for injunction in addition to the civil and criminal violations provided herein and any other remedy available at law or in equity.

B. Civil Penalty. In addition to revocation or suspension of a license, as provided in this Chapter, each violation of this Chapter shall, upon citation by the city recorder, require the licensee to pay a civil penalty. Such fines shall be deducted from the cost bond posted pursuant to this Chapter, unless paid within ten (10) days of notice of the fine or the final determination after any appeal.

C. Misdemeanor Offense. In addition to civil fine provided in this Chapter, the violation of any provision of this Chapter shall be a Class B misdemeanor, and subject the violator to the penalty provisions as provided in Section 1.08.010 of this Code. Each day of a violation shall be considered a separate offense.

D. Employee Violations. Every act or omission by an employee constituting a violation of the provisions of this Chapter shall be deemed the act or omission of the sexually oriented business licensee and/or operator. If such act or omission occurs either with the authorization, knowledge or approval of the licensee and/or operator, or as a result of the licensee's and/or operator's negligent failure to supervise the conduct of the employee, the sexually oriented business licensee shall be punishable for such act or omission in the same manner as if the licensee committed the act or caused the omission.

E. Responsibility for Conduct. A sexually oriented business licensee and/or operator shall be responsible for the conduct of all employees while on the licensed premises and any act or omission of any employee constituting a violation of the provisions of this Chapter shall be deemed the act or omission of the licensee and/or operator for the purposes of determining whether the licensee's license shall be revoked, suspended or renewed. (Ord.2001-3, 3/27/01)

Chapter 5.18 - Home Occupations

5.18.010 Conditions It is unlawful to conduct or pursue a home occupation in the corporate limits of the city, except those occupations wherein each and every one of the following conditions are observed at all times by those engaged in the home occupation. If home occupation is desired that conflicts with any of the following conditions, it must receive approval of the city council.

A. Only persons who are bona fide residents of the premises shall be employed on the premises.

B. The home occupation will not physically change the dwelling to the extent that it would alter the residential character of the dwelling or the residential atmosphere of the neighborhood: in which it is located. Furthermore, it shall not disturb the peace and quiet, including radio and television reception, of the neighborhood.

C. The home occupation shall be conducted wholly within the primary structure on the premises.

D. Signs for home occupation businesses shall comply with the city's sign ordinance.

E. Class teaching activities shall be limited to eight students per class and forty students per week.

F. Home occupation shall not generate vehicular traffic not commonly associated with the zone in which it is located.

G. Where the activity involves children in groups of more than two, there shall be an interval of thirty minutes between the departure of one group and the arrival of the next group, for auto and pedestrian safety.

H. It shall require no parking on a public street other than that which is available in front of the residence within the property lines and on the same side of the street as the residence; and shall not exceed the minimum frontage distance of the zone.

I. The home occupation shall not create a demand for municipal or utility services or community facilities in excess of those usually and customarily provided for residential uses

J. Farm produce grown on the homeowner's residential lot may be displayed and sold without a city license.

K. License. Where federal, state, county or local government requires sales tax reporting, or more than ordinary regulations, a regulatory license shall be required and approved by the city prior to approval of the home occupation license by the city.

L. License fee for home occupation shall be as found in the City Fee Schedule.

M. If the combined offsite impact of the home occupation business and the primary residential use does not materially exceed the offsite impact of the primary residence alone the business shall be deemed "exempt" and a business license shall not be required. If an "exempt" home occupation business requests a license the regular business license fee shall apply.

(Ord. 2017-14, dated 10/10/17: prior codes: Ord. 2010-10, 4/13/10, Ord. 2001-13, 5/22/01, and Ord. 87-17.03(part), 1987, and § 31-24-1)

5.18.020 Public Nuisance. Any violation of this chapter shall be considered a nuisance and shall be subject to the nuisance ordinance of the city, including abatement. (Ord. 2010-10, 4/13/10: prior codes: Ord. 2001-13, 5/22/01, and Ord. 87-17.03(part), 1987, and § 31-24-2)

518.030 Criminal Prosecutions. Abatement of a public nuisance as provided in this chapter shall have no effect upon a criminal prosecution arising out of a violation of this chapter, (Ord. 2010-10, 4/13/10: prior codes: Ord. 2001-13, 5/22/01, and Ord. 87-17.03(part), 1987, and § 31-24-5)

5.18.040 Nonconforming Uses.

A. Nonconforming home occupations lawfully in existence at the time of the adoption of the ordinance codified in this chapter may be continued, except that the nonconforming use shall be discontinued where the uses are discontinued or abandoned.

B. Nonconforming uses shall not be enlarged or expanded as to volume, intensity, size, area, nature, extent, time or effect. (Ord. 2010-10, 4/13/10; prior codes: Ord. 2001-13, 5/22/01, and Ord. 87-17.03(part), 1987, and § 31-24-7)

5.18.050 Home Occupation-Exempt.

A. A business license shall not be required for a business that is operated only occasionally and by an individual who is under 18 years of age.

B. A business license shall not be required for a home occupation unless the combined offsite impact of the home based business and the primary residential use materially exceeds the offsite impact of the primary residential use alone.

C. If an Exempt Home Occupation would like to be licensed (even though a license is not required) the current Home Occupation business license fee shall apply.

D. Examples of offsite impact that exceeds that of the primary residential use alone:

- Has outside visitors
- Displays signage
- Stores inventory or materials
- Collects sales tax
- Requires a fire inspection
- Requires a state license from the Utah Department of Occupational and Professional Licensing. (Ord. 2017-14, dated 10/10/17)

Chapter 5.20 - Residential Solicitation

5.20.010 Purpose.

Residents of the City have an inalienable interest in their personal safety, well-being, and privacy in their residences, as well as their ability to provide or receive information regarding matters of personal belief, political or charitable activities, and goods and services lawfully in commerce. The City has a substantial interest in protecting the well-being, tranquility, personal safety, and privacy of its citizens, which includes the ability to protect citizens from unwanted intrusions upon residential property. The City also has a substantial interest in protecting citizens from fraud or otherwise unfair consumer sales practices as well as criminal activity.

There must be a balance between these substantial interests of the City and its citizens, and the effect of the regulations in this Chapter on the rights of those who are regulated. Based on the collective experiences of City officials derived from regulating business activity, protecting persons and property from criminal conduct, responding to the inquiries of citizens regarding Door-to-Door Solicitation, the experience of its law enforcement officers and those affected by Door-to-Door canvassing and solicitation, as well as judicial decisions outlining the boundaries of constitutional protections afforded and denied persons seeking to engage in Door-to-Door Solicitation, the City adopts this Chapter to promote the City's substantial interests in:

- (1) Respecting citizen's decisions regarding privacy in their residences;
- (2) Protecting persons from criminal conduct;
- (3) Providing equal opportunity to Advocate for and against Religious Belief, Political Position, or Charitable Activities; and
- (4) Permitting truthful and non-misleading Door-to-Door Solicitation regarding lawful Goods or Services in intrastate or interstate commerce.

The City finds that the procedures, rules and regulations set forth in this Chapter are narrowly tailored to preserve and protect the City interests referred to herein while at the same time balancing the rights of those regulated. (Ord 2006-6, 10/10/06)

5.20.020 No Other City License or Approval Required.

- (1) Registered Solicitors and persons exempt from Registration need not apply for, nor obtain, any other license, permit, or registration from the City to engage in Door-to-Door Solicitation.
- (2) Any Business licensed by the City under another City Ordinance that uses employees, independent contractors, or agents for Door-to-Door Solicitation in an effort to provide any tangible or intangible benefit to the Business, shall be required to have such Solicitors obtain a Certificate, unless otherwise exempt from Registration.
- (3) Those Responsible Persons or Entities associated with Registered Solicitors need not apply for, nor obtain, any other license, permit, or registration from the City, provided they do not establish a temporary or fixed place of business in the City.
- (4) Nothing herein is intended to interfere with or supplant any other requirement of federal, state, or other local government law regarding any license, permit, or certificate that a Registered Solicitor is otherwise required to have or maintain. (Ord 2006-6, 10/10/06)

5.20.030 Definitions. For the purposes of this Chapter, the following definitions shall apply:

- (1) **"Advocating"** means speech or conduct intended to inform, promote, or support Religious Belief, Political Position, or Charitable Activities.
- (2) **"Appeals Officer"** means the City Council or designee of the City responsible for receiving the information from the City and Appellant regarding the denial or suspension of a Certificate and issuing a decision as required by this Chapter.
- (3) **"Appellant"** means the person or entity appealing the denial or suspension of a Certificate, either personally as an Applicant or registered Solicitor, or on behalf of the Applicant or Registered Solicitor.
- (4) **"Applicant"** means an individual who is at least sixteen (16) years of age and not a

corporation, partnership, limited liability company, or other lawful entity who applies for a Certificate permitting Door-to-Door Solicitation.

(5) “**Application Form**” means a standardized form provided by the City to an Applicant to be completed and submitted as part of Registration.

(6) “**B.C.I.**” means an original or copy, dated no older than 180 days prior to the date of the Application, of either: (1) a Utah Department of Public Safety Bureau of Criminal Identification verified criminal history report personal to the Applicant; or equivalent report prepared by the corresponding public safety agency of the applicant’s home state if the Applicant is not a Utah resident; or (2) verification by the Utah Department of Public Safety Bureau of Criminal Identification that no criminal history rising to the level of a Disqualifying Status exists for the Applicant.

(7) “**Business**” means a commercial enterprise licensed by the City as a person or Entity under this Title, having a fixed or temporary physical location within the City.

(8) “**Certificate**” means a temporary, annual, or renewal Certificate permitting Door-to-Door Solicitation in the City applied for or issued pursuant to the terms of this Chapter.

(9) “**Charitable Activities**” means Advocating by persons or Entities that either are, or support, a Charitable Organization.

(10) “**Charitable Organization**” includes any person, joint venture, partnership, limited liability company, corporation, association, group, or other Entity:

A. that is:

(i) A benevolent, educational, voluntary health, philanthropic, humane, patriotic, religious or eleemosynary, social welfare or advocacy, public health, environmental or conservation, or civic organization;

(ii) For the benefit of a public safety, law enforcement, or firefighter fraternal association; or

(iii) Established for any charitable purpose; and

B. That is tax exempt under applicable provisions of the Internal Revenue Code of 1986 as amended, and qualified to solicit and receive tax deductible contributions from the public for charitable purposes.

C. Charitable Organization includes a chapter, branch, area, or office, or similar affiliate or any person soliciting contributions within the state for a Charitable Organization that has its principal place of business outside the City or State of Utah.¹

(11) “**Competent Individual**” means a person claiming or appearing to be at least eighteen (18) years of age and of sufficiently sound mind and body to be able to engage in rational thought, conversation, and conduct.

(12) “**Completed Application**” means a fully completed Application Form, a B.C.I, two copies of the original identification relied on by the Applicant to establish Proof of Identity, and the tendering of Fees.

(13) “**Criminally Convicted**” means the final entry of a conviction, whether by a plea of no contest, guilty, entry of a judicial or jury finding of guilt, which has not been set aside on appeal or pursuant to a writ of habeas corpus. The criminal conviction is that offense of which the Applicant or Registered Solicitor was convicted, without regard to the reduced status of the charge after completion of conditions of probation or parole, and charges dismissed under a plea in abeyance or diversion agreement.

(14) “**Disqualifying Status**” means anything specifically defined in this Chapter as requiring the denial or suspension of a Certificate, and any of the following:

A. The Applicant or Registered Solicitor has been Criminally Convicted of:

(i) Felony homicide,

(ii) Physically abusing, sexually abusing, or exploiting a minor,

(iii) The sale or distribution of controlled substances, or

¹Charitable Solicitation Act UCA § 13-22-2(1)(a) & (b).

- (iv) Sexual assault of any kind.
- B. Criminal charges currently pending against the Applicant or Registered Solicitor for:
 - (i) Felony homicide,
 - (ii) Physically abusing, sexually abusing, or exploiting a minor,
 - (iii) The sale or distribution of controlled substances, or
 - (iv) Sexual assault of any kind.
- C. The Applicant or Registered Solicitor has been Criminally Convicted of a felony within the last ten (10) years;
- D. The Applicant or Registered Solicitor has been incarcerated in a federal or state prison within the past five (5) years;
- E. The Applicant or Registered Solicitor has been Criminally Convicted of a misdemeanor within the past five (5) years involving a crime of:
 - (i) Moral turpitude, or
 - (ii) Violent or aggravated conduct involving persons or property.
- F. A Final Civil Judgment been entered against the Applicant or Registered Solicitor within the last five (5) years indicating that:
 - (i) The Applicant or Registered Solicitor had either engaged in fraud, or intentional misrepresentation, or
 - (ii) That a debt of the Applicant or Registered Solicitor was non-dischargeable in bankruptcy pursuant to 11 U.S.C. § 523(a)(2), (a)(4), (a)(6), or (a)(19);
- G. The Applicant or Registered Solicitor currently on parole or probation to any court, penal institution, or governmental entity, including being under house arrest or subject to a tracking device;
- H. The Applicant or Registered Solicitor has an outstanding arrest warrant from any jurisdiction; or
- I. The Applicant or Registered Solicitor is currently subject to a protective order based on physical or sexual abuse issued by a court of competent jurisdiction.

(15) **“Door to Door Solicitation”** means the practice of engaging in or attempting to engage in conversation with any person at a Residence, whether or not that person is a Competent Individual, while making or seeking to make or facilitate a Home Solicitation Sale, or attempting to further the sale of Goods and or Services.

(16) **“Entity”** includes a corporation, partnership, limited liability company, or other lawful entity, organization, society or association.

(17) **“Fees”** means the cost charged to the Applicant or Registered Solicitor for the issuance of a Certificate and/or Identification Badge, which shall not exceed the reasonable costs of processing the application and issuing the Certificate and/or Identification Badge.

(18) **“Final Civil Judgment”** means a civil judgment that would be recognized under state law as a judgment to which collateral estoppel would apply.

(19) **“Goods”** means one or more tangible items, wares, objects of merchandise, perishables of any kind, subscriptions, or manufactured products offered, provided, or sold.

(20) **“Home Solicitation Sale”** means to make or attempt to make a Sale of Goods or Services by a Solicitor at a Residence by means of Door-to-Door Solicitation, regardless of

- A. The means of payment or consideration used for the purchase;
- B. The time of delivery of the Goods or Services; or
- C. The previous or present classification of the Solicitor as a solicitor, peddler, hawker, itinerant merchant, or similar designation.

(21) **“Licensing Officer”** means the City employee(s) or agent(s) responsible for receiving from an Applicant or Registered Solicitor the Completed Application and either granting, suspending, or denying the Applicant’s Certificate.

(22) **“No Solicitation Sign”** means a reasonably visible and legible sign that states “No Soliciting”, “No Solicitors”, “No Salespersons”, “No Trespassing”, or words of similar import.

(23) **“Political Position”** means any actually held belief, or information for, against, or in conjunction with any political, social, environmental, or humanitarian belief or practice.

(24) **“Registered Solicitor”** means any person who has been issued a current Certificate by the City.

(25) **“Registration”** means the process used by the City Licensing Officer to accept a Completed Application and determine whether or not a Certificate will be denied, granted, or suspended.

(26) **“Religious Belief”** means any sincerely held belief, or information for, against, or in conjunction with, any theistic, agnostic, or atheistic assumption, presumption or position, or religious doctrine, dogma, or practice regardless of whether or not the belief or information is endorsed by any other person or public or private entity.

(27) **“Residence”** means any living unit contained within any building or structure that is occupied by any person as a dwelling consistent with the zoning laws of the City, together with the lot or other real property on which the living unit is located. This does not include the sidewalk, public street or public rights of way.

(28) **“Responsible Person or Entity”** means that person or Entity responsible to provide the following to an Applicant, Registered Solicitor, and the Competent Individual in a Residence to whom a Sale of Goods or Services is made or attempted to be made by means of a Home Solicitation Sale:

A. maintaining a state sales tax number, a special events sales tax number, computing the sales taxes owing from any Sale of Goods or Services, paying the sales taxes, and filing any required returns or reports;

B. facilitating and responding to requests from consumers who desire to cancel the sale pursuant to applicable contractual rights or law; and

C. refunding any monies paid or reversing credit card charges to those persons who timely rescind any sale pursuant to applicable contractual rights or law.

(29) **“Sale of Goods or Services”** means the conduct and agreement of a Solicitor and the Competent Individual in a Residence regarding a particular Good(s) or Service(s) that entitles the consumer to rescind the same within three days under any applicable federal, state, or local law.

(30) **“Services”** means those intangible goods or personal benefits offered, provided, or sold to a Competent Individual of a Residence.

(31) **“Soliciting”** or “Solicit” or “Solicitation” means any of the following activities:

A. Seeking to obtain Sales or orders for the exchange of goods, wares, merchandise or perishables of any kind, for any kind of remuneration or consideration, regardless of whether advance payment is sought;

B. Seeking to obtain prospective customers to apply for or to purchase insurance, subscriptions to publications, or publications;

C. Seeking to obtain contributions of money or any other thing of value for the benefit of any person or Entity;

D. Seeking to obtain orders or prospective customers for Goods or Services.

E. Seeking to engage an individual in conversation at a Residence for the purpose of promoting or facilitating the receipt of information regarding Religious Belief, Political Position, Charitable Conduct, or a Home Solicitation Sale.

F. Other activities falling within the commonly accepted definition of Soliciting, such as hawking or peddling.

(32) **“Solicitor”** or **“Solicitors”** means a person(s) engaged in Door-to-Door Solicitation.

(33) **“Submitted in Writing”** means the information for an appeal of a denial or suspension of a Certificate, submitted in any type of written statement to the City offices by certified, registered, priority, overnight or delivery confirmation mail, facsimile, or hand delivery.

(34) **“Substantiated Report”** means an oral, written, or electronic report:

A. That is submitted to and documented by the City;

B. By any of the following:

1. A Competent Individual who is willing to provide law enforcement or other City employees with publicly available identification of their name, address, and any other reliable means of contact;

2. City law enforcement or Licensing Officer; or

3. Any other regularly established law enforcement agency at any level of government;

C. That provides any of the following information regarding a Registered Solicitor:

1. Documented verification of a previously undisclosed Disqualifying Status of a Registered Solicitor;

2. Probable cause that the Registered Solicitor has committed a Disqualifying Status which has not yet been determined to be a Disqualifying Status;

3. Documented, eye-witness accounts that the Registered Solicitor has engaged in repeated patterns of behavior that demonstrates failure by the Registered Solicitor to adhere to the requirements of this Chapter; or

4. Probable cause that continued licensing of the Registered Solicitor creates exigent circumstances that threaten the health, safety, or welfare of any individuals or entities within the City.

(35) **“Waiver”** means the written form provided to Applicant by the City wherein Applicant agrees that the City may obtain a name/date of birth BCI background check on the Applicant for licensing purposes under this Chapter, and which contains Applicant’s notarized signature. (Ord 2006-6, 10/10/06)

5.20.040 Exemptions From Chapter. The following are exempt from Registration under this Chapter:

(1) Persons specifically invited to a Residence by a Competent Individual prior to the time of the person’s arrival at the Residence;

(2) Persons whose license, permit, certificate or registration with the State of Utah permits them to engage in Door to Door Solicitation to offer Goods or Services to an occupant of the Residence;

(3) Persons delivering Goods to a Residence pursuant to a previously made order, or persons providing Services at a Residence pursuant to a previously made request by a Competent Individual;

(4) Persons advocating or disseminating information for, against, or in conjunction with, any Religious Belief, or Political Position regardless of whether Goods, Services, or any other consideration is offered or given, with or without any form of commitment, contribution, donation, pledge, or purchase; and

(5) Persons representing a Charitable Organization. The charitable exemption shall apply to students Soliciting contributions to finance extracurricular social, athletic, artistic, scientific or cultural programs, provided that the Solicitation has been approved in writing by the school administration, and that such student Solicitors carry current picture student identification from the educational institution for which they are Soliciting.

Those Persons exempt from Registration are not exempt from the duties and prohibitions outlined in Sections 5.20.170, 5.20.180 and 5.20.190 while Advocating or Soliciting. (Ord.2013-5, dated 11/26/13; prior codes: Ord 2006-6, 10/10/06)

5.20.050 Solicitation Prohibited. Unless otherwise authorized, permitted, or exempted pursuant to the terms and provisions of this Chapter, the practice of being in and upon a private Residence within the City by Solicitors, for the purpose of Home Solicitation Sales or to provide Goods or Services, is prohibited and is punishable as set forth in this Chapter. (Ord 2006-6, 10/10/06)

5.20.060 Registration of Solicitors. Unless otherwise exempt under this Chapter, all persons desiring to engage in Door-to-Door Solicitation within the City, prior to doing so, shall submit a Completed Application to the Licensing Officer and obtain a Certificate. (Ord 2006-6, 10/10/06)

5.20.070 Application Form. The Licensing Officer shall provide a standard Application Form for use for the Registration of Solicitors. Upon request to the Licensing Officer, or as otherwise provided, any person or Entity may obtain in person, by mail, or facsimile, a copy of this Application Form. Each Application Form shall require disclosure and reporting by the Applicant of the following

information, documentation, and fee:

(1) **Review of Written Disclosures.** An affirmation that the Applicant has received and reviewed the disclosure information required by this Chapter.

(2) **Contact Information.**

A. Applicant's true, correct and legal name, including any former names or aliases used during the last ten (10) years;

B. Applicant's telephone number, home address and mailing address, if different;

C. If different from the Applicant, the name, address, and telephone number of the Responsible Person or Entity; and

D. The address by which all notices to the Applicant required under this Chapter are to be sent.

(3) **Proof of Identity.** An in-person verification by the Licensing Officer of the Applicant's true identity by use of any of the following which bear a photograph of said Applicant:

A. A valid drivers license issued by any State;

B. A valid passport issued by the United States;

C. A valid identification card issued by any State;

D. A valid identification issued by a branch of the United States military.

Upon verification of identity, the original identification submitted to establish Proof of Identity shall be returned to the Applicant.

(4) **Proof of Registration with Department of Commerce.** The Applicant shall provide proof that either the Applicant, or the Responsible Person or Entity, has registered with the Utah State Department of Commerce;

(5) **Special Events Sales Tax Number.** The Applicant shall provide a special events sales tax number for either the Applicant, or for the Responsible Person or Entity for which the Applicant will be soliciting;

(6) **Marketing Information.**

A. The Goods or Services offered by the Applicant, including any commonly known, registered or trademarked names;

B. Whether the Applicant holds any other licenses, permits, registrations, or other qualifications required by federal or state law to promote, provide, or render advice regarding the offered Goods or Services.

(7) **BCI Background Check.** The Applicant shall provide:

A. An original or a copy of a BCI background check as defined in 5.20.030; and

B. A signed copy of a Waiver whereby Applicant agrees to allow the City to obtain a name/date of birth BCI background check on Applicant for purposes of enforcement of this Chapter.²

(8) **Responses to Questions Regarding "Disqualifying Status".** The Applicant shall be required to affirm or deny each of the following statements on the Application Form:

A. Has the Applicant been Criminally Convicted of:

(i) Felony homicide,

(ii) Physically abusing, sexually abusing, or exploiting a minor,

(iii) The sale or distribution of controlled substances, or (iv) sexual assault of any kind.

B. Are any criminal charges currently pending against the Applicant for:

(i) Felony homicide,

(ii) Physically abusing, sexually abusing, or exploiting a minor,

(iii) The sale or distribution of controlled substances, or

(iv) Sexual assault of any kind.

C. Has the Applicant been Criminally Convicted of a felony within the last ten (10) years;

D. Has the Applicant been incarcerated in a federal or state prison within the past five (5)

²See Utah Code Ann. §53-10-108(1)(b).

years;

E. Has the Applicant been Criminally Convicted of a misdemeanor within the past five (5) years involving a crime of:

- (i) Moral turpitude, or
- (ii) Violent or aggravated conduct involving persons or property.

F. Has a Final Civil Judgment been entered against the Applicant within the last five (5) years indicating that:

(i) The Applicant had either engaged in fraud, or intentional misrepresentation, or

(ii) That a debt of the Applicant was non-dischargeable in bankruptcy pursuant to 11 U.S.C. § 523(a)(2), (a)(4), (a)(6), or (a)(19);

G. Is the Applicant currently on parole or probation to any court, penal institution, or governmental entity, including being under house arrest or subject to a tracking device;

H. Does the Applicant have an outstanding arrest warrant from any jurisdiction; or

I. Is the Applicant currently subject to a protective order based on physical or sexual abuse issued by a court of competent jurisdiction.

(9) **Fee.** The Applicant shall pay such fees as determined applicable by the City, which shall not exceed the reasonable cost of processing the application and issuing the Certificate and/or Identification Badge.

(10) **Execution of Application.** The Applicant shall execute the Application Form, stating upon oath or affirmation, under penalty of perjury, that based on the present knowledge and belief of the Applicant, the information provided is complete, truthful and accurate. (Ord 2006-6, 10/10/06)

5.20.080 Written Disclosures. The Application Form shall be accompanied by written disclosures notifying the Applicant of the following:

(1) The Applicant's submission of the Application authorizes the City to verify information submitted with the Completed Application including:

A. The Applicant's address;

B. The Applicant's and/or Responsible Person or Entity's state tax identification and special use tax numbers, if any;

C. The validity of the Applicant's Proof of Identity;

(2) The City may consult any publically available sources for information on the Applicant, including but not limited, to databases for any outstanding warrants, protective orders, or civil judgments.

(3) Establishing Proof of Identity is required before Registration is allowed;

(4) Identification of the fee amount that must be submitted by Applicant with a Completed Application;

(5) The Applicant must submit a BCI background check with a Completed Application;

(6) To the extent permitted by State and/or federal law, the Applicant's BCI background check shall remain a confidential, protected, private record not available for public inspection;

(7) The City will maintain copies of the Applicant's Application Form, Proof of Identity, and Identification Badge. These copies will become public records available for inspection on demand at the City offices whether or not a Certificate is denied, granted, or renewed.

(8) The criteria for Disqualifying Status, denial, or suspension of a Certificate under the provisions of this Chapter.

(9) That a request for a temporary Certificate will be granted or denied the same business day that a Completed Application is submitted. (Ord 2006-6, 10/10/06)

5.20.090 When Registration Begins. The Licensing Officer shall not begin the Registration process unless the Applicant has submitted a Completed Application. The original identification submitted to establish Proof of Identity shall be returned after the Licensing Officer verifies the Applicant's identity.

A copy of the identification may be retained by the Licensing Officer. If an original B.C.I. background check is submitted by the Applicant, the Licensing Officer shall make a copy of the B.C.I. and return the original to the Applicant. (Ord 2006-6, 10/10/06)

5.20.100 Issuance of Certificates. The Licensing Officer shall review the Completed Application submitted by the Applicant and issue a Certificate in accordance with the following:

(1) **Temporary Certificate.**

A. A temporary Certificate shall issue allowing the Applicant to immediately begin Door-to-Door Solicitation upon the following conditions:

(i) Applicant's submission of a Completed Application;

(ii) Applicant's submission of the required fee;

(iii) Applicant establishes Proof of Identity;

(iv) The Applicant's representations on the Application Form do not affirmatively show a Disqualifying Status;

(v) The B.C.I. does not affirmatively show a Disqualifying Status; and

(vi) The Applicant has not previously been denied a Certificate by the City, or had a Certificate revoked for grounds that still constitute a Disqualifying Status under this Chapter.

B. A temporary Certificate will automatically expire after twenty-five (25) calendar days from issuance, or upon grant or denial of an annual Certificate, whichever period is shorter.

(2) **Annual Certificate.** Within twenty-five (25) calendar days of the issuance of a temporary Certificate the City shall:

A. Take any and all actions it deems appropriate to verify the truthfulness and completeness of the information submitted by the Applicant, including, but not limited to those disclosed with the Application Form.

B. Issue written notice to the Applicant and the Responsible Person or Entity, if any, that the Applicant either:

(i) Will be issued an annual Certificate, eligible for renewal one year from the date of issuance of the temporary Certificate; or

(ii) Will not be issued an Annual Certificate for reasons cited in Section 5.20.140 of this Chapter.

(3) **Renewal Certificate.** An annual Certificate shall be valid for one year from the date of issuance of the temporary Certificate and shall expire at midnight on the anniversary date of issuance. Any annual Certificate that is not suspended, revoked, or expired may be renewed upon the request of the Registered Solicitor and the submission of a new Completed Application and payment of the Fee, unless any of the conditions for the denial, suspension or revocation of a Certificate are present as set forth in section 5.20.140, or a Disqualifying Status is present. (Ord 2006-6, 10/10/06)

5.20.110 Form of Certificate and Identification Badge.

(1) **Certificate Form.** Should the Licensing Officer determine that the Applicant is entitled to a Certificate, the Licensing Officer shall issue a Certificate to the Applicant. The Certificate shall list the name of the Registered Solicitor and the Responsible Person or Entity, if any, and the date on which the Certificate expires. The Certificate shall be dated and signed by the License Officer. The Certificate shall be carried by the Registered Solicitor at all times while Soliciting in the City.

(2) **Identification Badge.** With both the temporary and annual Certificates, the City shall issue each Registered Solicitor an Identification Badge that shall be worn prominently on his or her person while Soliciting in the City. The Identification Badge shall bear the name of the City and shall contain: (a) the name of the Registered Solicitor; (b) address and phone number of the Registered Solicitor, or the name, address, and phone number of the Responsible Person or Entity is provided; (c) a recent photograph of the Registered Solicitor; and (d) the date on which the Certificate expires. (Ord 2006-6, 10/10/06)

5.20.120 Maintenance of Registry. The Licensing Officer shall maintain and make available for public inspection a copy or record of every Completed Application received and the Certificate or

written denial issued by the City. The Applicant's BCI background check shall remain a confidential, protected, private record not available for public inspection. The Licensing Officer may furnish to the head of the City's law enforcement agency a listing of all Applicants, those denied, and those issued a Certificate. (Ord 2006-6, 10/10/06)

5.20.130 Non-Transferability of Certificates. Certificates shall be issued only in the name of the Applicant and shall list the Responsible Party or Entity, if any. The Certificate shall be non-transferable. A Registered Solicitor desiring to facilitate or attempt to facilitate Home Solicitation Sales with different: (a) Goods or Services; or (b) Responsible Person or Entity, from those designated in the originally submitted Completed Application, shall submit a written change request to the Licensing Officer. A new Certificate based on the amended information shall issue for the balance of time remaining on the Solicitor's previous Certificate before the amendment was filed. Before the new Certificate is given to the Registered Solicitor, the Registered Solicitor shall obtain a revised Identification Badge from the City, after payment of the Fee for the Identification Badge. (Ord 2006-6, 10/10/06)

5.20.140 Denial, Suspension or Revocation of a Certificate of Registration.

(1) **Denial.** Upon review, the Licensing Officer shall refuse to issue a Certificate to an Applicant for any of the following reasons:

A. Denial of Temporary Certificate.

- (i) The Application Form is not complete;
- (ii) The Applicant fails to (1) establish Proof of Identity, (2) provide a B.C.I. or (3) pay the Fees;
- (iii) The Completed Application or B.C.I. indicates that the Applicant has a Disqualifying Status; or
- (iv) The Applicant has previously been denied a Certificate by the City, or has had a Certificate revoked for grounds that still constitute a Disqualifying Status under this chapter.

B. Denial of Annual Certificate.

- (i) The information submitted by the Applicant at the time of the granting of the temporary Certificate is found to be incomplete or incorrect;
- (ii) Since the submission of the Completed Application, the Applicant is subject to a previously undisclosed or unknown Disqualifying Status;
- (iii) Failure to complete payment of the Fees;
- (iv) Since the submission of the Application, the City has received a Substantiated Report regarding the past or present conduct of the Applicant;
- (v) Since the submission of the Application, the City or other governmental entity has either Criminally Convicted or obtained a civil injunction against the Applicant for violating this Chapter or similar Federal, State, or municipal laws in a manner rising to the level of a Disqualifying Status; or
- (vi) Since the submission of the Application, a Final Civil Judgment has been entered against the Applicant indicating that: (i) the Applicant had either engaged in fraud, or intentional misrepresentation, or (ii) that a debt of the applicant was non-dischargeable in bankruptcy pursuant to 11 U.S.C. ' 523(a)(2), (a)(4), (a)(6), or (a)(19).

C. Denial of Annual Certificate Renewal.

- (i) The information submitted by the Applicant when seeking renewal of a Certificate is found to be incomplete or incorrect;
- (ii) Since the submission of the renewal Application, the Applicant is subject to a previously undisclosed or unknown Disqualifying Status;
- (iii) Failure to complete payment of the Fees;
- (iv) Since the submission of the Application or granting of a Certificate, the City has

received a Substantiated Report regarding the past or present conduct of the Solicitor;

(v) The City or other governmental entity has either Criminally Convicted or obtained a civil injunction against the Applicant for violating this Chapter or similar Federal, State, or municipal laws in a manner rising to the level of a Disqualifying Status; or

(vi) Since the submission of the Application, a Final Civil Judgment has been entered against the Applicant indicating that: (i) the Applicant had either engaged in fraud, or intentional misrepresentation, or (ii) that a debt of the applicant was non-dischargeable in bankruptcy pursuant to 11 U.S.C. ' 523(a)(2), (a)(4), (a)(6), or (a)(19).

(2) **Suspension or Revocation.** The City shall either suspend or revoke a Certificate when any of the reasons warranting the denial of a Certificate occurs.

(3) **Notice of Denial or Suspension.** Upon determination of the Licensing Officer to deny an Applicant's Completed Application or to suspend a Registered Solicitor's Certificate, the City shall cause written notice to be sent to the Applicant or Registered Solicitor by the method indicated in the Completed Application. The Notice shall specify the grounds for the denial or suspension, the documentation or information the City relied on to make the decision, the availability of the documentation for review by Applicant upon one (1) business day notice to the City, and the date upon which the denial or suspension of the Certificate shall take effect. It shall further state that the Applicant or Registered Solicitor shall have ten (10) business days from the receipt of the notice of denial or suspension to appeal the same. The denial or suspension of the Certificate shall be effective no sooner than two (2) calendar days from the date the notice is sent, unless that suspension is because of exigent circumstances outlined in Section 5.20.030(34)(C)(4), in which case, the suspension is effective immediately. The denial or suspension shall remain effective unless and until the order is rescinded, overturned on appeal, or determined by a court to be contrary to equity or law. Failure to appeal the suspension of a Certificate automatically results in its revocation. (Ord 2006-6, 10/10/06)

5.20.150 Appeal. An Applicant or Registered Solicitor whose Certificate has been denied or suspended shall have the right to appeal to the City Council or its designee. Any appeal must be submitted by either the Applicant, the Responsible Person or Entity, or legal counsel for either who: (a) documents the relationship with the Applicant or Responsible Person or Entity; or (b) is licensed or authorized by the State of Utah to do so, and makes the assertion of an agency relationship. The following procedures and requirements shall apply:

(1) Any appeal must be Submitted in Writing to the City Recorder with a copy to the License Officer within ten (10) business days of the decision from which the appeal is taken. Such appeal shall describe in detail the nature of the appeal, the action complained of and the grounds for appeal.

(2) Upon request of the Applicant or Registered Solicitor, within one business day, the City will make available any information upon which it relied in making the determination to either deny or suspend the Certificate.

(3) The Appeals Officer shall review, de novo, all written information submitted by the Applicant or Registered Solicitor to the Licensing Officer, any additional information relied upon by the Licensing Officer as the basis for denial, suspension or revocation, and any additional information supplied by the City, Applicant or Registered Solicitor. Any additional information submitted by any party to the appeal to the Appeals Officer shall be simultaneously submitted to the opposing party. If desired, any party shall have three (3) business days to submit rebuttal documentation to the Appeals Officer regarding the additional information submitted by the opposing party.

(4) The Appeals Officer will render a decision no later than fifteen (15) calendar days from the date the appeal was taken, unless an extension of time is agreed upon by the parties. In the event that any party to the appeal submits rebuttal information as allowed in Section 5.20.150(3), the fifteen (15) calendar days shall be extended to include the additional three (3) days for rebuttal.

A. The denial or suspension of the Certificate shall be reversed by the Appeals Officer if upon review of the written appeal and information submitted, the Appeals Officer finds that the Licensing Officer made a material mistake of law or fact in denying or suspending the Applicant or Registered Solicitor's Certificate.

B. If the written appeal and information submitted indicates that the Licensing Officer properly denied or suspended the certificate of the Applicant or Registered Solicitor, the denial or suspension of the Certificate shall be affirmed and constitute a determination that the suspended Certificate is revoked.

C. The decision of the Appeals Officer shall be delivered to the Applicant or Registered Solicitor by the means designated in the completed Application, or as otherwise agreed upon when the Appeal was filed.

(5) After the ruling of the Appeals Officer, the Applicant or Solicitor is deemed to have exhausted all administrative remedies with the City.

(6) Nothing herein shall impede or interfere with the Applicant's, Solicitor's, or City's right to seek relief in a court of competent jurisdiction. (Ord 2006-6, 10/10/06)

5.20.160 Deceptive Soliciting Practices Prohibited.

(1) No Solicitor shall intentionally make any materially false or fraudulent statement in the course of Soliciting.

(2) A Solicitor shall immediately disclose to the consumer during face-to-face Solicitation;

(i) The name of the Solicitor;

(ii) The name and address of the entity with whom the Solicitor is associated; and

(iii) The purpose of the Solicitor's contact with the person and/or Competent

Individual. This requirement may be satisfied through the use of the Badge and an informational flyer.

(3) No Solicitor shall use a fictitious name, an alias, or any name other than his or her true and correct name.

(4) No Solicitor shall represent directly or by implication that the granting of a Certificate of Registration implies any endorsement by the City of the Solicitor's Goods or Services or of the individual Solicitor. (Ord 2006-6, 10/10/06)

5.20.170 "No Solicitation" Notice.

(1) Any occupant of a Residence may give notice of a desire to refuse Solicitors by displaying a "No Solicitation" sign which shall be posted on or near the main entrance door or on or near the property line adjacent to the sidewalk leading to the Residence.

(2) The display of such sign or placard shall be deemed to constitute notice to any Solicitor that the inhabitant of the Residence does not desire to receive and/or does not invite Solicitors.

(3) It shall be the responsibility of the Solicitor to check each Residence for the presence of any such Notice.

(4) The provisions of this Section shall apply also to Solicitors who are exempt from Registration pursuant to the provisions of this Chapter. (Ord 2006-6, 10/10/06)

5.20.180 Duties of Solicitors.

(1) Every person Soliciting or Advocating shall check each Residence for any "No Soliciting" sign or placard or any other notice or sign notifying a solicitor not to solicit on the premises, such as, but not limited to, "No Solicitation" signs. If such sign or placard is posted such Solicitor shall desist from any efforts to solicit at the Residence or dwelling and shall immediately depart from such property. Possession of a Certificate of Registration does not in any way relieve any solicitor of this duty.

(2) It is a violation of this Chapter for any person Soliciting or Advocating to knock on the door, ring the doorbell, or in any other manner attempt to attract the attention of an occupant of a Residence that bears a "No Solicitation" sign or similar sign or placard for the purpose of engaging in or attempting to engage in Advocating, a Home Solicitation Sale, Door-to-Door Soliciting, or Soliciting.

(3) It is a violation of this Chapter for any Solicitor through ruse, deception, or fraudulent concealment of a purpose to Solicit, to take action calculated to secure an audience with an occupant at a Residence.

- (4) Any Solicitor who is at any time asked by an occupant of a Residence or dwelling to leave shall immediately and peacefully depart.
- (5) The Solicitor shall not intentionally or recklessly make any physical contact with, or touch another person without the person's consent;
- (6) The Solicitor shall not follow a person into a Residence without their explicit consent;
- (7) The Solicitor shall not continue repeated Soliciting after a person and/or Competent Individual has communicated clearly and unequivocally their lack of interest in the subject, Goods or Services of the Solicitor;
- (8) The Solicitor shall not use obscene language or gestures. (Ord 2006-6, 10/10/06)

5.20.190 Time of Day Restrictions. It shall be unlawful for any person, whether licensed or not, to Solicit at a Residence before 9:00 a.m. or after 9:00 p.m. Mountain Time, unless the Solicitor has express prior permission from the resident to do so. (Ord 2006-6, 10/10/06)

5.20.200 Buyer's Right to Cancel. In any Home Solicitation Sale, unless the buyer requests the Solicitor to provide Goods or Services without delay in an emergency, the seller or Solicitor shall present to the buyer and obtain buyer's signature to a written statement which informs the buyer of the right to cancel within the third business day after signing an agreement to purchase. Such notice of "Buyer's right to cancel" shall be in the form required by § 70C-5-103, Utah Code Annotated, 1953, or a current version thereof or any State or Federal law modifying or amending such provision. (Ord 2006-6, 10/10/06)

5.20.210 Penalties. Any person who violates any term or provision of this Chapter shall be guilty of a Class B Misdemeanor and shall be punished by a fine of not to exceed \$1,000.00 and/or a jail sentence of not to exceed six (6) months. (Ord 2006-6, 10/10/06)