

ORDINANCE NO. 23-12

**AN ORDINANCE AMENDING THE 2009 WEST JORDAN CITY CODE
(GENERAL BUSINESS REGULATIONS AND LICENSING REQUIREMENTS;
AMENDING CITY CODE SECTIONS 4-1A-1 THROUGH 4-1D-5 INCLUSIVE)**

WHEREAS, the City of West Jordan (“City”) adopted West Jordan City Code (“City Code”) in 2009; and the City Council of the City (“City Council”) desires to amend certain sections of the City Code, regarding and related to General Business License Regulations, which include City Code Sections 4-1A-1 through 4-1D-5 inclusive (“proposed City Code amendments”); and

WHEREAS, the proposed City Code amendments are not land use regulations; and

WHEREAS, the City Council held Committee of the Whole Meetings (“Work Sessions”) on August 10, 2022 and November 16, 2022, and has held a regular public meeting on March 22, 2023, regarding the proposed City Code amendments; and

WHEREAS, the City Council finds it to be in the best interest of the public health, safety, and welfare of the residents of the City to adopt the following proposed City Code amendments.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST JORDAN, UTAH AS FOLLOWS:

Section 1. Amendment of Code Provisions. City Code Sections 4-1A-1 through 4-1D-5 inclusive are amended to read as shown in Attachments 1 and 2.

Section 2. Severability. If any provision of this Ordinance is declared to be invalid by a court of competent jurisdiction, the remainder shall not be affected thereby.

Section 3. Effective Date. This Ordinance shall become effective immediately upon posting or publication as provided by law and upon (i) the Mayor signing the Ordinance, (ii) the City Council duly overriding the veto of the Mayor as provided by law, or (iii) the Mayor failing to sign or veto the Ordinance within fifteen (15) days after the City Council presents the Ordinance to the Mayor.

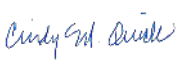

PASSED BY THE CITY COUNCIL OF THE CITY OF WEST JORDAN, UTAH, THIS 22ND DAY OF MARCH 2023.

CITY OF WEST JORDAN

By:  _____

Christopher McConnehey
Council Chair

ATTEST:

Cindy M. Quick, MMC
Council Office Clerk

(Continued on the following pages)

Voting by the City Council

"YES"

"NO"

Council Chair Christopher McConnehey
Council Vice-Chair Pamela Bloom
Council Member Kelvin Green
Council Member Zach Jacob
Council Member David Pack
Council Member Kayleen Whitelock
Council Member Melissa Worthen

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PRESENTED TO THE MAYOR BY THE CITY COUNCIL ON MARCH 27, 2023.

Mayor's Action: X Approve Veto

By: 
Mayor Dirk Burton

 Mar 28, 2023
Date

ATTEST:

Tangee Sloan, CMC
City Recorder

STATEMENT OF APPROVAL/PASSAGE (check one)

 X The Mayor approved and signed Ordinance No. 23-12.

 The Mayor vetoed Ordinance No. 23-12 on _____ and the City Council timely overrode the veto of the Mayor by a vote of _____ to _____.


 Ordinance No. 23-12 became effective by operation of law without the Mayor's approval or disapproval.

Tangee Sloan, CMC
City Recorder

CERTIFICATE OF PUBLICATION

I, Tangee Sloan, certify that I am the City Recorder of the City of West Jordan, Utah, and that a short summary of the foregoing ordinance was published on the Utah Public Notice Website on the 29th day of March 2023. The fully executed copy of the ordinance is retained in the Office of the City Recorder pursuant to Utah Code Annotated, 10-3-711.

Tangee Sloan, CMC
City Recorder

Attachments to

ORDINANCE NO. 23-12

**AN ORDINANCE AMENDING THE 2009 WEST JORDAN CITY CODE
(GENERAL BUSINESS REGULATIONS AND LICENSING REQUIREMENTS; AMENDING
CITY CODE SECTIONS 4-1A-1 THROUGH 4-1D-5 INCLUSIVE)**

(See the following pages)

Attachment 1

[Attachment to ORDINANCE NO. 23-12

AN ORDINANCE AMENDING THE 2009 WEST JORDAN CITY CODE (GENERAL BUSINESS REGULATIONS AND LICENSING REQUIREMENTS; AMENDING CITY CODE SECTIONS 4-1A-1 THROUGH 4-1D-5 INCLUSIVE)]

Legislative Version:

TITLE 4

BUSINESS AND LICENSE REGULATIONS

CHAPTER 1

GENERAL BUSINESS REGULATIONS AND LICENSING REQUIREMENTS

ARTICLE A. GENERAL PROVISIONS

SECTION:

4-1A-1: Purpose

4-1A-2: Definitions

4-1A-3: Applicability Of This Chapter

4-1A-4: General Business And Special Business Licenses Needed

4-1A-1: PURPOSE:

Pursuant to its inherent police powers within statutory authority granted by the state to protect the health and welfare of its **citizens residents and businesses**, the city intends by this title to regulate and license businesses and occupations undertaken and operating within its corporate limits; to maintain a current index of licensed businesses and occupations; and to raise revenues sufficient, among other things, to offset the costs of administering this title by imposing license fees upon such businesses and occupations. (Ord. 12-13, 6-13-2012)

4-1A-2: DEFINITIONS:

The following words, terms, and phrases, when used in this title, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. The definitions in this section are also applicable to all subsequent chapters in this title. **For words, terms, and phrases which are not defined in this title, the definitions in sections 13-2-3 or 17-1-6 or elsewhere in this code or in the Utah Code Ann. shall have the meanings ascribed to them in those sections in this code or in the Utah Code Ann., except where the context clearly indicates a different meaning; these definitions may also be used to supplement the definitions in this title.**

Unless otherwise indicated, the definitions found within the Utah alcoholic beverage control act, Utah Code Ann. Annotated title 32B, are incorporated into this chapter as though set forth in their entirety. In addition to these definitions, the following words and phrases used in this chapter shall have the following meanings unless a contrary meaning is clearly indicated. The definitions in this section are also applicable to all other chapters in this title.

ACCESSORY DWELLING UNIT: A separately leasable dwelling unit on a subdivided lot that is incidental to the principal dwelling unit, as further described in title 13.

ADULT: A person who is either: (a) "emancipated" pursuant to the definition in Utah Code Ann. section 80-7-102 or successor provisions; or (b) age eighteen (18) years of age or older; and who is not the subject of a court order for guardianship which limits the person's rights. For purposes of alcohol, tobacco, and other substances, the applicable definitions in the Utah Code Ann. should be used.

ADULT BOOKSTORE OR ADULT VIDEO STORE: Any commercial establishment which:

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

B. As one of its principal purposes, offers for sale or rental, for any form of consideration: 1) any pictures or written material, whether alone or in a book or magazine; 2) motion pictures, on film, tape or electronic media; or 3) sound recordings, the central theme of any of which depicts or describes specified sexual activities or specified anatomical areas; or 4) instruments, devices or paraphernalia which are designated for use in connection with specified sexual activities, except for legitimate medically recognized contraceptives. As used in this definition, "principal purposes" means fifteen percent (15%) or more of the business's gross yearly sales measured in any year.

ADULT BUSINESSES: All adult bookstores, adult video stores, adult motion picture theaters and adult theaters.

ADULT MOTION PICTURE THEATER: A commercial establishment which:

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

B. Shows for any form of consideration motion pictures, slides, or similar photographic reproductions which are primarily characterized by the depiction or description of specified sexual activities or specified anatomical areas.

ADULT THEATER: A theater, concert hall, auditorium or similar commercial establishment which:

A. Holds itself out as such a business;

B. Excludes minors from the showing of two (2) consecutive exhibitions; or

C. Features persons who appear in live performances in a state of nudity, or which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

ADVOCATING: Speech or conduct intended to inform, promote or support religious belief, political position or charitable activities.

AGREEMENT: Unless otherwise indicated qualified, the binding agreement entered with the city as part of the good landlord program.

AGRICULTURAL VENDOR: A person engaged in the sale of fruits and/or vegetables from stands, motor vehicles or roadsides.

ALCOHOLIC BEVERAGE (AND RELATED TERMS): Means and includes "beer" and "liquor", as they are defined in this section. See the definitions found within the Utah alcoholic beverage control act, Utah Code Ann. title 32B, and in section 17-1-6 of this code.

ANTIQUA DEALER: Any person engaging in the business of purchasing, bartering, exchanging or selling old or archaic items which are indicative of an older culture, excluding numismatic items, bullion items, and precious metals and/or precious gems.

APPLICANT: A person or business possessing a business license from the city, and any person or business seeking a business license from the city. If the application is made by a corporation, partnership, limited partnership, individual or business entity (as defined in this section) doing business under an assumed name, each partner, principal, officer, director, manager, assistant manager, and any shareholder (corporate or personal) of more than twenty percent (20%) fifty one percent (51%) or more of the stock of the business entity shall also be considered an applicant. Any holding company or any entity holding more than twenty percent (20%) fifty one percent (51%) or more of an applicant shall be considered an "applicant" for purposes of this title.

APPLICATION: The completed forms provided by the business licensing authority with all attachments required by this title for the issuance of a permit or license.

ARCADE: A place of business containing more than three (3) automatic amusement devices.

AUCTION HOUSE: A business where property is sold on an ongoing basis by auction to the highest bidder.

AUCTIONEER: A person who conducts an auction.

AUTOMATIC AMUSEMENT DEVICES: Each machine which, upon the insertion of a coin, trade token, slug, or similar object, operates, or may be operated, as a game or contest of skill or amusement of any kind or description, and which contains no automatic payoff for the return of money to the player. An "automatic amusement device" is hereby further defined as any machine, apparatus or contrivance which is used, or which may be used, as a game of skill and amusement wherein, or whereby, the player initiates, employs or directs any force generated by the machine, but specifically excludes a "musical mechanical device" as defined in this section. Such term shall include, but is not limited to, such devices as mechanical or electronic marble machines, pinball machines, skill balls, mechanical grab machines which yield prizes, electronic skill games of all types and all games, operations or similar transactions however called or by whatever name indicated. This definition is intended to be broadly construed and to include, but not be limited to, devices and activities otherwise defined in this section; provided, however, that this definition does not include single coin operated devices held for private amusement in private residences.

BCI BACKGROUND CHECK: An original or copy, dated no older than one hundred eighty (180) days prior to the date of the application, of either:

A. A Utah department of public safety bureau of criminal identification, verified criminal history report personal to the applicant; or

B. Verification by the Utah department of public safety bureau of criminal identification that no criminal history rising to the level of a "disqualifying factor" (pursuant to the definition in this section or any other applicable meaning) status exists for the applicant; or

C. A government-issued and verified criminal history report form the applicant's current state of residence or recent state of residence.

~~BEER, LIGHT BEER, MALT LIQUOR AND MALTED BEVERAGE: Any beverage containing sixty three one hundredths of one percent (0.63%) of alcohol by volume, or one half of one percent (0.5%) of alcohol by weight, but not more than four percent (4%) of alcohol by volume or three and two-tenths percent (3.2%) by weight, fermentation, infusion or decoction of any malted grain. Beer may or may not contain hops or other vegetable products. Beer includes products referred to as malt liquor, malted beverages or malt coolers.~~

~~BILLIARD HALL: Business premises containing more than three (3) tables on which billiards, bagatelle or pool is played by the public for a fee. This definition includes virtual games operating through computer simulation.~~

~~BOWLING ALLEY: An amusement hall where bowling and related activities are played by the public for a fee.~~

~~BULLION: Items of or containing gold, silver, platinum or palladium in any form or shape, including, but not limited to, bars, ingots or medallions which:~~

~~A. Are gold or silver coins originally minted or manufactured as legal tender in their country of origin, but which, because of their physical condition, have little or no numismatic value and which are bought, sold, bartered or exchanged based on the value of the gold or silver they contain and are commonly known as "junk silver" or "junk gold"; or~~

~~B. Carry a hallmark which:~~

~~1. Identifies the manufacturer;~~

~~2. States the degree or percentage of purity; and~~

~~3. States the weight of the item; and~~

~~C. Are of a purity at or exceeding eighty percent (80%), i.e., the item is composed of or contains eighty (80) parts of gold, silver, platinum and/or palladium to twenty (20) parts of other metal.~~

~~"Bullion" does not include sterling silver flatware or utensils and does not include jewelry containing gold, silver, platinum or palladium.~~

~~BULLION DEALER: Any person who engages in the business of purchasing, selling, bartering or exchanging bullion.~~

BUSINESS: Means and includes:

A. All activities, trades, professions or callings undertaken, operated or engaged in within the corporate limits of the city of West Jordan carried on for the purpose of economic gain or economic benefit, except that the acts of employees rendering service to employers shall not be included in the term "business" unless otherwise specifically prescribed.

B. As used in this title, the owning and operating of one or more residential rental units, whether a single-family home, a residential dwelling complex (such as a duplex, triplex or larger apartment complex) or mobile home park, or otherwise, for economic gain, or economic benefit, or personal benefit shall be deemed to be a business.

C. Activities, trades, professions or callings undertaken, operated, or engaged in for the purpose of economic gain, or economic benefit, or personal benefit within the confines of a person's individual's residence building or within or from an ancillary structure on the same property as the person's individual's building will constitute a "business" subject to the requirements of this title.

D. There is no regulatory distinction in this title between a "business" and an "occupation". Both are a "business".

BUSINESS ENTITY: A specific partnership, limited partnership, corporation, association, limited liability company, or other entity, but not a "dba", listed as "active" and "current" on the Utah division of corporations' business entity website or the equivalent website of another state or territory of the United States of America.

BUSINESS LICENSE AUTHORITY: The city administrator or an authorized designee.

CARD ROOM: Any room where there is played any backgammon, cards, checkers, chess, or other games of similar nature, or any game played with beans, buttons, dice or similar devices, or to keep, maintain or operate in the city any table on which said games are played, where charge is made for the use of the room, use of the tables or for the privilege of playing on such tables or in such room. This definition includes virtual games operating through computer simulation.

CERTIFICATE: A card representing an issued city solicitor's license.

CHARITABLE ACTIVITIES: Advocating by persons or entities that either are, or support, a charitable organization.

CHARITABLE ORGANIZATION (AND RELATED TERMS): Includes any person, joint venture, partnership, limited liability company, corporation, association, group, or other entity that is organized or established: a) as a benevolent, educational, voluntary health, philanthropic, humane, patriotic, religious or eleemosynary, social welfare or advocacy, public health, environmental or conservation, or civic organization; b) for the benefit of a public safety, law enforcement or firefighter fraternal association; or c) for any charitable purpose. A "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 the state of Utah pursuant to See the definitions in Utah Code Ann. Annotated section 13-22-2, or successor provisions its successor statute.

CHRISTMAS TREE: A cut tree, usually fir or evergreen, but including any tree sold to be decorated and used as part of the Christmas celebration and commemoration.

CHRISTMAS TREE BUSINESS: To sell, offer to sell or display for sale Christmas trees to the public for profit. Each location at which Christmas trees are sold, offered or displayed for sale shall be considered a separate business.

CITY ADMINISTRATOR: The city administrator of the city.

COINS: Pieces of metal money issued by any government as legal tender in the country of origin and includes commemorative coins, mint sets and proof sets, but does not include items manufactured primarily for transfer as bullion, including, but not limited to, Krugerrands, Maple Leafs and Austrian Coronas. "Coin" refers to a single piece of money as defined in this definition.

COMMUNITY LOCATION (AND RELATED TERMS):

See the definitions in:

A. For alcoholic beverages, Utah Code Ann. section 32B-1-102, or successor provisions:

B. For cannabis production establishments, Utah Code Ann. section 4-41a-102, or successor provisions:

C. For medical marijuana, Utah Code Ann. section 26-61a-102, or successor provisions:

~~D. For retail tobacco specialty business, Utah Code Ann. sections 10-8-41.6 and 17-50-333, or successor provisions; and~~

~~E. For tobacco, electronic cigarette, and nicotine product retail permits, Utah Code Ann. section 26-62-102, or successor provisions.~~

~~A. A public or private kindergarten, elementary, middle, junior high, or high school;~~

~~B. A licensed childcare facility or preschool;~~

~~C. A trade or technical school;~~

~~D. A church;~~

~~E. A public library;~~

~~F. A public playground;~~

~~G. A public park;~~

~~H. A youth center or other space used primarily for youth-oriented activities;~~

~~I. A public recreational facility; or~~

~~J. A public arcade.~~

COMPETENT INDIVIDUAL: ~~A person~~ An individual 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.

COMPLETED APPLICATION: A fully completed application form; a BCI check; two (2) copies of the original identification, relied on by the applicant to establish proof of identity; and the tendering of all required fees.

~~CONVENIENCE STORE: An establishment serving a limited market area and engaged in the retail sale or rental, from the premises, of primarily food, beverages and other frequently or recurrently needed items for household use, excluding gasoline sales. These products must constitute forty five percent (45%) or more of the store's gross monthly proceeds. The store's signage must clearly identify it as a convenience store and not as another type of store.~~

CRIMINAL CONVICTION OR CRIMINALLY CONVICTED: The final entry of a conviction, whether by a plea of no contest, guilty, entry of a judicial or jury finding of guilt, which judicial determination 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.

~~CURRENCY: Paper money or money of a material other than metal which was originally printed, minted or manufactured as legal tender in the country of origin and includes commemorative currency.~~

~~DANCE STUDIO: A place where people are taught to dance, with or without the payment of a fee.~~

DISQUALIFYING FACTORS: Anything specifically defined in this title as requiring the denial or suspension of a certificate license, plus any of the following:

- A. Criminal charges are currently pending against the applicant or a key employee and the criminal charges bear a substantial relationship to the applicant's or licensee's ability to safely, competently, or legally practice the occupation, profession, or type of business;
- B. The applicant or a key employee has been criminally convicted of a felony, within the last ten (10) years and the criminal conviction bears a substantial relationship to the applicant's or licensee's ability to safely, competently, or legally practice the occupation, profession, or type of business;
- C. The applicant or a key employee has been criminally convicted of a misdemeanor within the past five (5) years and the criminal conviction bears a substantial relationship to the applicant's or licensee's ability to safely, competently, or legally practice the occupation, profession, or type of business;
- D. A final civil judgment has been entered against the applicant or a key employee within the last five (5) years indicating that: 1) the applicant or key employee had either engaged in fraud or intentional misrepresentation; or 2) the applicant or key employee engaged in wilful willful and malicious activity causing injury to another entity or to the property of another entity;
- E. The applicant or key employee is currently subject to a protective order based on physical or sexual abuse issued by a court of competent jurisdiction;
- F. The applicant is currently on parole or probation to any court, penal institution or governmental entity, including being under house arrest or subject to a tracking device (for this purpose probation includes pleas in abeyance, diversions, etc.); or
- FG. The applicant has an outstanding arrest warrant from any jurisdiction; or
- GH. The applicant, or any principal of the applicant, has administrative, civil or criminal citations or charges pending or on appeal, brought or assessed by the state or another jurisdiction, and based on violations of applicable licensing or regulatory requirements in connection with the business proposed to be conducted.

DOOR TO DOOR SOLICITATION, HOME SOLICITATION, OR RESIDENTIAL SOLICITATION: The practice of engaging in or attempting to engage in conversation with any person individual at a residence, whether or not that person individual is a competent individual, while making or seeking to make or facilitate a home door to door solicitation sale, or attempting to further the sale of goods and/or services. See sections 4-2F-1 through 4-2F-16 inclusive.

DOOR TO DOOR SOLICITATION SALE, HOME SOLICITATION SALE, OR RESIDENTIAL SOLICITATION SALE: 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 the means of payment or consideration used for the purchase; the time of delivery of the goods or services; or the previous or present classification of the solicitor as a solicitor, peddler, hawker, itinerant merchant, or similar designation.

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

EMPLOYEE: The operator, owner, or manager of a business and any persons individuals employed by such person operator, owner, or manager in the operation of the business in any capacity, and also any salesperson, agent, leased employee or independent contractor engaged in the business in any capacity.

EMPLOYMENT AGENCY: Any person or persons, including an entity, procuring or obtaining for money or other valuable consideration, either directly or indirectly, any work or employment for

persons seeking the same, or to otherwise engage in such business, or in any way to act as a broker or go-between between employers and persons seeking work; provided that the term "employment agency" does not include any person operating such an office or business exclusively for schoolteachers provided such an office or business does not receive directly or indirectly, for employment information or assistance rendered, a commission or other remuneration valued in excess of five percent (5%) of the amount of the first year's salary of the person to whom such information is furnished.

ENGAGING IN BUSINESS: Means and includes, but is not limited to, the sale or offer for sale of tangible personal property at retail or wholesale, the manufacturing of goods, including foodstuffs, the owning or operating of rental property, the building and development of real property, and the rendering of personal services for others for compensation, but does not include the rendering of personal services by an employee to his the employee's employer under any arrangement or contract of personal employment.

ESCORT: Any person who, for pecuniary compensation, dates, socializes, visits, consorts with or accompanies or offers to date, consort, socialize, visit or accompany another person or other persons 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. An "escort" shall not be construed to include persons who provide business or personal services, such as 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. An "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 by a party other than the person for whom the service is being performed and of a duration not longer than one hour.

ESCORT SERVICE: An individual or entity who, for pecuniary compensation, furnishes or offers to furnish one or more escorts, or provides or offers to introduce patrons to escorts.

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

EXEMPT RENTAL DWELLING UNIT: A rental dwelling unit contained within a single building containing up to three (3) other dwelling units (i.e., a duplex, triplex or fourplex) wherein one of the dwelling units is owner occupied by the owner of the building.

FEE OR FEE SCHEDULE: The city's comprehensive consolidated fee schedule as it relates to business license fees, disproportionate rental dwelling unit fees, and the discount fees associated with the good landlord program.

GENERAL SECONDHAND DEALER: Any person engaging in the business of purchasing, bartering, exchanging or selling of any secondhand merchandise of value other than antiques, precious metals or numismatic pieces. For the purpose of this title, a "general secondhand dealer" shall not include any person who:

— A. Deals solely in the purchasing, bartering, exchanging or selling of used motor vehicles or trailers;

— B. Is a scrap metal processor;

~~C. Is a store, office or place of business operated by a charitable organization which acquires secondhand goods or merchandise exclusively by charitable donation;~~

~~D. Engages in a business which requires a license pursuant to this title; or~~

~~E. Is a person who deals solely in the consignment sale of used clothing, provided such clothing does not include jewelry or furs.~~

~~GROSS SALES:~~

~~A. Total sales at invoice values, not reduced by customer discounts, returns or allowances, or other adjustments. Gross sales includes the amount of any manufacturer's or importer's excise tax included in the price of the product or property sold, even though the manufacturer or importer is also the wholesaler or retailer thereof, and whether or not the amount of such tax is stated as a separate charge.~~

~~B. "Gross sales" shall not include:~~

~~1. The amount of any federal tax, except excise taxes imposed upon or with respect to retail or wholesale sales, whether imposed upon the retailer, wholesaler, jobber or upon the consumer, and regardless of whether or not the amount of federal tax is stated to customers as a separate charge; and~~

~~2. The amount of net Utah state sales tax.~~

~~HOME SOLICITATION: See the "Door To Door Solicitation" definition in this section.~~

~~HOME SOLICITATION SALE: 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 the means of payment or consideration used for the purchase; the time of delivery of the goods or services; or the previous or present classification of the solicitor as a solicitor, peddler, hawker, itinerant merchant, or similar designation. See the "Door To Door Solicitation Sale" definition in this section.~~

~~ICE CREAM WAGON: A vehicle holding, offering and selling ice cream products by means of cruising residential neighborhoods and parks and thus seeking customers.~~

~~INDIVIDUAL: A natural or physical person; in other words, an individual human being, who is an "adult", as defined in this section.~~

~~JUKEBOX OR MUSICAL MECHANICAL AMUSEMENT DEVICE: Includes each machine vending recorded music, or a period of radio or television entertainment in return for the insertion or deposit therein of a coin, trade token, slug, or similar object.~~

~~LEGITIMATE ARTISTIC MODELING: A person contracted in writing for nude modeling or appearance, whether on an outcall basis or otherwise, which contract is signed more than forty eight (48) hours in advance of the modeling or appearance; provided that during such nude modeling or appearance, it is unlawful to:~~

~~A. Appear nude or seminude in the presence of persons under the age of eighteen (18);~~

~~B. Allow, offer or agree to any touching of any other person;~~

~~C. Allow, offer or agree to commit prostitution, solicitation of prostitution, solicitation of a minor, or undertaking activities harmful to a minor;~~

~~D. Allow, offer, commit or agree to any specified sexual activities;~~

~~E. Allow, offer, agree or permit any person to masturbate in the presence of the individual contracted to appear nude;~~

~~F. 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 seminude.~~

LICENSED PREMISES: Any building, enclosure, room, or equipment used in connection with the conduct of the business, including, but not limited to, the sale, storage, service, manufacture, distribution or consumption of alcoholic beverages.

LIQUOR (AND RELATED TERMS): 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, which contain more than one-half of one percent (0.5%) of alcohol by volume which is suitable to use for beverage purposes; except that the term shall not include any beverage defined as beer, malt liquor or malted beverage that has an alcohol content of less than four percent (4%) alcohol by volume. See the definitions found within the Utah alcoholic beverage control act, Utah Code Ann. title 32B, and in section 17-1-6 of this code.

MASSAGE THERAPY AND MASSAGE THERAPIST (AND RELATED TERMS): See the definitions found in Utah Code Ann. section 58-47b-102. The practice whereby a person, either by the hands or with a mechanical or electrical apparatus, administers to another person effleurage (stroking), friction (rubbing), petrissage (kneading), tapotement (percussion) and vibration (shaking or trembling), or variations of these, and the use of rehabilitative procedures involving the muscles by nonintrusive means and without spinal manipulation. The practice of massage may include the use of oil rubs, heat lamps, salt glows, hot and cold packs or tub, shower, steam or cabinet baths. For purposes of this title, "massage" also includes shiatsu and reiki therapy.

~~MASSAGE APPRENTICE: A person who is licensed as a massage apprentice by the state of Utah.~~

~~MASSAGE ESTABLISHMENT: Any place where massages are given for hire.~~

~~MASSAGE TECHNICIAN: A person who is licensed as a massage technician by the state of Utah.~~

~~MECHANICAL BULL: An automatic amusement device that is ridden by the public.~~

MINOR: Any person individual under the age of twenty one (21) years who does not meet the definition of "adult" as set forth in this section, or as otherwise set forth in the applicable provisions of the Utah Code Ann.

NO SOLICITATION SIGN: A reasonably visible and legible sign that states "No Soliciting", "No Solicitors", "No Salespersons", "No Trespassing", or words of similar import.

~~NONPUBLIC DANCES: Dances conducted and sponsored by public or private schools, not for profit associations, the city or churches for the students or members thereof, even though an admission fee is charged. Dances conducted in private homes on a private basis shall not be deemed to be public dances, and shall be exempt from the licensing provisions of this title.~~

~~NUDE DANCING AGENCY AND SEMINUDE DANCING AGENCY: Any person who furnishes, books or engages or offers to furnish, book or otherwise engage the service of a professional dancer licensed pursuant to this title for performance or appearance at a business licensed for nude entertainment, seminude dancing bars, or adult theaters.~~

~~NUDE ENTERTAINMENT BUSINESS: Any business, including an adult theater, where employees perform or appear, in the presence of patrons of the business, in a state of nudity or seminudity. A business shall also be presumed to be a nude entertainment business if the business holds itself out as such a business. Notwithstanding the foregoing, "nude entertainment business" does not include:~~

~~A. A preparatory school licensed by the state, or a college, junior college or university supported entirely or partly by taxation.~~

~~B. 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.~~

NUDITY (AND RELATED TERMS) STATE OF NUDITY: See the definitions found in Utah Code Ann. section 10-8-41.5 or successor provisions.

~~A. The human body in a state of undress allowing the viewing of the anus, genitals, or female nipple or areola.~~

~~B. A state of dress which fails to opaquely cover the anus, genitals, or nipple or areola of the female breast.~~

NUMBER OF EMPLOYEES: The average number of employees engaged in business at the place of business each regular working day during the preceding calendar year. In computing such number, each regular full time employee shall be counted as one full time employee and each employee which is not a regular full time employee shall be counted as a part time employee.

NUMISMATIC DEALER: Any person who engages in the business of purchasing, selling, bartering or exchanging coins or currency.

OPERATOR: The manager or other natural person individual principally in charge of a sexually oriented business.

OUTCALL SERVICES: Services of a type performed by a sexually oriented business employee away from the licensed premises, including, but not limited to, escorts, models, dancers, entertainers and other similar employees, regardless of the location of the premises of the licensed business employing the outcall employee.

OWNER: The person having ownership.

OWNER OCCUPIED: A residence occupied as a primary residence by the legal owner of the building within which the residence exists. For example a single-family home occupied as a primary residence by the legal owner of the building is owner occupied. Similarly a residence within a fourplex building occupied as a primary residence by the legal owner of the building, even though the other three (3) residences in the building are occupied by third parties under rental agreements, is owner occupied.

PARTICIPANT: A temporary merchant, not licensed as such, participating in a sales event.

PATRON: Any person individual who contracts with or employs any escort services or escort, or is a customer of any business licensed pursuant to this title.

PAWNBROKER: Any person who loans money on deposit of personal property, or deals in the purchase, exchange or possession of personal property on condition of selling the same back again to the pledger or depositor, or who loans or advances money on personal property by taking chattel mortgage security thereon and takes or receives such personal property into his or her possession, and who sells the unredeemed pledges together with such new merchandise as will facilitate the sale of same.

PECUNIARY COMPENSATION: Any commission, fee, salary, tip, gratuity, hire fee, profit, reward or any other form of consideration given in return for goods or services offered by a business.

PERSON: Includes any individual, group of individuals, partnership, corporation, association business entity, group of business entities, or other legal entity or legal entities.

PLACE OF BUSINESS: Each separate location at or from which business is conducted or transacted. For this purpose branch locations and mobile business locations are each considered a separate place of business requiring a business license.

~~POLITICAL POSITION: Any actually held belief, or information for, against, or in conjunction with any political, social, environmental or humanitarian belief or practice.~~

PREMISES: Any room, house, building, structure, or place licensed by or defined in this title.

~~PRIVATE SCHOOL: For the purposes of this title, any school accredited by the state of Utah, whether by formal state action or by state acceptance of accreditation given to an academic program, which has been accepted as an alternative to public schools.~~

PROGRAM: As used in this title, the good landlord program of the city.

PROPRIETOR: Any person who, as the owner, lessee, or proprietor manager, has under that person's control an arcade a business.

~~PUBLIC DANCE: Any dance to which the general public may gain admission, with or without the payment of a fee, or any dance which is conducted in the normal course of business on the premises of a restaurant, tavern or private club, but shall not include any dance conducted on or in any public park, street or public grounds by permission of the city, under the supervision of the city administrator or his/her assignee, or the Salt Lake County recreation department.~~

~~PUBLIC DANCE HALL: Any room, place or space in which a public dance is held and in which dancing or providing space for dancing is the principal business.~~

~~PUBLIC SCHOOLS: The public education system and higher education system as defined in article X of the Utah constitution and as implemented by appropriate state statutes.~~

REGISTERED SOLICITOR: Any person individual who has been issued a current certificate residential solicitation license by the city (see sections 4-2F-1 through 4-2F-16 inclusive).

~~RELIGIOUS BELIEF: 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.~~

~~RELIGIOUS OR CHARITABLE ORGANIZATION: Any organization which can provide written approval from the internal revenue service that the organization has been granted tax exempt status under section 501(c)(3) of the internal revenue code, or its successor.~~

RENTAL DWELLING UNIT: Any individual dwelling unit, other than an exempt dwelling unit, that is rented, leased, or hired out, or provided as a benefit to be used or occupied as a home or residence. This definition is inclusive of any buildings or accessory dwelling units, apartment buildings, or other buildings so arranged, designed, built, rented, let, or hired out to be used or occupied as the home, residence, or dwelling unit of one or more families living independently of each other. For the purpose of this definition, a residence that is under a bona fide contract of sale to an occupying purchaser is not a rental dwelling unit.

RESIDENCE: Any living unit contained within any building or structure that is occupied by any person individual as a dwelling, together with the lot or other real property on which the living unit is located. This term does not include the sidewalk, public street or public rights of way.

RESIDENTIAL SOLICITATION: See the "Door To Door Solicitation" definition in this section.

RESIDENTIAL SOLICITATION SALE: See the "Door To Door Solicitation Sale" definition in this section.

RESIDENTIAL TREATMENT FACILITIES: An adult daycare (limited and general), group home (large and small), residential substance abuse treatment home (large and small), and/or transitional home (large and small), all as defined in title 13 of this code. "Residential treatment facilities" is a special purpose definition used to apply general requirements to each of its constituent defined facilities.

RESPONSIBLE PERSON OR ENTITY: That person or entity responsible to refund any money or reversing any credit card charges for persons who timely rescind any sale pursuant to applicable contractual rights or legal requirements, 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.

SALE OF GOODS OR SERVICES: The conduct and agreement of a solicitor and the competent individual in a residence regarding particular goods or services that entitles the consumer to rescind the same within three (3) days under any applicable federal, state or local law.

SALES EVENT: An event where two (2) or more temporary merchants, not more than one of whom is licensed as a temporary merchant, display any goods, wares or services at a location in the city for the purpose of sale or soliciting orders to be filled in the future, for financial gain or profit.

SCRAP METAL PROCESSOR: Any person who, from a fixed location, utilizes machinery and equipment for processing and manufacturing iron, steel or nonferrous scrap into prepared grades, and whose principal product is scrap iron, scrap steel or nonferrous metallic scrap for sale for remelting purposes.

SECONDHAND COMPACT DISC DEALER: Any person engaging in the business of purchasing, bartering, exchanging or selling secondhand compact discs or "CDs", including DVDs.

SECONDHAND COMPUTER DEALER: Any person engaging in the business of purchasing, bartering, exchanging or selling secondhand computers and/or computer parts.

SECONDHAND JUNK COLLECTOR: Any person not having a fixed place of business within the corporate limits of the city who goes from house to house or place to place gathering, collecting, or otherwise dealing solely in secondhand rags, papers, metals or other articles commonly known as "junk" for his own account.

SECONDHAND JUNK DEALER: Any person engaging in the business of purchasing, bartering, exchanging or selling:

A. Secondhand metals other than precious metals; or

B. Glass, rags, rubber, paper or other articles commonly known as "junk" from a fixed place of business.

For the purpose of this title, a "junk dealer" shall not include a scrap metal processor.

SECONDHAND PRECIOUS METAL AND/OR PRECIOUS GEM DEALER: Any person engaging in the business of purchasing, bartering, exchanging or selling, in any form:

A. Secondhand gold, silver, platinum or other precious metals, or secondhand articles containing any of such metals, but not including "coins", "currency" or "bullion"; or

~~B. Secondhand precious gems or any secondhand articles containing any precious gems.~~

SELL, SALE, AND TO SELL: 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 principal, proprietor, or as an agent, servant or employee, unless otherwise defined in the alcoholic beverage control act or regulations adopted by the state alcoholic beverage control commission.

~~SEMINUDE: A state of human undress in which opaque cloth or other opaque material fully covers only the areola of the female breast, the genitals, pubic region, and anus.~~

~~SEMINUDE BOOKING AGENCY: Any person which furnishes, books, or otherwise engages or offers to furnish, book, or otherwise engage the service of a professional dancer licensed pursuant to this title for seminude performance or appearance.~~

~~SEMINUDE ENTERTAINMENT BUSINESS: A business, including adult theater, where employees perform or appear in the presence of patrons of the business seminude. A business shall also be presumed to be a seminude entertainment business if the business holds itself out as such a business.~~

SERVICES: Those intangible goods or personal benefits offered, provided, or sold to a competent individual.

SEXUALLY ORIENTED BUSINESS (AND RELATED TERMS): See the definitions found in Utah Code Ann. section 10-8-41.5 or successor provisions. An adult bookstore, adult video store, adult motion picture theater, adult theater, escort service, nude and/or seminude dancing agency, nude and/or seminude entertainment business or entertainer, and/or an outcall service. "Legitimate artistic modeling", as defined in this article, is not a sexually oriented business. This definition does not include a 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.

~~SEXUALLY ORIENTED BUSINESS EMPLOYEES:~~

~~A. Those employees who work on the premises of the sexually oriented business in activities related to the sexually oriented portion of the business. This includes all managing employees, dancers, entertainers, escorts, models and other similar employees whether or not hired as employees, agents or as independent contractors.~~

~~B. Sexually oriented business employees do not include individuals whose work is not directly related to the sexually oriented portion of the business such as janitors, bookkeepers and similar employees, cooks, serving persons, bartenders and similar employees, except where they are managers or supervisors of the business or where the employee will be required or chooses to appear in the sexually oriented business in a nude or seminude condition.~~

~~C. All persons making outcall meetings, including escorts, models, entertainers, guards, escort runners, drivers, chauffeurs and other similar employees, are sexually oriented business employees, regardless of the location of the premises of the licensed business employing the outcall employee.~~

~~SHOOTING GALLERY: A place of business where shooting of any kind is done, including a shooting range.~~

SOLICITING, SOLICIT, SOLICITATION: Any of the following activities when conducted on a door to door home contact basis:

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.

SOLICITOR, SOLICITORS: ~~A person or persons~~ An individual or individuals engaged in door to door solicitation. A ~~solicitor's residential solicitation~~ license ~~and certificate~~ does not authorize or enable hawking goods or contacting people in public places, in a park or on the street. See sections 4-2F-1 through 4-2F-16 inclusive.

~~SPECIFIED ANATOMICAL AREAS: The human male or female pubic area or anus with less than a full opaque covering, or the human female breast from the beginning of the areola, or nipple to its end with less than full opaque covering.~~

~~SPECIFIED CRIMINAL ACTS: Any act defined in title 76 of the Utah Code Ann. or in titles 6 or 7 of this code as a crime.~~

~~A. Providing material harmful to minors;~~

~~B. Prostitution or prostitution offenses;~~

~~C. Unlawful sexual intercourse with a minor;~~

~~D. Lewdness or gross lewdness;~~

~~E. Rape;~~

~~F. Object rape;~~

~~G. Forcible sexual abuse;~~

~~H. Contributing to the delinquency of a minor;~~

~~I. Pornographic, obscene harmful materials, or lewd performance offenses;~~

~~J. Any sexual offense involving a child;~~

~~K. Any offense involving theft or dishonest practices;~~

~~L. Any offense against government order;~~

~~M. Racketeering enterprise offenses;~~

~~N. Money laundering and currency transportation reporting offenses;~~

~~O. Furnishing alcohol, drugs or paraphernalia, or sale of firearms to a minor;~~

~~P. Offenses committed in other jurisdictions which are substantially similar to those listed in this definition, regardless of the exact title of the offense; or~~

~~Q. Attempt, aiding, abetting, solicitation, or conspiracy to commit any of the offenses described in this definition.~~

SPECIFIED SEXUAL ACTIVITIES: Any sexual act defined in title 76 of the Utah Code Ann. or in titles 6 or 7 of this code as a crime.

~~A. Acts of:~~

~~1. Masturbation;~~

~~2. Human sexual intercourse;~~

~~3. Sexual copulation between a person and a beast;~~

~~4. Fellatio;~~

~~5. Cunnilingus;~~

~~6. Bestiality; or~~

~~7. Anal copulation between two (2) persons or person and a beast.~~

~~B. Manipulating, caressing or fondling by any person of:~~

~~1. The genitals of a human, including oneself;~~

~~2. The pubic area of a human, including oneself; or~~

~~3. The covered or uncovered female nipple or areola, including of oneself.~~

~~C. Flagellation or torture 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 one so clothed.~~

SUBSTANTIATED REPORT: An oral, written or electronic report that is submitted to and documented by the city that provides any of the following information regarding a person **or business** holding a city business license of any type:

A. Documented verification of a previously undisclosed disqualifying factor;

B. Probable cause that the person **or business** has committed a disqualifying factor which has not yet been determined to be a disqualifying factor;

C. Documented, eyewitness accounts that the person **or business** has engaged in repeated patterns of behavior that demonstrates failure by the person **or business** to adhere to the requirements of this title; or

D. Probable cause that continued licensing of the person **or business** demonstrates exigent circumstances that threaten the health, safety or welfare of any **individuals or entities person or persons** within the city.

TEMPORARY MERCHANT:

A. Any person, whether a resident of the city or not, who within the limits of the city:

1. Engages in a temporary business of selling and/or delivering goods, wares or services, or who conducts meetings open to the general public where franchises, distributorships, contracts or business opportunities are offered to the public; or

2. Sells, offers or exhibits for sale any goods, wares or services, franchises, distributorships, contracts or business opportunities, during the course of or any time within six (6) months after a lecture or public meeting pertaining to such goods, wares, services, franchises, business opportunities, contracts or distributorships.

B. The foregoing notwithstanding, a "temporary merchant", for the purposes of this title, shall not include the following:

1. A person who shall occupy any business establishment for the purpose of conducting a permanent business therein; provided, however, that no person shall be relieved from the provisions of this title by reason of a temporary association with any local dealer, trader, merchant or auctioneer, or by conducting such temporary or transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant or auctioneer; or

2. Any sales of merchandise damaged by smoke or fire, or of bankrupt concerns, where such stock has been acquired from a merchant or merchants of the city regularly licensed and engaged in business; provided, however, no such stock of merchandise shall be augmented by new goods; or

3. A person who sells ~~his or her~~ the person's own property which was not acquired for resale, barter or exchange, and who does not conduct such sales more than twice during any calendar year; or

4. Art exhibits, where participating artists sell their original works, and which do not contain any sales of artwork purchased or taken on consignment and held for resale, providing such art exhibits are sponsored by a local, responsible organization; or

5. "Religious or charitable organizations", as defined in this section; or

6. Sales of goods, wares or services at a convention, meeting or exposition which is not open to nor advertised to the general public, to the extent such sales are made to registered members of the sponsoring organization, provided the sponsoring organization or its designated agent delivers to the city license supervisor, at least fifteen (15) days in advance of such convention, meeting or exposition, a statement of the organization's qualification for this exemption and a statement of the common interest or category of those who will be attending such convention, meeting or exposition; and providing all persons selling or purchasing goods, wares or services at such convention, meeting or exposition shall wear or display in a conspicuous manner a tag stating the name of the sponsoring organization.

TEMPORARY MERCHANT SPONSOR: Any person who leases or rents a building or portion of a building, or other space, for the purpose of conducting a sales event with two (2) or more participants.

TOBACCO PRODUCT: As defined in Utah Code Ann. subsection 10-8-41.6(1)(j) or successor provisions.

~~A. Any cigar, cigarette, or electronic cigarette as defined in Utah code section 76-10-101;~~

~~B. A tobacco product as defined in Utah code section 59-14-102, including;~~

~~1. Chewing tobacco; or~~

~~2. Any substitute for a tobacco product, including flavoring or additives to tobacco; and~~

~~C. Tobacco paraphernalia as defined in Utah code section 76-10-104.1.~~

TOBACCO SPECIALTY BUSINESS: As defined in Utah Code Ann. subsection 10-8-41.6(1)(h) or successor provisions. A commercial retail establishment that, through signage, floor space allocation and sales revenue, demonstrates it is substantially engaged in the offer and sale of tobacco products. Any one or more of the following factors indicate the operation of a tobacco specialty business:

~~A. The sale of tobacco products accounts for more than thirty five percent (35%) of the total quarterly gross receipts for the establishment for two (2) successive calendar quarters; to facilitate the city's perception of this factor, a licensee operating a retail sales business that includes the offer of tobacco products shall send to the city's business license administrator quarterly gross sales information within ten (10) business days of the end of each calendar quarter. This quarterly data provision requirement does not apply to businesses already licensed as a tobacco specialty business, or to business locations within which an area is licensed by the state of Utah as a pharmacy;~~

~~B. The name of the business evidences holding oneself out as a tobacco specialty business; e.g., "Smoke Shop", "Vape Shop", etc., as opposed to "Tommy's Trinkets" or "Nonie's Notions";~~

~~C. The allocation of floor and shelf space inside the business shows a focus on tobacco products. Forty percent (40%) or more is devoted to the offer, display and/or storage of tobacco products.~~

~~TRANSIENT AUCTION HOUSE: Any person or any agent, servant or employee of any person who shall sell, or offer for sale at auction, any goods, wares, merchandise or articles for value in or from any hotel, rooming house, dwelling house, boarding house, store, storeroom, stall, tent, building, structure, stand or other place indoors or outdoors, and who shall occupy such place for the purpose of conducting a temporary business in that place.~~

WAIVER: The written form provided to an 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 title and which contains applicant's signature, which is either executed in the presence of the business licensing authority, or notarized at the time the waiver is signed. (Ord. 12-13, 6-13-2012; amd. Ord. 13-14, 3-27-2013; Ord. 16-01, 1-13-2016; Ord. 16-06, 1-13-2016; Ord. 16-11, 3-23-2016; Ord. 21-04, 2-10-2021)

4-1A-3: APPLICABILITY OF THIS CHAPTER:

The provisions of this chapter apply to all businesses and employees in the city. (Ord. 12-13, 6-13-2012)

4-1A-4: GENERAL BUSINESS AND SPECIAL BUSINESS LICENSES NEEDED:

Certain types of businesses have additional and special licensing and business conduct requirements, and these are set forth in chapter 2 of this title. For these specially addressed types of business, a general business license and a special business license will be required, including the payment of such license fees as are provided from time to time by the city council. (Ord. 12-13, 6-13-2012)

ARTICLE B. BUSINESS LICENSES

SECTION:

- 4-1B-1: Unlawful To Conduct Business Within The City Without A Business License
- 4-1B-2: ~~Responsibility For Obtaining A Business License~~ [Reserved]
- 4-1B-3: Business License Authority
- 4-1B-4: Powers Of Business License Authority, Including Applicant Investigation
- 4-1B-5: City Inspection Authority
- 4-1B-6: License ~~Nontransferable~~; Limited To Licensed Name ~~And Premises~~
- 4-1B-7: License Application Requirements
- 4-1B-8: Furnishing False Information
- 4-1B-9: Application Numbering And Filing
- 4-1B-10: Engaging In Business Prohibited During Investigation
- 4-1B-11: Applicant Investigation [Reserved]
- 4-1B-12: Issuance Of License
- 4-1B-13: Index Of Licensed Persons And Businesses
- 4-1B-14: License Available for Inspection Posting And Display Required
- 4-1B-15: Exemptions For Nonprofit Businesses, Organizations And Other Entities [Reserved]
- 4-1B-16: License Fees
- 4-1B-17: License Year; Fee Payments And Prorations
- 4-1B-18: Late Payment Penalty And Consequences
- 4-1B-19: Fee Exemptions For Businesses Operating For Profit
- 4-1B-20: Mistakes In Fee Calculations
- 4-1B-21: Deviations Prohibited
- 4-1B-22: License Fee Collection; Civil Actions Authorized
- 4-1B-23: Refunds
- 4-1B-24: No License Transfers; and Change of License Information
- 4-1B-25: Designation Of Agent For Service Of Process
- 4-1B-26: Recordkeeping Required
- 4-1B-27: Illegality Or Deceptive Artifices [Reserved]
- 4-1B-28: Hours Of Operation
- 4-1B-29: ~~Dealing With Certain Persons Prohibited~~ [Reserved]
- 4-1B-30: License Termination Following Cessation Of Operations

4-1B-31: ~~Equivalent Alternative Methods Of Regulation~~ [Reserved]

4-1B-1: UNLAWFUL TO CONDUCT BUSINESS WITHIN THE CITY WITHOUT A BUSINESS LICENSE:

~~A. Unless specifically exempt from such requirement in this title or other applicable law, it shall be unlawful for any person to engage in or carry on any business within the City city, without first procuring a business license, or for any person to continue to engage in or carry on a business when the required business license has been suspended or revoked; and~~

~~B. Every person engaging in business within the city shall apply for and maintain in full force and effect a valid city business license. (Ord. 12-13, 6-13-2012)~~

4-1B-2: ~~RESPONSIBILITY FOR OBTAINING A BUSINESS LICENSE~~ [Reserved]:

~~Every person engaging in business within the City shall apply for and maintain in full force and effect a valid City business license. (Ord. 12-13, 6-13-2012)~~

4-1B-3: BUSINESS LICENSE AUTHORITY:

~~The business license authority shall have responsibility for issuing business licenses and collecting ensuring all business license fees are paid and taxes, based on the rates and charges established by law ordinance or resolution and as set forth in the City's general city's consolidated fee schedule, and assist in the enforcement of civil and criminal actions brought against persons violating this title. (Ord. 12-13, 6-13-2012)~~

4-1B-4: POWERS OF BUSINESS LICENSE AUTHORITY, ~~INCLUDING APPLICANT INVESTIGATION~~:

~~The business license authority and all license inspectors in the performance of their official duties shall have and exercise all the powers allowed by law the following powers:~~

~~A. Notices Of Violation; Criminal Referrals: The business license authority may issue notices of violation and seek suspension or revocation of a license and/or assess fines for violations of the provisions of this title using the procedures set forth in title 16 of this Code, and may refer cases to the criminal authorities for prosecution as crimes.~~

~~B. Inspections: The business license authority and any authorized agent may enter free of charge, during normal business hours, the physical space being used or occupied by any business, in conformity with law, and demand the exhibition of the applicable City license for the current term from any person engaged or employed in the operation or transaction of such business or the operation of such vehicle, and may generally inquire into and inspect the conduct and operations of the business.~~

~~C. Right To Consider Individual Officers Of An Artificial Entity: In determining whether the applicant is entitled to a business license, the business license authority may disregard the corporate or business entity status, if any, of the applicant and examine the qualifications, or lack of qualifications, of the individual owners, officers, agents and employees of the business entity.~~

~~D. Conditions Precedent To License Issuance: The business license authority shall not issue a license unless the application forms have been properly completed and the annual business license fee for the first year has been paid in advance. The business license authority may require the applicant to fully disclose the nature and scope of the proposed business activity. In making the determination to issue the business license, the business license authority may look to the previous activities of the business or its principals and employees.~~

~~EA. Time Period Within Which To Act On License; Denial: The business license authority may take up to ninety (90) thirty (30) days from the date when the license completed application is received by the business license authority, to review an application and investigate the relevant facts. If the business license authority concludes to deny an application, a statement of the facts and reasons for the denial shall be given to the applicant.~~

~~F. Time Extensions: Upon a showing of good cause, the business license authority may grant extensions of time.~~

~~GB. License Authority Denial: The business license authority shall have the authority, without a hearing, to deny a license for the reasons provided for in this article, subject to appeal rights.~~

~~HC. Business License Authority Investigation: The business license authority may, on his or her the business license authority's own initiative or in response to complaints from the general public or any city department or division, investigate and gather evidence of violations of this title or other circumstances which may give rise to a denial, suspension or revocation; or seek the police department's or other investigative organization's assistance or investigations. In particular, the business license authority may, prior to the issuance of any business license required by this title, investigate any applicant for such license, if there is reasonable cause to believe that the applicant:~~

~~1. Has filed an application which is incomplete, erroneous, or false in any respect, except that any individual name or business entity name that is substantially similar to the correct name shall not be deemed to be incomplete, erroneous, or false;~~

~~2. Fails in any respect to qualify to do business in the city under any federal, state or city law, rule or regulation;~~

~~3. Has committed such act or acts as may be grounds for revocation or denial of a license application under any federal, state or city law, rule or regulation; or~~

~~4. Investigation is required by city ordinance. (Ord. 12-13, 6-13-2012)~~

4-1B-5: CITY INSPECTION AUTHORITY:

A. New Business Premises Inspections: Prior to the issuance of a license to a person to engage in a new business not previously licensed under this title, the person or applicant shall, subject to constitutional limitations, permit inspections to be made of the prospective place of business by representatives of the appropriate departments of the city to ensure compliance with zoning, building, fire and health, and other codes, statutes, ordinances, and laws which may apply to the business and premises for which a license application was submitted. No license shall be granted without the approval of all such required inspections.

B. Periodic Inspection; Time To Correct: Places of business licensed within the city shall be inspected periodically by departments of the city, county or the state for compliance with zoning, building, fire and health codes. Written notice shall be given by a code enforcement officer the business license authority to a licensed person or business upon the finding of any code infractions,

which shall provide for time sixty (60) days in which to correct such infractions, pursuant to title 16, unless the noncompliant issue constitutes a hazard or exigent circumstance requiring immediate remediation under law. Failure to bring the licensed premises into legal compliance may result in the revocation of the license by the city.

C. Identifying Violations: From time to time one or more agents of the city, including, but not limited to, police officers, code enforcement officers, and community enforcement officers, are authorized and required to enter and examine the physical locations and space occupied and used by any business or vehicle, for which a city license is required. They shall determine if such places of business, persons and vehicles are properly licensed and that no business, other than the one described in and covered by the license, is operating or transacting business. They may issue citations or otherwise enforce the law, and shall advise the business license authority of each person doing business in violation of this title. (Ord. 12-13, 6-13-2012)

4-1B-6: LICENSE NONTRANSFERABLE; LIMITED TO LICENSED NAME AND PREMISES:

~~A. No Transfer Of License: No license granted or issued under the provisions of this title shall be in any manner assignable or transferable unless authorized by the business license authority in writing; or authorize any person, other than is therein named, to do business; or authorize any other business, calling, trade or profession than is therein described to be done or transacted; or the business, calling, trade or profession therein described to be done or transacted, at any place other than is therein provided.~~

~~B. No Transfer Of Entity Ownership: If an entity is the licensee, the licensee may not transfer more than ten percent (10%) of the ownership interest in such entity within any two (2) year period without notice to and approval by the business license authority.~~

~~C. Duty To Use Name Identified In License Application: It is unlawful for a business to do business under any name other than the business name specified in the application. (Ord. 12-13, 6-13-2012)~~

4-1B-7: LICENSE APPLICATION REQUIREMENTS:

A. Written Application: Applications for licenses and permits required by this title shall be made in writing online to the business license authority in the absence of provision to the contrary, which applications shall be made upon forms provided by the city. The application shall show:

1. Legal Name: The correct legal name of each applicant, corporation, partnership, limited partnership or entity doing business under an assumed name.

2. Doing Business Under Assumed Name: If the applicant is a corporation, partnership, limited partnership, individual or business entity doing business under an assumed name, submittal of the information required for individual applicants for each partner, principal, officer, director, and any shareholder (corporate or personal) of more than twenty percent (20%) fifty-one percent (51%) or more of the ownership interest of the stock of any applicant. Any holding company or any business entity holding more than twenty percent (20%) fifty-one percent (51%) or more of the ownership interest of an applicant shall be considered an applicant for purposes of disclosure under this article.

~~3. Signatories: Identification by all corporations, partnerships or noncorporate entities included on the application of each individual authorized by the corporation, partnership or noncorporate entity to sign the checks for such corporation, partnership or noncorporate entity.~~

4. Applicant Information: For all applicants, a statement of the business address, contact information, and other information requested of the forms provided by the business license authority which are not disallowed by law:

- ~~a. Any other names or aliases used by the individual;~~
- ~~b. The age, date and place of birth;~~
- ~~c. Present business address and telephone number (if applicable);~~
- ~~d. Present residence and telephone number; and~~
- ~~e. Utah driver's license, social security or identification number.~~

5. Age or Business Entity; Citizenship: Acceptable written proof that an individual is at least twenty one(21) years of age and a U. S. citizen each applicant is a person, as defined in section 4-1A-2, and is either (a) an individual and an adult, as defined in section 4-1A-2 of this code, or (b) a business entity, as defined in section 4-1A-2; provided that the business license authority is empowered to waive this the age requirement in appropriate cases.

~~6. Employment History: A statement of the business, occupation and employment history of the applicant for three (3) years immediately preceding the date of the filing of the application.~~

~~67. License Type: The kind of license desired, stating in detail the business to be performed, practiced or carried on.~~

~~78. License Class: The class of license desired, if the particular business activity has special licenses divided into classes.~~

~~89. Place: The place where such business, calling, trade or profession is to be carried on, giving the street number if such business is to be carried on in any building or enclosure.~~

~~910. Term: The period of time for which such license is desired to be issued (i.e., an ongoing business activity or a temporary business activity).~~

~~11. Convictions: Disclosure of all class B misdemeanor and higher criminal convictions for five (5) years prior to the application date and all felony criminal convictions for the applicant, individual or other entity subject to disclosure under this article. This disclosure shall include the date, place, nature of each conviction or plea of no contest, 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.~~

~~1012. Application Fee: A nonrefundable application fee in an amount adopted by the city council in its uniform consolidated fee schedule.~~

~~13. Additional Information:~~

~~a. The application may also request such additional information as may reasonably be needed to demonstrate that the applicant:~~

~~(1) Meets all requirements of applicable city ordinances, including requirements regarding unexpunged criminal convictions;~~

~~(2) Is not in default under the provisions of any city ordinance; and~~

~~(3) Is not overdue on any indebtedness or obligation owed to the city.~~

b. The application may also require information reasonably calculated to demonstrate that the proposed use of any premises by the applicant will not be in violation of city zoning regulations, that the principals of the applicant's business are properly bonded if bonding is required, and that the applicant will otherwise be in full compliance with all applicable city, state and federal laws and ordinances.

B. Accuracy And Veracity Required: The truthfulness, completeness and accuracy of all of information provided by an applicant shall be attested to by the applicant or an authorized representative thereof.

C. Misleading Prohibited: Failure to provide all required information or providing false or misleading information in the application shall constitute grounds for denial of the application or revocation of an existing permit or license, and shall constitute a misdemeanor, if done ~~wilfully~~ **willfully** with the intent to mislead the city.

D. Notice Of Change To Application Information: Any change in the information required to be submitted under this article for a business license shall be given in writing to the business license authority within fourteen (14) days after such change. (Ord. 12-13, 6-13-2012)

4-1B-8: FURNISHING FALSE INFORMATION:

It is unlawful for any person to ~~wilfully~~ **willfully** give the licensee or ~~his or her~~ **the licensee's** agents or employees false or misleading information which the licensee is required by this chapter to obtain from such person. (Ord. 12-13, 6-13-2012)

4-1B-9: APPLICATION NUMBERING AND FILING:

The license application, with ~~any other~~ **any other** accompanying ~~documents~~ **documents** ~~statements and bonds~~, shall be numbered by the business license authority in the ~~manner deemed to be appropriate by the business license authority.~~ **manner deemed to be appropriate by the business license authority.** ~~order in which they appear in the license supervisor's office and, after numbering, the bonds shall be filed in the office of the business license authority, and the applications shall be filed in the office of the business license authority in the order in which they are recorded in the business license master list. Each application shall bear its proper number and shall be filed in said office.~~ (Ord. 12-13, 6-13-2012)

4-1B-10: ENGAGING IN BUSINESS PROHIBITED DURING INVESTIGATION:

It is unlawful for any person applying for a business license which requires investigation by the business license authority to engage in the business for which license application is made, until such investigation is completed and the license approved and issued. (Ord. 12-13, 6-13-2012)

4-1B-11: ~~APPLICANT INVESTIGATION~~ **[Reserved]**:

~~A. Investigation: The business license authority may, prior to the issuance of any business license required by this title, investigate any applicant for such license, if there is reasonable cause to believe that the applicant:~~

~~1. Has filed an application which is incomplete, erroneous or false in any respect;~~

~~2. Fails in any respect to qualify to do business in the city under any federal, state or city law, rule or regulation; or~~

~~3. Has committed such act or acts as may be grounds for revocation or denial of a license application under any federal, state or city law, rule or regulation; or~~

~~4. Investigation is required by city ordinance.~~

~~B. Documents And Witnesses: The business license authority may compel the production of documents and witnesses in order to conduct such investigation as provided by this section. (Ord. 12-13, 6-13-2012)~~

4-1B-12: ISSUANCE OF LICENSE:

A. License Issuance: Within thirty (30) days after receiving a completed application and completion of any needed investigation, or as in law specifically required, the business license authority shall issue the license, provided all fees are paid and legal requirements met, or shall deny the license if the legal requirements are not met.

B. Formal Requirements: All ~~certificates of~~ licenses shall be signed by the business license authority, which may be by ~~facsimile electronic~~ signature, and shall contain the following information:

1. The name of the person to whom such ~~certificate license~~ has been issued;
2. The kind of license, and the class of license, if such licenses are divided into classes;
3. The term of the license, stating the commencing date and the expiration date.

C. Issuance Approval: No new business license ~~certificate~~ which requires inspection or approval of any department of city government, whether new or renewal, shall be delivered or mailed to the applicant, until all legal requirements for the issuance or renewal have been met. (Ord. 12-13, 6-13-2012; amd. Ord. 15-22, 8-25-2015)

4-1B-13: INDEX OF LICENSED PERSONS AND BUSINESSES:

The business license authority shall keep a registry containing the names of the businesses and persons holding business licenses. (Ord. 12-13, 6-13-2012)

4-1B-14: LICENSE ~~AVAILABLE FOR INSPECTION POSTING AND DISPLAY REQUIRED:~~

~~Each license shall be available for inspection during business hours. Every certificate of license issued shall be posted by the applicant in a conspicuous place upon the wall of the building, room or office of the store or place in which such licensed business is carried on, so that the same may be easily seen, and when such certificate of license shall have expired or be revoked or suspended, it shall be removed by the applicant from such place in which it has been posted, and no certificate of license which is not in force and effect shall be permitted to remain posted upon the wall or any part of any room, store, office or place of business after the period of such certificate or license has expired. It shall be the duty of each and every person and business holding a business license from~~

the city to show the license certificate at any proper time when requested so to do by any police officer or license inspector. Any person holding a separate business license must have such license on their person at all times during the business activity. (Ord. 12-13, 6-13-2012)

4-1B-15: EXEMPTIONS FOR NONPROFIT BUSINESSES, ORGANIZATIONS AND OTHER ENTITIES
[Reserved]:

The provisions of this title shall not be deemed or construed to require the payment of a license fee for the issuance of a license to any institution or organization which is conducted, managed or carried on wholly for the benefit of charitable purposes from which profit is not derived, directly or indirectly, by any person; nor shall the payment of a license fee be required to issue a license for the conducting of any entertainment, concert, exhibition or lecture whenever the receipts from such are to be appropriated to any church, school, governmental entity, or nonprofit organization. (Ord. 12-13, 6-13-2012)

4-1B-16: LICENSE FEES:

Annual license and other fees shall be those periodically adopted by the city council in its uniform consolidated fee schedule. (Ord. 12-13, 6-13-2012)

4-1B-17: LICENSE YEAR; FEE PAYMENTS AND PRORATIONS:

A. Fees To Be Paid In Advance In U.S. Legal Tender: All license fees shall be paid in advance in legal tender of the United States at the main office of in any manner allowed by the city.

B. License Year; Renewal Date; Prorations:

1. License Year; Good Landlord Program: Except for any first year prorations, a "license year" will run for twelve (12) consecutive calendar months following the date of commencement and end on the last day of the twelfth month. Notwithstanding the foregoing, participants in the city's "good landlord" program, governed by chapter 2, article R of this title, must renew their good landlord certification every four (4) years and provide the business license authority with a copy of the certificate of completion, and thus good landlord certification will run for forty eight (48) consecutive calendar months.

2. Administratively Assigning License Year Dates: Annual licenses issued pursuant to this title need not be issued on a calendar year basis. In order to have city licenses come due for renewal and spread city administrative handling of license issuance and renewals in a roughly uniform basis throughout the calendar year, the business license authority shall cause the city to be divided into four (4) geographic quadrants that are periodically established to equalize estimated licensing activity in the city into fourths. Each geographic quadrant will be assigned a month of commencement. Licenses issued within each quadrant shall commence on the first day of that quadrant's designated commencement month, also known as the "renewal date", as follows: quadrant A, July; quadrant B, October; quadrant C, January; and quadrant D, April. Licenses for preschools and daycares will not use the geographic quadrant system.

3. Pro Rata Charges For Initial License Period: The initial license period shall run from the first day of the month the license was issued through the last day of the month immediately preceding

the applicable quadrant's renewal date. The first year's annual license fee shall be reduced on a pro rata basis, for each quarter of a year for which the license was not in effect. Any partial quarter or three (3) month period of the license year in which the initial license was granted shall be counted as a period for which full pro rata payment is required. This pro rata payment shall be administered so that a license applicant shall pay a percentage of the annual license fee periodically established in the city council uniform fee schedule, computed on a license year quarter, as follows:

a. One hundred percent (100%) for a license issued in the first three (3) calendar months of the initial license year;

b. Seventy five percent (75%) for a license issued in the second three (3) calendar months of the initial license year;

c. Fifty percent (50%) for a license issued in the third three (3) calendar months of the initial license year; and

d. Twenty five percent (25%) for a license issued in the fourth three (3) calendar months of the initial license year.

4. Renewal License Fee: Following the pro rata payment, renewal license fees shall be for a full twelve (12) month license year period.

C. Payments: Each license fee shall be paid at the time of an application's filing, whether as a new or a late renewal application. The application shall not be processed until the fee is paid. (Ord. 12-13, 6-13-2012; amd. Ord. 15-22, 8-25-2015)

4-1B-18: LATE PAYMENT PENALTY AND CONSEQUENCES:

A. Late Renewal Fee Penalties: If a license renewal fee is not paid by the due date, a penalty in the amount provided in the uniform consolidated schedule of fees and service charges shall be added to the original amount.

B. Duty To Cease Business Operations: Any person holding a business license from the city whose license renewal fee and accrued penalties remain unpaid for thirty (30) calendar days from the original due date shall terminate business operations. No business shall be conducted thereafter by such person, unless and until:

1. The business license authority approves a reinstatement application or petition for renewal of a license following payment of all overdue fees and costs; or

2. A new license application is filed and a new license issued by the business license authority.

C. Initial Fee Nonpayment Penalty: When any person engages in any business or occupation requiring a license and fee by the provisions of this title, or engages in any additional activities which require an additional license and fee, without first paying the required license fee, a penalty in the amount provided in the uniform consolidated schedule of fees and service charges shall be added to the original amount thereof.

D. Collection: All penalties provided for in this section shall be collected by the business license authority and the payment thereof shall be enforced by him or her in the same manner as the license fees are collected and payment enforced.

E. No License Issuance: No license shall be issued, until all penalties legally assessed have been paid in full.

F. Other Enforcement Not Precluded: Nothing in this section shall be construed to prevent or in any manner interfere with the enforcement of any criminal or civil penalty provision contained in any other title of this code, including, but not limited to, those provisions pertaining to operation of businesses without a current and valid business license. (Ord. 12-13, 6-13-2012; amd. Ord. 15-22, 8-25-2015)

4-1B-19: FEE EXEMPTIONS FOR BUSINESSES ~~OPERATING FOR PROFIT~~:

Although they shall apply in all respects for the obtaining of a business license pursuant to this title, the following persons are exempt from the payment of license fees:

A. **Building Contractors:** Building contractors having no retail product sales and who pay construction permit fees, pursuant to applicable city ordinances, but do not have an actual business location within city limits. However, contractors who operate a construction business from a home located within the city are not exempt.

B. **Insurance Companies:** Insurance companies paying license fees to the state pursuant to the provisions of Utah Code Annotated title 31A, chapter 1, or any successor provisions.

C. Nonprofit/Charitable Organizations: The provisions of this title shall not be deemed or construed to require the payment of a license fee for the issuance of a license to any institution or organization which is conducted, managed or carried on wholly for the benefit of charitable purposes from which profit is not derived, directly or indirectly, by any person; nor shall the payment of a license fee be required to issue a license for the conducting of any entertainment, concert, exhibition or lecture whenever the receipts from such are to be appropriated to any church, school, governmental entity, or nonprofit organization. (Ord. 12-13, 6-13-2012)

4-1B-20: MISTAKES IN FEE CALCULATIONS:

In no event shall any mistakes made by an applicant or the city in the calculation of a license fee prevent or prejudice the collection by the city of the amount actually due from any person subject to licensing under this title. Likewise, no such mistakes shall prevent or prejudice the refund to licensees of amounts overpaid by reason of mistakes. (Ord. 12-13, 6-13-2012)

4-1B-21: DEVIATIONS PROHIBITED:

No greater or lesser amounts shall be charged or received for licenses, and no license shall be issued for any period of time other than as specifically provided in this title. (Ord. 12-13, 6-13-2012)

4-1B-22: LICENSE FEE COLLECTION; CIVIL ACTIONS AUTHORIZED:

A. Civil Actions: In all cases where a city ordinance requires that a license be obtained to carry on or to engage in any business, occupation or calling within the city, and a fee for such license is authorized by ordinance, and the fee is not paid at the time or in the manner provided in said ordinance, 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 fee and any penalty due, together with reasonable attorney fees and reasonable costs of collection. In any

case where several or diverse amounts of license fees remain due and unpaid by any such person, such several amounts of unpaid license fees may be joined as separate causes of action in the same complaint in such civil actions. The provisions of title 16 may be utilized, as applicable.

B. Other Enforcement: Nothing in this section shall be construed to prevent or in any manner interfere with the enforcement of any penalty provision contained in any ordinance of the city, or to prevent or in any manner interfere with the use of any remedy available to the city. (Ord. 12-13, 6-13-2012)

4-1B-23: REFUNDS:

No refund shall be made for any fee paid for a license issued pursuant to this title, unless the fee paid was incorrect due to a calculation error or not legally owed under the provision of this title. (Ord. 12-13, 6-13-2012)

4-1B-24: NO LICENSE TRANSFERS; AND CHANGE OF LICENSE INFORMATION:

Upon the written consent of the business license authority endorsed on the license, licenses issued pursuant to the provisions of this title may be transferred from one place of business to another, provided the business or person holding the business license remains the same and the nature of the business is unchanged. A transfer fee shall be paid in a sum established periodically by the city council in its uniform fee schedule. No transfers of licenses are allowed. Any change of ownership, business name, address, or other main license information shall require a new application for a new license. (Ord. 12-13, 6-13-2012)

4-1B-25: DESIGNATION OF AGENT FOR SERVICE OF PROCESS:

A. Duty To Designate Service Of Process Agent: Before any business license shall be issued to a person, the applicant shall file with the business license authority an instrument naming a true and lawful agent of such applicant with full power and authority to accept service or notice of process for or on behalf of such applicant with respect to any matters connected with or arising in connection with such license, which agent, for an individual, can be him or herself. The instrument shall also state that applicant for the license consents and agrees that any service or notice of process shall be made upon the agent and when so made shall be taken and held to be valid, as if personally served upon the applicant according to the laws of this or any other state, waiving all claim or right of error by reason of such acknowledgment of service or manner of service. (Ord. 12-13, 6-13-2012)

4-1B-26: RECORDKEEPING REQUIRED:

Every person liable for the payment of any license fee imposed by this title shall keep all records required by law for three (3) years records which accurately state the amount of such person's gross annual sales of goods and services. Such records shall also state the number of employees of the business in a manner and format which reasonably permits the amount of any license fee for which such person to be liable under the provisions of this title may be determined. (Ord. 12-13, 6-13-2012)

~~4-1B-27: ILLEGALITY OR DECEPTIVE ARTIFICES: [Reserved]~~

~~Notwithstanding anything else in this title, the business license authority shall not issue a business license for any business or business activity which would, in the reasonable opinion of the business license authority:~~

~~A. Involve the violation of any city ordinance, county ordinance, state statute or federal statute, or lawful regulations issued under such ordinances or statutes;~~

~~B. Involve activities, under the guise of conducting a legitimate business, which are fraudulent or deceptive. (Ord. 12-13, 6-13-2012)~~

4-1B-28: HOURS OF OPERATION:

A. Duty To Post Operating Hours: Every licensed business in the city is required to post in plain sight, clearly visible by all participants, the relevant operating hours of said place of business.

B. Curfew Law Applicable: Any business accepting or catering to minors shall not be operated in a manner contrary to the curfew provisions of any applicable state, county or municipal curfew statutes. (Ord. 12-13, 6-13-2012)

4-1B-29: ~~DEALING WITH CERTAIN PERSONS PROHIBITED [Reserved]:~~

~~It is unlawful for any person licensed pursuant to this article, or any employee of any person licensed pursuant to this article, to receive any items from a person who is under eighteen (18) years of age, without the written consent of the parent or guardian of such person, or who is either intoxicated or obviously mentally deficient. (Ord. 12-13, 6-13-2012)~~

4-1B-30: LICENSE TERMINATION FOLLOWING CESSATION OF OPERATIONS:

Any business license issued pursuant to this article will expire no later than ten (10) calendar days following the continuous closure or cessation of business operations for which the license was issued, except when cessation or closure is required to repair damage caused by flood, fire, earthquake or other natural disaster. (Ord. 12-13, 6-13-2012)

~~4-1B-31: EQUIVALENT ALTERNATIVE METHODS OF REGULATION: [Reserved]~~

~~A. City Administrator Alternate Regulatory Rules: Whenever a person regulated under this chapter and/or chapter 2 of this title alleges that specified requirements are impracticable or excessively burdensome as applied to such person, s/he may file with the city administrator a written petition setting forth such allegations and presenting suggested methods of regulation of such person by the city in lieu of enforcement of the specified requirements of this chapter so objected to. The city administrator may either approve or deny the proposed alternative methods of regulation proposed by the petitioner or may approve other alternative methods of regulation. Upon approval by the city administrator, such alternative regulation shall be as obligatory upon the petitioner as if such had been specific requirements set forth in this chapter, the violation of any of which alternate regulations shall be a misdemeanor.~~

~~B. Standards For Approval: The standard for approval of any such alternative regulation shall be that they are equivalent to the existing requirements which they would supplant, in meeting the objectives of enhancing and protecting the public health, safety and welfare, including, but not limited to, inhibiting theft and trafficking of stolen merchandise and providing adequate opportunity for examination by the police of suspect transactions. (Ord. 12-13, 6-13-2012; amd. Ord. 19-47, 12-04-2019, Effective at 12 noon on January 6, 2020; Ord. 21-04, 2-10-2021)~~

ARTICLE C. DENIAL, SUSPENSION, REVOCATION; LICENSE DENIAL APPEAL BOARD LICENSE APPEAL AUTHORITY

SECTION:

4-1C-1: Denial Of A Business License

4-1C-2: Revocation Or Suspension Of License

4-1C-3: Procedure For Suspension Or Revocation

4-1C-4: Effect Of Revocation And Suspension

4-1C-5: License Denial Appeal Board License Appeal Authority Established

4-1C-6: Authority And Duties Of Board Administrative Law Judge as the License Appeal Authority

4-1C-7: Filing An Appeal Of A Denial, Suspension, or Revocation

4-1C-8: Appeal Hearing

4-1C-9: Decision Of License Denial Appeal Board the License Appeal Authority

4-1C-10: Appeal Of License Denial Appeal Board a License Appeal Authority Decision

4-1C-11: Licensing After Revocation

4-1C-12: Validity Of Business License During Appeal

4-1C-1: DENIAL OF A BUSINESS LICENSE:

A. Reasons For Denial: After a person has made application to the city for a business license, including a renewal of an existing business license, the application may be denied for any lawful reason, including, but not limited to, the following reasons:

1. The business will be involved in activities that will violate a city, county, state or federal law or regulation;
2. The business will be involved in activities on the licensed premises which would constitute a public nuisance, or otherwise a menace to the health, welfare and peace of the city;
3. The business would involve activities by patrons of the business or business activity where it could be shown the patrons are reasonably likely to constitute a public nuisance, or to commit violations of law;

4. The business is not in compliance with the city zoning standards or requirements applicable to the licensed premises;

5. Issuance of the license would result from fraud or misrepresentation of a material fact in the procurement of or application for the license;

6. The business or its employees will be undertaking activities which would constitute grounds for revocation or suspension of a business license; or

7. Issuance of the license will jeopardize or unreasonably endanger the public health, safety or welfare, or the safety or welfare of any individual, because the applicant or a key employee:

a. Does not possess the requisite state or federal licensing to conduct the business activity for which the city license is applied;

b. Does not possess the required training, experience, professional degrees or licensing normally required for or associated with such business activity;

c. Has been guilty of unprofessional conduct, as proscribed by applicable statute or regulation or by applicable regulations or standards of conduct promulgated by the professional association or regulatory agency normally associated with that business activity;

d. Has been criminally convicted of a class B misdemeanor or greater offense **and the criminal conviction bears a substantial relationship to the applicant's or licensee's ability to safely, competently, or legally practice the occupation, profession, or type of business** or is subject to one or more "disqualifying factors" (as defined in **article A of this chapter section 4-1A-2**); or

8. For a new application, nonpayment of **a returned check for** the required license fees at the time the application is made. For a renewal application, nonpayment of the required license renewal fees, plus any penalty due under this title;

9. One of the reviewing departments or divisions of the city, whose approvals are required under law has lawfully disapproved the application pursuant to any applicable provision of the city code or other applicable law;

10. False, or misleading, or incomplete information given on the application;

11. Noncompliance with any requirement or condition imposed in a conditional use permit, a variance or a special exception in connection with any location of the proposed business activities;

12. Noncompliance with any **City, State or Federal Statutes city, state or federal statutes** or any Health Department regulations governing the applicant's proposed business.

B. Refusal To Renew: The **City city** may refuse to renew the business license based on any of the grounds provided for revocation or suspension of a license in this title arising at or before the time of the submittal and consideration of a license application. (Ord. 12-13, 6-13-2012)

4-1C-2: REVOCATION OR SUSPENSION OF LICENSE:

A. License Revocable: Under the provisions of this title, the issuance of a license grants only a revocable privilege to engage in business and confers no vested rights of any kind or nature upon the business or person holding the business license.

B. Revocation Or Suspension: Every business license issued by the **City city** may be revoked or suspended for:

1. Substantiated report of any violation by the licensed person or business or by an agent, officer, employee, or invitee of any provisions of this title or any other applicable ordinance or law governing the business or activity. The person or business holding a business license shall be strictly responsible for the operation of the business or activity in conformance with all applicable laws;
2. Substantiated report of fraud or misrepresentation of a material fact in the procurement of the license;
3. Failure to pay when due any license fee, tax, charge and/or penalty provided in State Statute state statute or City city ordinance;
4. Substantiated report of the violation of City city ordinance or Federal federal or State Statute state statute relating to the licensed business and resulting from the conduct of such business or activity;
5. Substantiated report of any condition or conduct at or in connection with the business;
6. Substantiated report of using or possessing for use a false weight or measure or any other device for falsely determining or recording any quantity or quality;
7. Substantiated report of selling, offering or exposing for sale products or commodities which vary from the standard of composition or quality described in connection with the offer or sale;
8. Substantiated report of activities at or in connection with the business, which are fraudulent or deceptive;
9. Substantiated report of failure of the applicant to retain the legal qualifications necessary for the business license, including the continuing absence of "disqualifying factors" (as defined in article A of this chapter section 4-1A-2); or
10. Substantiated report of failure to properly maintain operational business records and other records required in this title for inspection and audit by the City city.

C. Pendency Of License: The City city may revoke or suspend a license for any of the grounds listed for denying a license application or a renewal application in this chapter arising during the pendency of a business license. (Ord. 12-13, 6-13-2012)

4-1C-3: PROCEDURE FOR SUSPENSION OR REVOCATION:

The business license authority may prosecute a suspension or revocation administratively as provided in title 16 of this Code code, and/or as a Class B misdemeanor. (Ord. 12-13, 6-13-2012)

4-1C-4: EFFECT OF REVOCATION AND SUSPENSION:

A. If the license is revoked, no new application shall be considered by the business license authority until expiration of the time period, in any event not less than one year, specified in the order of revocation.

B. A suspension shall be for a period not exceeding six (6) months, following which the license shall be reinstated. Should the license be under suspension at the time the license would have otherwise been renewed or renewable, the license shall not be renewed until expiration of the period of time imposed on the original suspension. (Ord. 12-13, 6-13-2012)

4-1C-5: LICENSE DENIAL APPEAL BOARD LICENSE APPEAL AUTHORITY ESTABLISHED:

The administrative law judge license appeal authority shall hear and decide all appeals of license denials, suspensions, revocations, and similar actions (collectively referred to as "appeals"). The license appeal authority shall have authority to hear evidence in all appeals referred to the license appeal authority and, after an appeal hearing, shall prepare a written decision and order, as provided in this title and in title 16. ~~Whether as an individual or when constituted of more than one person, the person or persons~~ The individual designated to hear an appeal shall hereafter be designated as the license denial appeal board license appeal authority. (Ord. 12-13, 6-13-2012; amd. Ord. 19-47, 12-04-2019, Effective at 12 noon on January 6, 2020; Ord. 21-04, 2-10-2021)

4-1C-6: AUTHORITY AND DUTIES OF BOARD ADMINISTRATIVE LAW JUDGE AS THE LICENSE APPEAL AUTHORITY:

~~The license denial appeal board shall have authority to hear evidence in all business license denial matters referred to the board and, after such hearing, shall prepare a written decision and order, as provided herein. Unless the mayor retains by contract another individual to fulfill the responsibilities of the license appeal authority set forth in this title, the administrative law judge, identified in title 16, shall be and shall fulfill all the responsibilities of the license appeal authority.~~ (Ord. 12-13, 6-13-2012)

4-1C-7: FILING AN APPEAL OF A DENIAL, SUSPENSION, OR REVOCATION:

Appeals of a business license authority's decision to deny, suspend, or revoke a business license may be made by filing a written notice of appeal with the city recorder, within fifteen (15) days of receipt of the notice of denial, suspension, or revocation. The appeal notice shall contain a specific and detailed explanation of the alleged mistake made by the business license authority and a specific statement of the relief desired. (Ord. 12-13, 6-13-2012; amd. Ord. 19-47, 12-04-2019, Effective at 12 noon on January 6, 2020; Ord. 21-11, 3-24-2021)

4-1C-8: APPEAL HEARING:

A. Hearing Date And Time: All hearings shall be conducted at a time, place and day set by the ~~license denial appeal board~~ license appeal authority through a written notice of hearing provided to all parties. The hearing shall be scheduled ~~to occur no sooner than four (4) working days and no later than twenty (20) working days following the city recorder's receipt of the notice of appeal and held pursuant to title 16.~~

B. City Attorney To Present Case: At the hearing, a representative from the city attorney's office or another or designee of the business license authority shall present the reasons for the decision to deny, suspend, or revoke the license.

C. Licensee Presentation: The applicant, in person or through ~~his or her~~ the applicant's attorney, may then present any evidence and/or argument showing reason why the business license authority's decision was in error.

D. Sworn Witnesses: All witnesses, if any, shall be sworn to testify truthfully. Either party is entitled to confront and cross examine any witnesses.

E. Evidentiary Rules: Any oral or documented evidence may be received, but the license denial appeal board shall exclude all privileged, irrelevant, immaterial, or unduly repetitious evidence. The license appeal authority shall apply the evidentiary rules identified in title 16.

F. Grounds For Decision Under Review: If the denial appealed is based on a determination of the business license authority that sufficient grounds existed under city, state or federal law, the license denial appeal board license appeal authority may reexamine the factual nature of the grounds and determine whether they are sufficient to sustain the decision of the business license authority.

G. Board License Appeal Authority Lacks Authority To Waive Compliance With Requirements: The license denial appeal board license appeal authority does not have the authority to waive compliance with applicable provisions of this title, nor can the license denial appeal board or to extend deadlines set forth in this title or in title 16, except as specifically identified therein.

H. Preponderance Of Evidence Standard Of Review: All factual determinations made by the license denial appeal board license appeal authority shall be supported by a preponderance of the evidence, presented to the license denial appeal board license appeal authority during hearing proceedings. (Ord. 12-13, 6-13-2012; amd. Ord. 21-11, 3-24-2021)

4-1C-9: DECISION OF LICENSE DENIAL APPEAL BOARD THE LICENSE APPEAL AUTHORITY:

A. Date Decision Due; Findings: The license denial appeal board license appeal authority, after hearing all the evidence, shall announce its decision within seven (7) fourteen (14) calendar days from the date of hearing, unless for good cause, it extends the time for rendering a decision. The board license appeal authority may affirm or reverse the decision of the business license authority, and may remand the matter for further action by the business license authority. The decision shall be in writing and shall be based upon findings of fact and conclusions of law. The board license appeal authority may designate that the prevailing party draft the findings of fact and order. If the prevailing party drafts the decision, the opposing party shall have five (5) working days from the date the draft is submitted within which to file objections to the draft. Upon resolution of all objections to the draft, the board license appeal authority shall issue its decision.

B. Service Of Appeal Decision: The decision of the license denial appeal board license appeal authority shall be delivered to the applicant by mail, postage prepaid, by electronic means, or by personal service, at the discretion of the board license appeal authority.

C. Reversal Of Decision: The denial of the license shall be reversed by the appeals officer license appeal authority if, upon review of the written appeal and information submitted, the appeal board license appeal authority finds that the licensing officer made a material mistake of law or fact in denying or suspending the applicant's or registered solicitor's certificate license.

D. Affirmation Of Decision: If the written appeal and information submitted indicates that the licensing officer properly denied a license the denial shall be affirmed.

E. Administrative Exhaustion Of Remedies: After the ruling of the appeal board license appeal authority, the applicant or solicitor is deemed to have exhausted all administrative remedies with the city. (Ord. 12-13, 6-13-2012)

4-1C-10: APPEAL OF LICENSE DENIAL APPEAL BOARD A LICENSE APPEAL AUTHORITY DECISION:

The license denial appeal board's license appeal authority's decision may be appealed by the applicant or the city to the district court within thirty (30) days from the date on which the board's license appeal authority's written decision is issued. (Ord. 12-13, 6-13-2012)

4-1C-11: LICENSING AFTER REVOCATION:

A person, whose business license has been revoked, may not be issued a new license for a period of twelve (12) months following the revocation. (Ord. 12-13, 6-13-2012)

4-1C-12: VALIDITY OF BUSINESS LICENSE DURING APPEAL:

A. Right To Operate During Appeal: A person or business holding a business license subject to an order of the business license authority suspending or revoking the license may continue to legally operate the licensed business in compliance with federal, state and all other local laws pending a final decision on appeal, or until the time for appeal has passed, whichever event occurs first.

B. No Right To Operation Without Valid License Having Been Issued: An applicant for a currently unlicensed business shall not operate, and it shall be unlawful for any person to conduct business for which a license is required at the premises until a valid business license is issued, notwithstanding the city's denial of that license has been appealed. (Ord. 12-13, 6-13-2012)

ARTICLE D. ENFORCEMENT

SECTION:

4-1D-1: Powers And Duties Of Police And Inspectors

4-1D-2: Penalties For Violation

4-1D-3: Effect Of Conviction; Prosecution Not Barred

4-1D-4: Injunction

4-1D-5: Liability For Acts Of Employees

4-1D-1: POWERS AND DUTIES OF POLICE AND INSPECTORS:

A. Authorized Enforcement Personnel:

1. All police officers, community enforcement officers, code enforcement officers, and City city building inspectors are appointed to act as business license inspectors, and are empowered and required to examine all places of business and persons who are required to have a business license and to determine if posted licenses are valid and displayed in a conspicuous place within the place of business, as required by law available for inspection.

2. Police officers and inspectors shall have and exercise the power to enter free of charge, during normal business hours, any place open to the general public and for which a license is required. They may require the exhibition of a current license by any person engaged or employed in the conduct of such business.

B. Duty To Enforce: It shall be the duty of the City city police officers, community enforcement officers, code enforcement officers, and the City city building inspectors, as well as the City city business license authority, to cause complaints to be filed against all persons violating any of the provisions of this title. Enforcement against pawnshops is limited as provided in Utah Code section 13-32a-112.5. (Ord. 12-13, 6-13-2012)

4-1D-2: PENALTIES FOR VIOLATION:

A. Administrative Fines And Penalties: If the City Council city council so authorizes, the business license authority license appeal authority may assess administrative penalties for violations of this title. Such penalties shall not exceed five hundred dollars (\$500.00) for each violation.

B. Violation: Any violation of this title may be prosecuted administratively as provided in title 16 of this Code code, and/or as a Class B misdemeanor.

C. Each Sale Without A License Is A Separate Offense: The sale of each article by a temporary merchant, a temporary merchant sponsor or a participant, without a license therefor, shall be a separate offense under and a separate violation of this title. (Ord. 12-13, 6-13-2012)

4-1D-3: EFFECT OF CONVICTION; PROSECUTION NOT BARRED:

The conviction and punishment of any person for transacting business without a license shall not excuse or exempt such person from the payment of any license fees, penalties or fines due or unpaid at the time of such conviction, and nothing in this title shall prevent a criminal prosecution for any violation of the provisions of this title. (Ord. 12-13, 6-13-2012)

4-1D-4: INJUNCTION:

An entity or individual who operates or causes to be operated a business without a valid license in violation of the provisions of this chapter is subject to a suit for an injunction in addition to the civil and criminal violations provided in this chapter and any other remedy available at law or in equity. (Ord. 12-13, 6-13-2012)

4-1D-5: LIABILITY FOR ACTS OF EMPLOYEES:

The holder of a City city business license is strictly liable for any and all acts of his or her the holder's own employees and for any violation by them of any provisions of this title. (Ord. 12-13, 6-13-2012)

Attachment 2

[Attachment to ORDINANCE NO. 23-12

**AN ORDINANCE AMENDING THE 2009 WEST JORDAN CITY CODE
(GENERAL BUSINESS REGULATIONS AND LICENSING REQUIREMENTS; AMENDING
CITY CODE SECTIONS 4-1A-1 THROUGH 4-1D-5 INCLUSIVE)]**

Clean Version:

TITLE 4

BUSINESS AND LICENSE REGULATIONS

CHAPTER 1

GENERAL BUSINESS REGULATIONS AND LICENSING REQUIREMENTS

ARTICLE A. GENERAL PROVISIONS

SECTION:

4-1A-1: Purpose

4-1A-2: Definitions

4-1A-3: Applicability Of This Chapter

4-1A-4: General Business And Special Business Licenses Needed

4-1A-1: PURPOSE:

Pursuant to its inherent police powers within statutory authority granted by the state to protect the health and welfare of its residents and businesses, the city intends by this title to regulate and license businesses and occupations undertaken and operating within its corporate limits; to maintain a current index of licensed businesses and occupations; and to raise revenues sufficient, among other things, to offset the costs of administering this title by imposing license fees upon such businesses and occupations. (Ord. 12-13, 6-13-2012)

4-1A-2: DEFINITIONS:

The following words, terms, and phrases, when used in this title, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. The definitions in this section are also applicable to all subsequent chapters in this title. For words, terms, and phrases which are not defined in this title, the definitions in sections 13-2-3 or 17-1-6 or elsewhere in this code or in the Utah Code Ann. shall have the meanings ascribed to them in those sections in this code or in the Utah Code Ann., except where the context clearly indicates a different meaning; these definitions may also be used to supplement the definitions in this title.

Unless otherwise indicated, the definitions found within the Utah alcoholic beverage control act, Utah Code Ann. title 32B, are incorporated into this chapter as though set forth in their entirety. In addition to these definitions, the following words and phrases used in this chapter shall have the following meanings unless a contrary meaning is clearly indicated. The definitions in this section are also applicable to all other chapters in this title.

ACCESSORY DWELLING UNIT: A separately leasable dwelling unit on a subdivided lot that is incidental to the principal dwelling unit, as further described in title 13.

ADULT: A person who is either: (a) "emancipated" pursuant to the definition in Utah Code Ann. section 80-7-102 or successor provisions; or (b) age eighteen (18) years of age or older; and who is not the subject of a court order for guardianship which limits the person's rights. For purposes of alcohol, tobacco, and other substances, the applicable definitions in the Utah Code Ann. should be used.

AGREEMENT: Unless otherwise indicated, the binding agreement entered with the city as part of the good landlord program.

ALCOHOLIC BEVERAGE (AND RELATED TERMS): See the definitions found within the Utah alcoholic beverage control act, Utah Code Ann. title 32B, and in section 17-1-6 of this code.

APPLICANT: A person possessing a business license from the city, and any person seeking a business license from the city. If the application is made by a business entity (as defined in this section) doing business under an assumed name, each partner, principal, officer, director, manager, assistant manager, and any shareholder (corporate or personal) of fifty one percent (51%) or more of the stock of the business entity shall also be considered an applicant. Any holding company or any entity holding fifty one percent (51%) or more of an applicant shall be considered an "applicant" for purposes of this title.

APPLICATION: The completed forms provided by the business licensing authority with all attachments required by this title for the issuance of a permit or license.

BCI BACKGROUND CHECK: An original or copy, dated no older than one hundred eighty (180) days prior to the date of the application, of either:

- A. A Utah department of public safety bureau of criminal identification, verified criminal history report personal to the applicant;
- B. Verification by the Utah department of public safety bureau of criminal identification that no criminal history rising to the level of a "disqualifying factor" (pursuant to the definition in this section or any other applicable meaning) status exists for the applicant; or
- C. A government-issued and verified criminal history report form the applicant's current state of residence or recent state of residence.

BUSINESS: Means and includes:

- A. All activities, trades, professions or callings undertaken, operated or engaged in within the corporate limits of the city of West Jordan carried on for the purpose of economic gain or economic benefit, except that the acts of employees rendering service to employers shall not be included in the term "business" unless otherwise specifically prescribed.
- B. As used in this title, the owning and operating of one or more residential rental units, whether a single-family home, a residential dwelling complex (such as a duplex, triplex or larger apartment complex) or mobile home park, or otherwise, for economic gain, economic benefit, or personal benefit shall be deemed to be a business.

C. Activities, trades, professions or callings undertaken, operated, or engaged in for the purpose of economic gain, economic benefit, or personal benefit within the confines of a individual's residence building or within or from an ancillary structure on the same property as the individual's building will constitute a "business" subject to the requirements of this title.

D. There is no regulatory distinction in this title between a "business" and an "occupation". Both are a "business".

BUSINESS ENTITY: A specific partnership, limited partnership, corporation, association, limited liability company, or other entity, but not a "dba", listed as "active" and "current" on the Utah division of corporations' business entity website or the equivalent website of another state or territory of the United States of America.

BUSINESS LICENSE AUTHORITY: The city administrator or an authorized designee.

CHARITABLE ORGANIZATION (AND RELATED TERMS): See the definitions in Utah Code Ann. section 13-22-2, or successor provisions.

CITY ADMINISTRATOR: The city administrator of the city.

COMMUNITY LOCATION (AND RELATED TERMS):

See the definitions in:

E. For alcoholic beverages, Utah Code Ann. section 32B-1-102, or successor provisions;

G. For cannabis production establishments, Utah Code Ann. section 4-41a-102, or successor provisions;

H. For medical marijuana, Utah Code Ann. section 26-61a-102, or successor provisions;

I. For retail tobacco specialty business, Utah Code Ann. sections 10-8-41.6 and 17-50-333, or successor provisions; and

L. For tobacco, electronic cigarette, and nicotine product retail permits, Utah Code Ann. section 26-62-102, or successor provisions.

COMPETENT INDIVIDUAL: An individual 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.

COMPLETED APPLICATION: A fully completed application form; a BCI check; two (2) copies of the original identification, relied on by the applicant to establish proof of identity; and the tendering of all required fees.

CRIMINAL CONVICTION OR CRIMINALLY CONVICTED: The final entry of a conviction, whether by a plea of no contest, guilty, entry of a judicial or jury finding of guilt, which judicial determination 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.

DISQUALIFYING FACTORS: Anything specifically defined in this title as requiring the denial or suspension of a license, plus any of the following:

- A. Criminal charges are currently pending against the applicant or a key employee and the criminal charges bear a substantial relationship to the applicant's or licensee's ability to safely, competently, or legally practice the occupation, profession, or type of business;
- B. The applicant or a key employee has been criminally convicted of a felony, within the last ten (10) years and the criminal conviction bears a substantial relationship to the applicant's or licensee's ability to safely, competently, or legally practice the occupation, profession, or type of business;
- C. The applicant or a key employee has been criminally convicted of a misdemeanor within the past five (5) years and the criminal conviction bears a substantial relationship to the applicant's or licensee's ability to safely, competently, or legally practice the occupation, profession, or type of business;
- D. A final civil judgment has been entered against the applicant or a key employee within the last five (5) years indicating that: 1) the applicant or key employee had either engaged in fraud or intentional misrepresentation; or 2) the applicant or key employee engaged in willful and malicious activity causing injury to another entity or to the property of another entity;
- E. The applicant or key employee is currently subject to a protective order based on physical or sexual abuse issued by a court of competent jurisdiction;
- F. The applicant has an outstanding arrest warrant from any jurisdiction; or
- G. The applicant, or any principal of the applicant, has administrative, civil or criminal citations or charges pending or on appeal, brought or assessed by the state or another jurisdiction, and based on violations of applicable licensing or regulatory requirements in connection with the business proposed to be conducted.

DOOR TO DOOR SOLICITATION, HOME SOLICITATION, OR RESIDENTIAL SOLICITATION: The practice of engaging in or attempting to engage in conversation with any individual at a residence, whether or not that individual is a competent individual, while making or seeking to make or facilitate a door to door solicitation sale, or attempting to further the sale of goods and/or services. See sections 4-2F-1 through 4-2F-16 inclusive.

DOOR TO DOOR SOLICITATION SALE, HOME SOLICITATION SALE, OR RESIDENTIAL SOLICITATION SALE: 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 the means of payment or consideration used for the purchase; the time of delivery of the goods or services; or the previous or present classification of the solicitor as a solicitor, peddler, hawker, itinerant merchant, or similar designation.

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

EMPLOYEE: The operator, owner, or manager of a business and any individuals employed by such operator, owner, or manager in the operation of the business in any capacity, and also any salesperson, agent, leased employee or independent contractor engaged in the business in any capacity.

ENGAGING IN BUSINESS: Means and includes, but is not limited to, the sale or offer for sale of tangible personal property at retail or wholesale, the manufacturing of goods, including foodstuffs, the owning or operating of rental property, the building and development of real property, and the rendering of personal services for others for compensation, but does not include the rendering of personal services by an employee to the employee's employer under any arrangement or contract of personal employment.

FEES OR FEE SCHEDULE: The city's consolidated fee schedule as it relates to business license fees, disproportionate rental dwelling unit fees, and the discount fees associated with the good landlord program.

HOME SOLICITATION: See the "Door To Door Solicitation" definition in this section.

HOME SOLICITATION SALE: See the "Door To Door Solicitation Sale" definition in this section.

INDIVIDUAL: A natural or physical person; in other words, an individual human being, who is an "adult", as defined in this section.

LICENSED PREMISES: Any building, enclosure, room, or equipment used in connection with the conduct of the business, including, but not limited to, the sale, storage, service, manufacture, distribution or consumption of alcoholic beverages.

LIQUOR (AND RELATED TERMS): See the definitions found within the Utah alcoholic beverage control act, Utah Code Ann. title 32B, and in section 17-1-6 of this code.

MASSAGE THERAPY AND MASSAGE THERAPIST (AND RELATED TERMS): See the definitions found in Utah Code Ann. section 58-47b-102.

MINOR: Any individual who does not meet the definition of "adult" as set forth in this section, or as otherwise set forth in the applicable provisions of the Utah Code Ann.

NO SOLICITATION SIGN: A reasonably visible and legible sign that states "No Soliciting", "No Solicitors", "No Salespersons", "No Trespassing", or words of similar import.

NUDITY (AND RELATED TERMS): See the definitions found in Utah Code Ann. section 10-8-41.5 or successor provisions.

NUMBER OF EMPLOYEES: The average number of employees engaged in business at the place of business each regular working day during the preceding calendar year.

OPERATOR: The manager or other individual principally in charge of a business.

OWNER: The person having ownership.

OWNER OCCUPIED: A residence occupied as a primary residence by the legal owner of the building within which the residence exists. For example a single-family home occupied as a primary residence by the legal owner of the building is owner occupied. Similarly a residence within a fourplex building occupied as a primary residence by the legal owner of the building, even though the other three (3) residences in the building are occupied by third parties under rental agreements, is owner occupied.

PARTICIPANT: A temporary merchant, not licensed as such, participating in a sales event.

PATRON: Any individual who contracts with or employs any escort services or escort, or is a customer of any business licensed pursuant to this title.

PERSON: Includes any individual, group of individuals, business entity, group of business entities, or other legal entity or legal entities.

PLACE OF BUSINESS: Each separate location at or from which business is conducted or transacted. For this purpose branch locations and mobile business locations are each considered a separate place of business requiring a business license.

PREMISES: Any room, house, building, structure, or place licensed by or defined in this title.

PROGRAM: As used in this title, the good landlord program of the city.

PROPRIETOR: Any person who, as the owner, lessee, or manager, has under that person's control a business.

REGISTERED SOLICITOR: Any individual who has been issued a current ~~certificate~~ residential solicitation license by the city (see sections 4-2F-1 through 4-2F-16 inclusive).

RENTAL DWELLING UNIT: Any individual dwelling unit that is rented, leased, hired out, or provided as a benefit to be used or occupied as a home or residence. This definition is inclusive of any accessory dwelling units, apartment buildings, or other buildings so arranged, designed, built, rented, let, or hired out to be used or occupied as the home, residence, or dwelling unit of one or more families living independently of each other. For the purpose of this definition, a residence that is under a bona fide contract of sale to an occupying purchaser is not a rental dwelling unit.

RESIDENCE: Any living unit contained within any building or structure that is occupied by any individual as a dwelling, together with the lot or other real property on which the living unit is located. This term does not include the sidewalk, public street or public rights of way.

RESIDENTIAL SOLICITATION: See the "Door To Door Solicitation" definition in this section.

RESIDENTIAL SOLICITATION SALE: See the "Door To Door Solicitation Sale" definition in this section.

RESPONSIBLE PERSON: That person responsible to refund any money or reversing any credit card charges for persons who timely rescind any sale pursuant to applicable contractual rights or legal requirements, 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.

SALE OF GOODS OR SERVICES: The conduct and agreement of a solicitor and the competent individual in a residence regarding particular goods or services that entitles the consumer to rescind the same within three (3) days under any applicable federal, state or local law.

SALES EVENT: An event where two (2) or more temporary merchants, not more than one of whom is licensed as a temporary merchant, display any goods, wares or services at a location in the city for the purpose of sale or soliciting orders to be filled in the future, for financial gain or profit.

SELL, SALE, AND TO SELL: 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 principal, proprietor, or as an agent, servant or employee, unless otherwise defined in the alcoholic beverage control act or regulations adopted by the state alcoholic beverage control commission.

SERVICES: Those intangible goods or personal benefits offered, provided, or sold to a competent individual.

SEXUALLY ORIENTED BUSINESS (AND RELATED TERMS): See the definitions found in Utah Code Ann. section 10-8-41.5 or successor provisions.

SOLICITING, SOLICIT, SOLICITATION: Any of the following activities when conducted on a door to door home contact basis:

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;

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.

SOLICITOR, SOLICITORS: An individual or individuals engaged in door to door solicitation. A residential solicitation license does not authorize or enable hawking goods or contacting people in public places, in a park or on the street. See sections 4-2F-1 through 4-2F-16 inclusive.

SPECIFIED CRIMINAL ACTS: Any act defined in title 76 of the Utah Code Ann. or in titles 6 or 7 of this code as a crime.

SPECIFIED SEXUAL ACTIVITIES: Any sexual act defined in title 76 of the Utah Code Ann. or in titles 6 or 7 of this code as a crime.

SUBSTANTIATED REPORT: An oral, written or electronic report that is submitted to and documented by the city that provides any of the following information regarding a person holding a city business license of any type:

A. Documented verification of a previously undisclosed disqualifying factor;

B. Probable cause that the person has committed a disqualifying factor which has not yet been determined to be a disqualifying factor;

C. Documented, eyewitness accounts that the person has engaged in repeated patterns of behavior that demonstrates failure by the person to adhere to the requirements of this title; or

D. Probable cause that continued licensing of the person demonstrates exigent circumstances that threaten the health, safety or welfare of any person or persons within the city.

TEMPORARY MERCHANT:

A. Any person, whether a resident of the city or not, who within the limits of the city:

1. Engages in a temporary business of selling and/or delivering goods, wares or services, or who conducts meetings open to the general public where franchises, distributorships, contracts or business opportunities are offered to the public; or

2. Sells, offers or exhibits for sale any goods, wares or services, franchises, distributorships, contracts or business opportunities, during the course of or any time within six (6) months after a lecture or public meeting pertaining to such goods, wares, services, franchises, business opportunities, contracts or distributorships.

B. The foregoing notwithstanding, a "temporary merchant", for the purposes of this title, shall not include the following:

1. A person who shall occupy any business establishment for the purpose of conducting a permanent business therein; provided, however, that no person shall be relieved from the provisions of this title by reason of a temporary association with any local dealer, trader, merchant or auctioneer, or by conducting such temporary or transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant or auctioneer; or
2. Any sales of merchandise damaged by smoke or fire, or of bankrupt concerns, where such stock has been acquired from a merchant or merchants of the city regularly licensed and engaged in business; provided, however, no such stock of merchandise shall be augmented by new goods; or
3. A person who sells the person's own property which was not acquired for resale, barter or exchange, and who does not conduct such sales more than twice during any calendar year; or
4. Art exhibits, where participating artists sell their original works, and which do not contain any sales of artwork purchased or taken on consignment and held for resale, providing such art exhibits are sponsored by a local, responsible organization; or
5. "Religious or charitable organizations", as defined in this section; or
6. Sales of goods, wares or services at a convention, meeting or exposition which is not open to nor advertised to the general public, to the extent such sales are made to registered members of the sponsoring organization, provided the sponsoring organization or its designated agent delivers to the city license supervisor, at least fifteen (15) days in advance of such convention, meeting or exposition, a statement of the organization's qualification for this exemption and a statement of the common interest or category of those who will be attending such convention, meeting or exposition; and providing all persons selling or purchasing goods, wares or services at such convention, meeting or exposition shall wear or display in a conspicuous manner a tag stating the name of the sponsoring organization.

TEMPORARY MERCHANT SPONSOR: Any person who leases or rents a building or portion of a building, or other space, for the purpose of conducting a sales event with two (2) or more participants.

TOBACCO PRODUCT: As defined in Utah Code Ann. subsection 10-8-41.6(1)(j) or successor provisions.

TOBACCO SPECIALTY BUSINESS: As defined in Utah Code Ann. subsection 10-8-41.6(1)(h) or successor provisions.

WAIVER: The written form provided to an 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 title and which contains applicant's signature, which is either executed in the presence of the business licensing authority, or notarized at the time the waiver is signed. (Ord. 12-13, 6-13-2012; amd. Ord. 13-14, 3-27-2013; Ord. 16-01, 1-13-2016; Ord. 16-06, 1-13-2016; Ord. 16-11, 3-23-2016; Ord. 21-04, 2-10-2021)

4-1A-3: APPLICABILITY OF THIS CHAPTER:

The provisions of this chapter apply to all businesses and employees in the city. (Ord. 12-13, 6-13-2012)

4-1A-4: GENERAL BUSINESS AND SPECIAL BUSINESS LICENSES NEEDED:

Certain types of businesses have additional and special licensing and business conduct requirements, and these are set forth in chapter 2 of this title. For these specially addressed types of business, a general business license and a special business license will be required, including the payment of such license fees as are provided from time to time by the city council. (Ord. 12-13, 6-13-2012)

ARTICLE B. BUSINESS LICENSES

SECTION:

4-1B-1: Unlawful To Conduct Business Within The City Without A Business License

4-1B-2: [Reserved]

4-1B-3: Business License Authority

4-1B-4: Powers Of Business License Authority, Including Applicant Investigation

4-1B-5: City Inspection Authority

4-1B-6: License Limited To Licensed Name

4-1B-7: License Application Requirements

4-1B-8: Furnishing False Information

4-1B-9: Application Numbering And Filing

4-1B-10: Engaging In Business Prohibited During Investigation

4-1B-11: [Reserved]

4-1B-12: Issuance Of License

4-1B-13: Index Of Licensed Persons And Businesses

4-1B-14: License Available for Inspection

4-1B-15: [Reserved]

4-1B-16: License Fees

4-1B-17: License Year; Fee Payments

4-1B-18: Late Payment Penalty And Consequences

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4-1B-28: Hours Of Operation

4-1B-29: [Reserved]

4-1B-30: License Termination Following Cessation Of Operations

4-1B-31: [Reserved]

4-1B-1: UNLAWFUL TO CONDUCT BUSINESS WITHIN THE CITY WITHOUT A BUSINESS LICENSE:

- C. Unless specifically exempt from such requirement in this title or other applicable law, it shall be unlawful for any person to engage in or carry on any business within the city, without first procuring a business license, or for any person to continue to engage in or carry on a business when the required business license has been suspended or revoked; and
- D. Every person engaging in business within the city shall apply for and maintain in full force and effect a valid city business license. (Ord. 12-13, 6-13-2012)

4-1B-2: [Reserved]:

(Ord. 12-13, 6-13-2012)

4-1B-3: BUSINESS LICENSE AUTHORITY:

The business license authority shall have responsibility for issuing business licenses and ensuring all business license fees are paid, based on the rates and charges established by ordinance or resolution and as set forth in the city's consolidated fee schedule. (Ord. 12-13, 6-13-2012)

4-1B-4: POWERS OF BUSINESS LICENSE AUTHORITY, INCLUDING APPLICANT INVESTIGATION:

The business license authority and all license inspectors in the performance of their official duties shall have and exercise all the powers allowed by law:

- A. Time Period Within Which To Act On License; Denial: The business license authority may take up to thirty (30) days from the date when the completed application is received by the business license authority, to review an application and investigate the relevant facts. If the business license authority concludes to deny an application, a statement of the facts and reasons for the denial shall be given to the applicant.
- B. License Authority Denial: The business license authority shall have the authority, without a hearing, to deny a license for the reasons provided for in this article, subject to appeal rights.
- C. Business License Authority Investigation: The business license authority may, on the business license authority's own initiative or in response to complaints from the general public or any city department or division, investigate and gather evidence of violations of this title or other circumstances which may give rise to a denial, suspension or revocation; or seek the police

department's or other investigative organization's assistance or investigations. In particular, the business license authority may, prior to the issuance of any business license required by this title, investigate any applicant for such license, if there is reasonable cause to believe that the applicant:

1. Has filed an application which is incomplete, erroneous, or false in any respect, except that any individual name or business entity name that is substantially similar to the correct name shall not be deemed to be incomplete, erroneous, or false;
2. Fails in any respect to qualify to do business in the city under any federal, state or city law, rule or regulation;
3. Has committed such act or acts as may be grounds for revocation or denial of a license application under any federal, state or city law, rule or regulation; or
4. Investigation is required by city ordinance. (Ord. 12-13, 6-13-2012)

4-1B-5: CITY INSPECTION AUTHORITY:

A. New Business Premises Inspections: Prior to the issuance of a license to a person to engage in a new business not previously licensed under this title, the person or applicant shall, subject to constitutional limitations, permit inspections to be made of the prospective place of business by representatives of the appropriate departments of the city to ensure compliance with zoning, building, fire and health, and other codes, statutes, ordinances, and laws which may apply to the business and premises for which a license application was submitted. No license shall be granted without the approval of all such required inspections.

B. Periodic Inspection; Time To Correct: Places of business licensed within the city shall be inspected periodically by departments of the city, county or the state for compliance with zoning, building, fire and health codes. Written notice shall be given by a code enforcement officer to a licensed person or business upon the finding of any code infractions, which shall provide for time in which to correct such infractions, pursuant to title 16, unless the noncompliant issue constitutes a hazard or exigent circumstance requiring immediate remediation under law. Failure to bring the licensed premises into legal compliance may result in the revocation of the license by the city.

C. Identifying Violations: From time to time one or more agents of the city, including, but not limited to, police officers, code enforcement officers, and community enforcement officers, are authorized and required to enter and examine the physical locations and space occupied and used by any business or vehicle, for which a city license is required. They shall determine if such places of business, persons and vehicles are properly licensed and that no business, other than the one described in and covered by the license, is operating or transacting business. They may issue citations or otherwise enforce the law, and shall advise the business license authority of each person doing business in violation of this title. (Ord. 12-13, 6-13-2012)

4-1B-6: LICENSE LIMITED TO LICENSED NAME:

It is unlawful for a business to do business under any name other than the business name specified in the application. (Ord. 12-13, 6-13-2012)

4-1B-7: LICENSE APPLICATION REQUIREMENTS:

A. Application: Applications for licenses and permits required by this title shall be made online to the business license authority in the absence of provision to the contrary. The application shall show:

1. Legal Name: The correct legal name of each applicant, corporation, partnership, limited partnership, or entity doing business under an assumed name.

2. Doing Business Under Assumed Name: If the applicant is a business entity doing business under an assumed name, submittal of the information required for individual applicants for each partner, principal, officer, director, and any shareholder (corporate or personal) of fifty-one percent (51%) or more of the ownership interest of any applicant. Any business entity holding fifty-one percent (51%) or more of the ownership interest of an applicant shall be considered an applicant for purposes of disclosure under this article.

3. Applicant Information: For all applicants, a statement of the business address, contact information, and other information requested of the forms provided by the business license authority which are not disallowed by law.

4. Age or Business Entity: Acceptable written proof that each applicant is a person, as defined in section 4-1A-2, and is either (a) an individual and an adult, as defined in section 4-1A-2 of this code, or (b) a business entity, as defined in section 4-1A-2; provided that the business license authority is empowered to waive the age requirement in appropriate cases.

5. License Type: The kind of license desired, stating in detail the business to be performed, practiced or carried on.

6. License Class: The class of license desired, if the particular business activity has special licenses divided into classes.

7. Place: The place where such business, calling, trade or profession is to be carried on, giving the street number if such business is to be carried on in any building or enclosure.

8. Term: The period of time for which such license is desired to be issued (i.e., an ongoing business activity or a temporary business activity).

9. Application Fee: A nonrefundable application fee in an amount adopted by the city council in its consolidated fee schedule.

B. Accuracy And Veracity Required: The truthfulness, completeness and accuracy of all of information provided by an applicant shall be attested to by the applicant or an authorized representative thereof.

C. Misleading Prohibited: Failure to provide all required information or providing false or misleading information in the application shall constitute grounds for denial of the application or revocation of an existing permit or license, and shall constitute a misdemeanor, if done willfully with the intent to mislead the city.

D. Notice Of Change To Application Information: Any change in the information required to be submitted under this article for a business license shall be given in writing to the business license authority within fourteen (14) days after such change. (Ord. 12-13, 6-13-2012)

4-1B-8: FURNISHING FALSE INFORMATION:

It is unlawful for any person to willfully give the licensee or the licensee's agents or employees false or misleading information which the licensee is required by this chapter to obtain from such person. (Ord. 12-13, 6-13-2012)

4-1B-9: APPLICATION NUMBERING AND FILING:

The license application, with any other accompanying documents, shall be numbered by the business license authority in the manner deemed to be appropriate by the business license authority. (Ord. 12-13, 6-13-2012)

4-1B-10: ENGAGING IN BUSINESS PROHIBITED DURING INVESTIGATION:

It is unlawful for any person applying for a business license which requires investigation by the business license authority to engage in the business for which license application is made, until such investigation is completed and the license approved and issued. (Ord. 12-13, 6-13-2012)

4-1B-11: [Reserved]:

(Ord. 12-13, 6-13-2012)

4-1B-12: ISSUANCE OF LICENSE:

A. License Issuance: Within thirty (30) days after receiving a completed application and completion of any needed investigation, or as in law specifically required, the business license authority shall issue the license, provided all fees are paid and legal requirements met, or shall deny the license if the legal requirements are not met.

B. Formal Requirements: All licenses shall be signed by the business license authority, which may be by electronic signature, and shall contain the following information:

1. The name of the person to whom such license has been issued;
2. The kind of license, and the class of license, if such licenses are divided into classes;
3. The term of the license, stating the commencing date and the expiration date.

C. Issuance Approval: No new business license which requires inspection or approval of any department of city government, whether new or renewal, shall be delivered or mailed to the applicant, until all legal requirements for the issuance or renewal have been met. (Ord. 12-13, 6-13-2012; amd. Ord. 15-22, 8-25-2015)

4-1B-13: INDEX OF LICENSED PERSONS AND BUSINESSES:

The business license authority shall keep a registry containing the names of the businesses and persons holding business licenses. (Ord. 12-13, 6-13-2012)

4-1B-14: LICENSE AVAILABLE FOR INSPECTION:

Each license shall be available for inspection during business hours. (Ord. 12-13, 6-13-2012)

4-1B-15: [Reserved]:

(Ord. 12-13, 6-13-2012)

4-1B-16: LICENSE FEES:

Annual license and other fees shall be those periodically adopted by the city council in its consolidated fee schedule. (Ord. 12-13, 6-13-2012)

4-1B-17: LICENSE YEAR; FEE PAYMENTS:

A. Fees To Be Paid In Advance In U.S. Legal Tender: All license fees shall be paid in advance in legal tender of the United States in any manner allowed by the city.

B. License Year; Renewal Date:

1. License Year; Good Landlord Program: Except for any first year prorations, a "license year" will run for twelve (12) consecutive calendar months following the date of commencement and end on the last day of the twelfth month. Notwithstanding the foregoing, participants in the city's "good landlord" program, governed by chapter 2, article R of this title, must renew their good landlord certification every four (4) years and provide the business license authority with a copy of the certificate of completion, and thus good landlord certification will run for forty eight (48) consecutive calendar months.

2. Administratively Assigning License Year Dates: Annual licenses issued pursuant to this title need not be issued on a calendar year basis.

C. Payments: Each license fee shall be paid at the time of an application's filing, whether as a new or a late renewal application. The application shall not be processed until the fee is paid. (Ord. 12-13, 6-13-2012; amd. Ord. 15-22, 8-25-2015)

4-1B-18: LATE PAYMENT PENALTY AND CONSEQUENCES:

A. Late Renewal Fee Penalties: If a license renewal fee is not paid by the due date, a penalty in the amount provided in the consolidated schedule of fees and service charges shall be added to the original amount.

B. Duty To Cease Business Operations: Any person holding a business license from the city whose license renewal fee and accrued penalties remain unpaid for thirty (30) calendar days from the original due date shall terminate business operations. No business shall be conducted thereafter by such person, until:

1. The business license authority approves a reinstatement application or petition for renewal of a license following payment of all overdue fees and costs; or

2. A new license application is filed and a new license issued by the business license authority.

C. Initial Fee Nonpayment Penalty: When any person engages in any business or occupation requiring a license and fee by the provisions of this title, or engages in any additional activities which require an additional license and fee, without first paying the required license fee, a penalty in the amount provided in the consolidated schedule of fees and service charges shall be added to the original amount thereof.

D. Collection: All penalties provided for in this section shall be collected by the business license authority and the payment thereof shall be enforced by him or her in the same manner as the license fees are collected and payment enforced.

E. No License Issuance: No license shall be issued, until all penalties legally assessed have been paid in full.

F. Other Enforcement Not Precluded: Nothing in this section shall be construed to prevent or in any manner interfere with the enforcement of any criminal or civil penalty provision contained in any other title of this code, including, but not limited to, those provisions pertaining to operation of businesses without a current and valid business license. (Ord. 12-13, 6-13-2012; amd. Ord. 15-22, 8-25-2015)

4-1B-19: FEE EXEMPTIONS FOR BUSINESSES:

Although they shall apply in all respects for the obtaining of a business license pursuant to this title, the following persons are exempt from the payment of license fees:

A. Building Contractors: Building contractors having no retail product sales and who pay construction permit fees, pursuant to applicable city ordinances, but do not have an actual business location within city limits. However, contractors who operate a construction business from a home located within the city are not exempt.

B. Insurance Companies: Insurance companies paying license fees to the state pursuant to the provisions of Utah Code Annotated title 31A, chapter 1, or any successor provisions.

C. Nonprofit/Charitable Organizations: The provisions of this title shall not be deemed or construed to require the payment of a license fee for the issuance of a license to any institution or organization which is conducted, managed or carried on wholly for the benefit of charitable purposes from which profit is not derived, directly or indirectly, by any person; nor shall the payment of a license fee be required to issue a license for the conducting of any entertainment, concert, exhibition or lecture whenever the receipts from such are to be appropriated to any church, school, governmental entity, or nonprofit organization. (Ord. 12-13, 6-13-2012)

4-1B-20: MISTAKES IN FEE CALCULATIONS:

In no event shall any mistakes made by an applicant or the city in the calculation of a license fee prevent or prejudice the collection by the city of the amount actually due from any person subject to licensing under this title. Likewise, no such mistakes shall prevent or prejudice the refund to licensees of amounts overpaid by reason of mistakes. (Ord. 12-13, 6-13-2012)

4-1B-21: DEVIATIONS PROHIBITED:

No greater or lesser amounts shall be charged or received for licenses, and no license shall be issued for any period of time other than as specifically provided in this title. (Ord. 12-13, 6-13-2012)

4-1B-22: LICENSE FEE COLLECTION; CIVIL ACTIONS AUTHORIZED:

A. Civil Actions: In all cases where a city ordinance requires that a license be obtained to carry on or to engage in any business, occupation or calling within the city, and a fee for such license is authorized by ordinance, and the fee is not paid at the time or in the manner provided in said ordinance, 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 fee and any penalty due, together with reasonable attorney fees and reasonable costs of collection. In any case where several or diverse amounts of license fees remain due and unpaid by any such person, such several amounts of unpaid license fees may be joined as separate causes of action in the same complaint in such civil actions. The provisions of title 16 may be utilized, as applicable.

B. Other Enforcement: Nothing in this section shall be construed to prevent or in any manner interfere with the enforcement of any penalty provision contained in any ordinance of the city, or to prevent or in any manner interfere with the use of any remedy available to the city. (Ord. 12-13, 6-13-2012)

4-1B-23: REFUNDS:

No refund shall be made for any fee paid for a license issued pursuant to this title, unless the fee paid was incorrect due to a calculation error or not legally owed under the provision of this title. (Ord. 12-13, 6-13-2012)

4-1B-24: NO LICENSE TRANSFERS; AND CHANGE OF LICENSE INFORMATION:

No transfers of licenses are allowed. Any change of ownership, business name, address, or other main license information shall require a new application for a new license. (Ord. 12-13, 6-13-2012)

4-1B-25: DESIGNATION OF AGENT FOR SERVICE OF PROCESS:

A. Duty To Designate Service Of Process Agent: Before any business license shall be issued to a person, the applicant shall file with the business license authority an instrument naming a true and lawful agent of such applicant with full power and authority to accept service or notice of process for or on behalf of such applicant with respect to any matters connected with or arising in connection with such license, which agent, for an individual, can be him or herself. The instrument shall also state that applicant for the license consents and agrees that any service or notice of process shall be made upon the agent and when so made shall be taken and held to be valid, as if personally served upon the applicant according to the laws of this or any other state, waiving all claim or right of error by reason of such acknowledgment of service or manner of service. (Ord. 12-13, 6-13-2012)

4-1B-26: RECORDKEEPING REQUIRED:

Every person liable for the payment of any license fee imposed by this title shall keep all records required by law. (Ord. 12-13, 6-13-2012)

4-1B-27: [Reserved]

(Ord. 12-13, 6-13-2012)

4-1B-28: HOURS OF OPERATION:

A. Duty To Post Operating Hours: Every licensed business in the city is required to post in plain sight, clearly visible by all participants, the relevant operating hours of said place of business.

B. Curfew Law Applicable: Any business accepting or catering to minors shall not be operated in a manner contrary to the curfew provisions of any applicable state, county or municipal curfew statutes. (Ord. 12-13, 6-13-2012)

4-1B-29: [Reserved]:

(Ord. 12-13, 6-13-2012)

4-1B-30: LICENSE TERMINATION FOLLOWING CESSATION OF OPERATIONS:

Any business license issued pursuant to this article will expire no later than ten (10) calendar days following the continuous closure or cessation of business operations for which the license was issued, except when cessation or closure is required to repair damage caused by flood, fire, earthquake or other natural disaster. (Ord. 12-13, 6-13-2012)

4-1B-31: [Reserved]:

(Ord. 12-13, 6-13-2012; amd. Ord. 19-47, 12-04-2019, Effective at 12 noon on January 6, 2020; Ord. 21-04, 2-10-2021)

ARTICLE C. DENIAL, SUSPENSION, REVOCATION; LICENSE APPEAL AUTHORITY

SECTION:

4-1C-1: Denial Of A Business License

4-1C-2: Revocation Or Suspension Of License

4-1C-3: Procedure For Suspension Or Revocation

4-1C-4: Effect Of Revocation And Suspension

4-1C-5: License Appeal Authority Established

4-1C-6: Administrative Law Judge as the License Appeal Authority

4-1C-7: Filing An Appeal Of A Denial, Suspension, or Revocation

4-1C-8: Appeal Hearing

4-1C-9: Decision Of the License Appeal Authority

4-1C-10: Appeal Of a License Appeal Authority Decision

4-1C-11: Licensing After Revocation

4-1C-12: Validity Of Business License During Appeal

4-1C-1: DENIAL OF A BUSINESS LICENSE:

A. Reasons For Denial: After a person has made application to the city for a business license, including a renewal of an existing business license, the application may be denied for any lawful reason, including, but not limited to, the following reasons:

1. The business will be involved in activities that will violate a city, county, state or federal law or regulation;
2. The business will be involved in activities on the licensed premises which would constitute a public nuisance, or otherwise a menace to the health, welfare and peace of the city;
3. The business would involve activities by patrons of the business or business activity where it could be shown the patrons are reasonably likely to constitute a public nuisance, or to commit violations of law;
4. The business is not in compliance with the city zoning standards or requirements applicable to the licensed premises;
5. Issuance of the license would result from fraud or misrepresentation of a material fact in the procurement of or application for the license;
6. The business or its employees will be undertaking activities which would constitute grounds for revocation or suspension of a business license; or
7. Issuance of the license will jeopardize or unreasonably endanger the public health, safety or welfare, or the safety or welfare of any individual, because the applicant or a key employee:
 - a. Does not possess the requisite state or federal licensing to conduct the business activity for which the city license is applied;
 - b. Does not possess the required training, experience, professional degrees or licensing normally required for or associated with such business activity;
 - c. Has been guilty of unprofessional conduct, as proscribed by applicable statute or regulation or by applicable regulations or standards of conduct promulgated by the professional association or regulatory agency normally associated with that business activity;
 - d. Has been criminally convicted of a class B misdemeanor or greater offense and the criminal conviction bears a substantial relationship to the applicant's or licensee's ability to safely, competently, or legally practice the occupation, profession, or type of business or is subject to one or more "disqualifying factors" (as defined in section 4-1A-2); or

8. For a new application, nonpayment of the required license fees at the time the application is made. For a renewal application, nonpayment of the required license renewal fees, plus any penalty due under this title;

9. One of the reviewing departments or divisions of the city, whose approvals are required under law has lawfully disapproved the application pursuant to any applicable provision of the city code or other applicable law;

10. False, or misleading, or incomplete information given on the application;

11. Noncompliance with any requirement or condition imposed in a conditional use permit, a variance or a special exception in connection with any location of the proposed business activities;

12. Noncompliance with any city, state or federal statutes or any Health Department regulations governing the applicant's proposed business.

B. Refusal To Renew: The city may refuse to renew the business license based on any of the grounds provided for revocation or suspension of a license in this title arising at or before the time of the submittal and consideration of a license application. (Ord. 12-13, 6-13-2012)

4-1C-2: REVOCATION OR SUSPENSION OF LICENSE:

A. License Revocable: Under the provisions of this title, the issuance of a license grants only a revocable privilege to engage in business and confers no vested rights of any kind or nature upon the business or person holding the business license.

B. Revocation Or Suspension: Every business license issued by the city may be revoked or suspended for:

1. Substantiated report of any violation by the licensed person or business or by an agent, officer, employee, or invitee of any provisions of this title or any other applicable ordinance or law governing the business or activity. The person or business holding a business license shall be strictly responsible for the operation of the business or activity in conformance with all applicable laws;

2. Substantiated report of fraud or misrepresentation of a material fact in the procurement of the license;

3. Failure to pay when due any license fee, tax, charge and/or penalty provided in state statute or city ordinance;

4. Substantiated report of the violation of city ordinance or federal or state statute relating to the licensed business and resulting from the conduct of such business or activity;

5. Substantiated report of any condition or conduct at or in connection with the business;

6. Substantiated report of using or possessing for use a false weight or measure or any other device for falsely determining or recording any quantity or quality;

7. Substantiated report of selling, offering or exposing for sale products or commodities which vary from the standard of composition or quality described in connection with the offer or sale;

8. Substantiated report of activities at or in connection with the business, which are fraudulent or deceptive;

9. Substantiated report of failure of the applicant to retain the legal qualifications necessary for the business license, including the continuing absence of "disqualifying factors" (as defined in section 4-1A-2); or

10. Substantiated report of failure to properly maintain operational business records and other records required in this title for inspection and audit by the city.

C. Pendency Of License: The city may revoke or suspend a license for any of the grounds listed for denying a license application or a renewal application in this chapter arising during the pendency of a business license. (Ord. 12-13, 6-13-2012)

4-1C-3: PROCEDURE FOR SUSPENSION OR REVOCATION:

The business license authority may prosecute a suspension or revocation administratively as provided in title 16 of this code, and/or as a Class B misdemeanor. (Ord. 12-13, 6-13-2012)

4-1C-4: EFFECT OF REVOCATION AND SUSPENSION:

A. If the license is revoked, no new application shall be considered by the business license authority until expiration of the time period, in any event not less than one year, specified in the order of revocation.

B. A suspension shall be for a period not exceeding six (6) months, following which the license shall be reinstated. Should the license be under suspension at the time the license would have otherwise been renewed or renewable, the license shall not be renewed until expiration of the period of time imposed on the original suspension. (Ord. 12-13, 6-13-2012)

4-1C-5: LICENSE APPEAL AUTHORITY ESTABLISHED:

The license appeal authority shall hear and decide all appeals of license denials, suspensions, revocations, and similar actions (collectively referred to as "appeals"). The license appeal authority shall have authority to hear evidence in all appeals referred to the license appeal authority and, after an appeal hearing, shall prepare a written decision and order, as provided in this title and in title 16. The individual designated to hear an appeal shall hereafter be designated as the license appeal authority. (Ord. 12-13, 6-13-2012; amd. Ord. 19-47, 12-04-2019, Effective at 12 noon on January 6, 2020; Ord. 21-04, 2-10-2021)

4-1C-6: ADMINISTRATIVE LAW JUDGE AS THE LICENSE APPEAL AUTHORITY:

Unless the mayor retains by contract another individual to fulfill the responsibilities of the license appeal authority set forth in this title, the administrative law judge, identified in title 16, shall be and shall fulfill all the responsibilities of the license appeal authority. (Ord. 12-13, 6-13-2012)

4-1C-7: FILING AN APPEAL OF A DENIAL, SUSPENSION, OR REVOCATION:

Appeals of a business license authority's decision to deny, suspend, or revoke a business license may be made by filing a written notice of appeal with the city recorder, within fifteen (15) days of receipt of the notice of denial, suspension, or revocation. The appeal notice shall contain a specific and detailed explanation of the alleged mistake made by the business license authority and a specific statement of the relief desired. (Ord. 12-13, 6-13-2012; amd. Ord. 19-47, 12-04-2019, Effective at 12 noon on January 6, 2020; Ord. 21-11, 3-24-2021)

4-1C-8: APPEAL HEARING:

A. Hearing Date And Time: All hearings shall be conducted at a time, place and day set by the license appeal authority through a written notice of hearing provided to all parties. The hearing shall be scheduled and held pursuant to title 16.

B. City To Present Case: At the hearing, a representative from the city or designee of the business license authority shall present the reasons for the decision to deny, suspend, or revoke the license.

C. Licensee Presentation: The applicant, in person or through the applicant's attorney, may then present any evidence and/or argument showing reason why the business license authority's decision was in error.

D. Sworn Witnesses: All witnesses, if any, shall be sworn to testify truthfully. Either party is entitled to confront and cross examine any witnesses.

E. Evidentiary Rules: The license appeal authority shall apply the evidentiary rules identified in title 16.

F. Grounds For Decision Under Review: If the denial appealed is based on a determination of the business license authority that sufficient grounds existed under city, state or federal law, the license appeal authority may reexamine the factual nature of the grounds and determine whether they are sufficient to sustain the decision of the business license authority.

G. License Appeal Authority Lacks Authority To Waive Compliance With Requirements: The license appeal authority does not have the authority to waive compliance with or to extend deadlines set forth in this title or in title 16, except as specifically identified therein.

H. Preponderance Of Evidence Standard Of Review: All factual determinations made by the license appeal authority shall be supported by a preponderance of the evidence, presented to the license appeal authority during hearing proceedings. (Ord. 12-13, 6-13-2012; amd. Ord. 21-11, 3-24-2021)

4-1C-9: DECISION OF THE LICENSE APPEAL AUTHORITY:

A. Date Decision Due; Findings: The license appeal authority, after hearing all the evidence, shall announce its decision within fourteen (14) calendar days from the date of hearing, unless for good cause, it extends the time for rendering a decision. The license appeal authority may affirm or reverse the decision of the business license authority, and may remand the matter for further action by the business license authority. The decision shall be in writing and shall be based upon findings of fact and conclusions of law. The license appeal authority may designate that the prevailing party draft the findings of fact and order. If the prevailing party drafts the decision, the opposing party shall have five (5) working days from the date the draft is submitted within which to file objections to the draft. Upon resolution of all objections to the draft, the license appeal authority shall issue its decision.

B. Service Of Appeal Decision: The decision of the license appeal authority shall be delivered to the applicant by mail, postage prepaid, by electronic means, or by personal service, at the discretion of the license appeal authority.

C. Reversal Of Decision: The denial of the license shall be reversed by the license appeal authority if, upon review of the written appeal and information submitted, the license appeal authority finds that the licensing officer made a material mistake of law or fact in denying or suspending the applicant's or registered solicitor's license.

D. Affirmation Of Decision: If the written appeal and information submitted indicates that the licensing officer properly denied a license the denial shall be affirmed.

E. Administrative Exhaustion Of Remedies: After the ruling of the license appeal authority, the applicant or solicitor is deemed to have exhausted all administrative remedies with the city. (Ord. 12-13, 6-13-2012)

4-1C-10: APPEAL OF A LICENSE APPEAL AUTHORITY DECISION:

The license appeal authority's decision may be appealed by the applicant or the city to the district court within thirty (30) days from the date on which the license appeal authority's written decision is issued. (Ord. 12-13, 6-13-2012)

4-1C-11: LICENSING AFTER REVOCATION:

A person, whose business license has been revoked, may not be issued a new license for a period of twelve (12) months following the revocation. (Ord. 12-13, 6-13-2012)

4-1C-12: VALIDITY OF BUSINESS LICENSE DURING APPEAL:

A. Right To Operate During Appeal: A person or business holding a business license subject to an order of the business license authority suspending or revoking the license may continue to legally operate the licensed business in compliance with federal, state and all other local laws pending a final decision on appeal, or until the time for appeal has passed, whichever event occurs first.

B. No Right To Operation Without Valid License Having Been Issued: An applicant for a currently unlicensed business shall not operate, and it shall be unlawful for any person to conduct business for which a license is required at the premises until a valid business license is issued, notwithstanding the city's denial of that license has been appealed. (Ord. 12-13, 6-13-2012)

ARTICLE D. ENFORCEMENT

SECTION:

4-1D-1: Powers And Duties Of Police And Inspectors

4-1D-2: Penalties For Violation

4-1D-3: Effect Of Conviction; Prosecution Not Barred

4-1D-4: Injunction

4-1D-5: Liability For Acts Of Employees

4-1D-1: POWERS AND DUTIES OF POLICE AND INSPECTORS:

A. Authorized Enforcement Personnel:

1. All police officers, community enforcement officers, code enforcement officers, and city building inspectors are appointed to act as business license inspectors, and are empowered and required to examine all places of business and persons who are required to have a business license and to determine if licenses are valid and available for inspection.

2. Police officers and inspectors shall have and exercise the power to enter free of charge, during normal business hours, any place open to the general public and for which a license is required. They may require the exhibition of a current license by any person engaged or employed in the conduct of such business.

B. Duty To Enforce: It shall be the duty of the city police officers, community enforcement officers, code enforcement officers, and the city building inspectors, as well as the city business license authority, to cause complaints to be filed against all persons violating any of the provisions of this title. Enforcement against pawnshops is limited as provided in Utah Code section 13-32a-112.5. (Ord. 12-13, 6-13-2012)

4-1D-2: PENALTIES FOR VIOLATION:

A. Administrative Fines And Penalties: If the city council so authorizes, the license appeal authority may assess administrative penalties for violations of this title.

B. Violation: Any violation of this title may be prosecuted administratively as provided in title 16 of this code, and/or as a Class B misdemeanor.

C. Each Sale Without A License Is A Separate Offense: The sale of each article by a temporary merchant, a temporary merchant sponsor or a participant, without a license therefor, shall be a separate offense under and a separate violation of this title. (Ord. 12-13, 6-13-2012)

4-1D-3: EFFECT OF CONVICTION; PROSECUTION NOT BARRED:

The conviction and punishment of any person for transacting business without a license shall not excuse or exempt such person from the payment of any license fees, penalties or fines due or unpaid at the time of such conviction, and nothing in this title shall prevent a criminal prosecution for any violation of the provisions of this title. (Ord. 12-13, 6-13-2012)

4-1D-4: INJUNCTION:

An entity or individual who operates or causes to be operated a business without a valid license in violation of the provisions of this chapter is subject to a suit for an injunction in addition to the civil and criminal violations provided in this chapter and any other remedy available at law or in equity. (Ord. 12-13, 6-13-2012)

4-1D-5: LIABILITY FOR ACTS OF EMPLOYEES:

The holder of a city business license is strictly liable for any and all acts of the holder's own employees and for any violation by them of any provisions of this title. (Ord. 12-13, 6-13-2012)












Ordinance No. 23-12 Business Regulation Amd

Final Audit Report

2023-03-29


Created:	2023-03-27
By:	Cindy Quick (Cindy.quick@westjordan.utah.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAA5PqadKFoek2pCLaGsGjnxKXTMcxN3Mo7

"Ordinance No. 23-12 Business Regulation Amd" History


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2023-03-27 - 10:52:06 PM GMT- IP address: 73.98.254.78
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2023-03-27 - 10:55:38 PM GMT
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2023-03-28 - 3:13:27 PM GMT- IP address: 173.226.103.219
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2023-03-28 - 3:13:45 PM GMT- IP address: 173.226.103.219
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Signature Date: 2023-03-28 - 3:13:47 PM GMT - Time Source: server- IP address: 173.226.103.219
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2023-03-28 - 3:13:48 PM GMT
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