



HARRISVILLE CITY

363 West Independence • Harrisville, Utah 84404 • (801) 782-4100

CITY COUNCIL MEETING AGENDA 363 West Independence Blvd April 26, 2016

MAYOR:

Bruce N. Richins

COUNCIL MEMBERS:

Jeffery Pearce
Gary Robinson
Jennifer Jensen
Michael Murtha
Ruth Pearce

"In accordance with the Americans with Disabilities Act, the City of Harrisville will make reasonable accommodations for participation in the meeting. Request for assistance can be made by contacting the City Recorder at 801-782-4100, providing at least three working days advance notice of the meeting."

6:00P.M. BUDGET WORK SESSION

7:00 P.M. CITY COUNCIL MEETING
Presiding: Mayor Bruce Richins
Mayor Pro Tem: Jennifer Jensen

- 1. CALL TO ORDER**
- 2. PLEDGE OF ALLEGIANCE & OPENING CEREMONY** [Council Member Jennifer Jensen]
- 3. CONSENT ITEMS**
 - a. Approve the minutes of April 12, 2016 as presented.
 - b. Harrisville City Proclamation 2016-01; Senior Corps Week
- 4. BUSINESS ITEMS**
 - a. Discussion/possible action on Harrisville City Ordinance 479; International Fire Code Update.[Ryan Barker]
 - b. Discussion/possible action on Harrisville City Ordinance 469; Business License Regulations and General Revenue. [Bill Morris]
- 5. PUBLIC COMMENTS - (3 minute maximum)**
- 6. MAYOR/COUNCIL FOLLOW-UP:**
- 7. ADJOURN**
- 8. HERITAGE DAYS WORK SESSION**

DATE POSTED: April 22, 2016

BY: Jennie Knight, City Recorder

I, Jennie Knight, certify that I am the City Recorder of Harrisville City, Utah, and that the foregoing City Council agenda was faxed to the Ogden Standard Examiner, Weber County Library, and neighboring cities. The agenda was also posted at the following locations: City hall, on the City's website www.cityofharrisville.com and the State Public Meeting Notice website at <http://pmn.utah.gov>.

**MINUTES OF HARRISVILLE CITY
CITY COUNCIL MEETING
Tuesday, April 12, 2016 – 6:00 p.m.
Council Chambers
363 West Independence Blvd
April 12, 2016**

Present: Mayor Bruce Richins, Council Member Jeff Pearce, Council Member Gary Robinson, Council Member Jennifer Jensen, Council Member Michael Murtha, Council Member Ruth Pearce.

Staff: Bill Morris, City Administrator, Gene Bingham, Public Works Director, Keith Wheelwright, Police Lieutenant, Max Jackson, Police Chief, Bryan Fife, Parks & Recreation Director, Lynn Fortie, Treasurer, Pamela Crosbie, Finance Clerk, Jennie Knight, City Recorder.

Visitors: Aspen Teuscher, Austin Teuscher, Brian Bennion, Nathan Averill & Family, Jasmine Medsker, Clayton Driggs, Cameron Shirts, Scott Porter, James D Beers.

6:00P.M. BUDGET WORK SESSION

Lynn Fortie gave a brief budget overview. He said the budget process is an important function of the Council. There are usually more ways to spend the money than receive it because we are a service organization. He outlined the state requirement when adopting a budget. The tentative budget must be adopted by the first meeting in May with the final budget being adopted by June 22 unless a property tax increase is being proposed.

Lynn Fortie explained the general fund is the main account where most of the expenditure and revenue are collected and paid. Enterprise funds are typically money collected for a specific purpose and can only be used for such. Mayor Richins asked for clarification if the revenue collected off the sale of a vehicle goes back into the general fund. Lynn Fortie clarified yes. He also explained the budget outlines the major classifications and additionally the individual line items.

He continued by reviewing the sales tax revenue, franchise tax, and property tax. Most of the money collected on property tax is not received by the city; just a small portion. Often times these taxes are the least reliable revenue source because they vary quite a lot. Building related revenue is also variable. Building Permits display where the impact fees are collected. Impact fees are used to pay for increased needs throughout the city. If impact fees are not going to be used they are listed as increased revenue; they cannot be paid as payroll. Additionally there are some fees collected on liquor tax. Revenues and expenditures must balance. If there is a shortfall, it must be listed to balance the funds. Class C Road Funds are allowed to be collected for use at a future date. Mayor Richins pointed out the Class C Road funds can be collected without limit. Gene Bingham explained he likes to use half of the collected money for maintenance and save the other half for major projects; that way there is money saved in case of an emergency. Mayor Richins also pointed out the transportation tax will help increase these funds.

Lynn Fortie outlined the major budget classifications: Mayor and Council, Justice Court, Administration, Non-Departmental, Police, Building and Planning, Public Works, and Parks and Recreation. He explained the non-departmental is a little different than the others because it includes anything that doesn't fit under the other categories such as custodial services.

The Capital Projects fund must also balance. State law allows a maximum 25% of the general fund to be saved each year. Mayor Richins explained we are allowed to keep more if we have an outlined plan for the use of the money. Enterprise funds were reviewed. These funds operate more like a business. The cash balances of these accounts ought to be increasing. Internal Service Funds were outlined; Harrisville City only has one, the motor pool. These are charged interest on the accounts. Max Jackson asked how long it takes to pay off a car when purchased through the motor pool fund. Lynn Fortie said about five years.

Council Member Robinson asked if the city has considered making Parks and Recreation an Enterprise fund. Lynn Fortie admitted he has not ever heard of that happening and wondered if state law would allow that. Council Member Robinson expressed his opinion that recreation is not a normal course of operations of a city. He explained he feels storm water and sewers cannot be funded through the community but parks and recreation could be handled on their own. Council Member Jensen expressed her disagreement that recreation is not a city function. She explained this provides opportunity for youth to be engaged in healthy activities. Mayor Richins asked Council Member Robinson if he means to charge residents for park usage. Council Member Robinson said a study could be conducted to see how many people use the parks and see if they can transfer funds out of the general fund to cover these. Council Member Murtha asked if he would include the fees from cabin rentals. Council Member Robinson said anything that is being used as a rental. He feels these items should pay for themselves.

Lynn Fortie explained the state regulates the use of the general funds. To create enterprise funds public hearings and other requirements must be met. The state does not look favorably on the transfer of fees from the general fund because there was abuse by cities in the past. Council Member Robinson expressed his opinion that residents who use the recreation department should be funding the department. Council Member Murtha asked if these fees were collected separately in the past. Council Member Jensen said the current recreation program is for youth. She said times are different now and there are a lot of people who depend on having youth recreation. Lynn Fortie explained that fees paid into accounts can be tracked separately without creating an enterprise fund.

Council Member Murtha requested a copy of the draft budget. Lynn Fortie explained this budget has yet to balance but is available. Mayor Richins pointed out the most difficult challenge with the budget is calculating the expenses for the next year, based on past information. All we can do is guess what changes may occur in the economy.

Lynn Fortie gave a brief overview of the current standing in the budget which includes a 3% merit increase, an increase of 4.1% overall for benefits, and no increase in retirement. Sales tax was calculated slightly higher with a 2.5% increase. Council Member Murtha asked why there was such a discrepancy with the franchise tax. Pam Crosbie explained that money was collected in error which should have been paid to

Pacificorp. We now have to repay this amount back. Gene Bingham further explained that our franchise agreement requires an accounting summary be provided which would have alerted the city to the error. This was not being provided. When it was discovered, Pacificorp wanted payment in full but the franchise agreement allows for this to be paid through installments. The decline in franchise tax in the budget reflects this payment back to Pacificorp.

Lynn Fortie included the projected increase in property taxes. Bill Morris also said the city is anticipating a large building permit for the LDS Cannery. We are not sure if this will be included in the current fiscal year or the proposed one. New impact fees are included for public safety and transportation. Council Member Murtha commented the price of gas is going down so why is there an increase. Gene Bingham pointed out the tax collection on gas remains the same no matter the price per gallon.

The JAG grant was explained and Lt. Wheelwright said he is looking to collect another highway safety grant; they have been funding the car cameras with this type of grant. There is a projected increase on fines and forfeitures. Max Jackson explained some fine increase is relating to loss prevention activity at Walmart. He also feels that Judge Renstrom is very efficient collecting through the Justice Court. He also explained the surcharge amount paid through fines and forfeitures to the state. Bill Morris pointed out that with exception to code enforcement and non-moving violations; most fines are heavily surcharged by the state. Council Member Robinson asked how this is tracked. Bill Morris responded by a state mandated program called CORIS. This conducts a proper check and balance to make sure money is transferred properly. Council Member Robinson asked for an explanation on "redemptions". Lynn Fortie said this is used when taxes are overpaid.

Lynn Fortie explained how the budget reflects the use of reserve funds, such as Class C Road funds. This is directly related to the budget where the money will be used. Council Member Ruth Pearce asked about the interpreter balance and why this can't be zero if we have someone who speaks Spanish. Bill Morris clarified that interpreters must be certified by the state and paid appropriately. Lynn Fortie also clarified a few errors were corrected leaving the budget with approximately \$180,000 deficit, which is not uncommon at this time during the budget discussions.

Mayor and Council agreed to table the discussion until the next budget work session.

7:00 P.M. CITY COUNCIL MEETING

1. Call to Order.

Mayor Richins called the meeting to order and welcomed all visitors.

2. Opening Ceremony.

Boy Scout Troop Cameron Shirts led the pledge of allegiance and Council Member Gary Robinson conducted the opening ceremony.

3. Consent Items.

- a. Approve the minutes of March 8, 2016 as presented.

Mayor Richins asked for a few clerical corrections. Council Member Robinson asked for the check register be added to the consent items again. Mayor Richins said this can be made available.

MOTION: Council Member Jeff Pearce motioned to approve the minutes of March 8, 2016 with corrections. Council Member Murtha seconded the motion. All Council Members voted aye. Motion passed.

4. Business Items.

a. Weber County Health Department Presentation

Mayor Richins introduced Louis Cooper from the Weber County Health Department. Mr. Cooper explained he is over the Environmental Health Division and is most likely the one to interact with the city. He oversees the building department and water service issues. He and the Weber County Health Department Director Brian Bennion are just making their way around to all the cities and mayors to let them know the services that are available.

The Environment Health Division oversees restaurant inspections, waste water inspections on homes, and they help conduct system surveys, and take complaints on drinking water. They help pull samples and check with water system managers to provide clean water. They also oversee licensing of day cares and swimming pool monitoring by providing a certified pool operator class. Council Member Robinson asked how the splash pad is overseen. Gene Bingham said the city has a representative attending their current training right now. Bill Morris said the health department would work directly with Bona Vista since they are our water provider for the city.

Brian Bennion gave a short history of services provided by Weber Morgan Health Department. They implement EPA regulations and run the center of disease controls because public health is important. Large strides have been made with improved drinking water and immunizations which are improving the life span of individuals. With immunizations, outbreaks are under control but they would like to improve communication on how successful these programs are. They just recently completed a community health assessment that hasn't been done in at least 25 years. They worked with the community to create focus groups. By collecting state, local, and national data they can prioritize how to improve health in their own department.

Another issue rising to the top is air quality improvement. In July the public will be asked to participate in an air quality exercise. They are trying to help get the message out to not idle and reduce the number of trips we make places, in addition to carpooling. They would like to encourage people to help participate in improved air quality measures. Additionally they would like to get businesses and local governments involved to help develop behaviors to improve air quality. There is also a public health merit badge available in June and November for boy scouts.

Council Member Robinson asked to collect information to include in the city newsletter. Brian Bennion said he will email that information.

b. Discussion/possible action on Harrisville City Ordinance 469; Business License Regulations and General Revenue.

Bill Morris explained this was brought up last fall for discussion and since then the Mayor and Council have discussed new and interesting ideas which include the good business program. This would allow businesses to participate in a training program for a reduction in business license fees. The state mandates that the business license fee study be updated every five years so licenses can be adjusted and phased into implementation.

Bill Morris informed Council he updated the ordinance to include the discount for disproportionate fees that is currently available for large retail such as Walmart that provide their own asset protection and receive a 50% discount under section one. Under the second section other businesses who do not qualify under section one would be eligible for a 25% discount by attending the good business class. Harrisville Police Department and licensing official would prepare a program for businesses to attend to receive the discount. This will also provide opportunity for regular communication between the city and businesses.

Council Member Robinson asked how often the course would be offered. Bill Morris explained this would occur once a year. Council Member Robinson asked if this has ever occurred before. Bill Morris said to his knowledge they have never offered a discount for attendance. Council Member Jensen expressed this would be a good opportunity for business owners to mingle with other business owners. Bill Morris indicated this program could be up and running by the end of this calendar year, in time for the new licensing season. Council Member Robinson suggested including the notice for the program in with the renewal notices. Bill Morris commented they may have to offer multiple meeting to ensure availability for all businesses. It would not have to be the business owner alone who attends, they are welcome to bring other staff they feel would benefit from the training. The only requirement is attendance by the business. Council Member Murtha expressed his agreement of the good business program. Additionally, he would like to scale back the fees on automotive, construction, and contracted services as suggested in the study. He is not advocating any increase in current fees. He would like to see what this program does for businesses. He suggested reducing the fees the study indicated are high, maintaining the same fees for all the other businesses, and implementing the good business program.

Council Member Jensen agreed she did not like the idea of raising any fees. If the study indicated an increase, she would recommend phasing the increase over time. She commented the fees may have to be adjusted so the city is not subsidizing the businesses and also offering the 25% discount.

Bill Morris asked if Council was recommending striking the fees listed in the study that are not related to the good landlord program. No objections were given. Bill Morris explained that a portion of the licensing official's salary is coming from the fee schedule. Council Member Jensen said she is not recommending a reduction in salary. Council Member Murtha said they would need to know what percentage of salary is being paid from the licensing fees. His goal is to attract more businesses into Harrisville. Bill Morris said this may have little to no impact to staff salaries if they are able to fund the salary from somewhere else. Council Member Jensen said she doesn't want to raise the underlying cost to businesses.

Bill Morris suggested implementing the program for a period of time, 3 years, and then review the impact on the business license fee revenue. Council Member Murtha said

Matt Godfrey suggested two years worth of data. Bill Morris said he would guess this would be around \$10,000 loss by implementing the 25% discount. He suggested Council table this discussion and have Lynn Fortie estimate the impact of a 25% reduction in the business license fee revenue.

MOTION: Council Member Ruth Pearce motioned to table Harrisville City Ordinance 469; Business License Regulations and General Revenue. Council Member Robinson seconded the motion. All Council Members voted aye. Motion passed.

c. Discussion/possible action Harrisville's 2nd Annual Farmer's Market

Bill Morris said he met with an individual who is interested in writing grants that are available for farmer's markets. She would also be interested in running the farmer's market this year. He informed Council the RAMP EZ grant has been submitted. Council Member Jensen said there is also a grant available for implementing a farmer's market within the first 5 years. Council Member Ruth Pearce said another grant is available for people who use food stamps.

Bill Morris informed Council this volunteer has a network with farmers that are reliable and could help build the market. Mayor and Council gave discussion on how to bring in more produce vendors. Council Member Jensen said when she attended a training on the farmer's market, they indicated it takes several years before the market becomes stable.

Council Member Murtha suggested a designated area be setup at the park to hold the market. He recently visited an out of state location that had a wonderful venue for their market. Bill Morris suggested implementing this into the future city complex on 750 West. Council Member Jensen said there are things available in the current location for entertainment. Mayor and Council gave a brief discussion on how many weeks were included in the previous market. They agreed the market will begin in conjunction with Heritage Days and run through September.

5. Public Comments - (3 minute maximum)

No public comments were offered.

6. Mayor/Council Follow-up:

Mayor Richins informed Council Pleasant View has a plan for the 2550 North sidewalk project. Mayor and Council gave discussion on when the sidewalk project will be implemented.

Mayor Richins said there is another library meeting tomorrow at 7pm and he will follow up with the location. The main issue with the project is the parking. At the last meeting they could not take a vote because they did not have a quorum.

Mayor Richins informed Council HHI Corporation has notified the city they are going to tear down the old house on the property. They are willing to donate the house to the city with the caveat the city pays to have it relocated. He asked Council if this is something they want to consider. In the past they have been looking for a location and building to

house a museum. The demolition will not take place until August. Council Member Murtha said he would like to see the associated costs first. Council Member Jeff Pearce said HHI would be willing to donate the house to any interested party. Council Member Robinson asked how old the house is. Mayor Richins said close to 100 years old.

a. ULCT Conference Review

Mayor Richins said there are a lot of cities interested in streaming their council meetings and some already do. There is a service which streams through YouTube for a cost around \$1200 to \$3000. Kaysville has been doing this for awhile. A camera is mounted and they just have to switch it on when the meeting begins. This is an effort to get more people connected. Council Member Murtha suggested conducting a survey to see if residents would have interest in this.

Council Member Jensen attended recreation training. She said Ogden City put in a number of new parks and has seen their crime rate decrease because there are more people in the area. She would like to have more trails through the community. Bill Morris said we have an adopted trail plan. Mayor Richins commented that money is available from UTA. Bill Morris also said there are trail meetings she can attend if interested.

Council Member Robinson said he attended the Utah Economic Summit to benchmark infrastructure costs. Cities are changing because the new generation can't afford homes. Council Member Murtha said North Ogden has a project that is directed towards this. Council Member Robinson also stressed that city council and employees need to learn our roles and step up to those roles by matching our personalities to the job. He outlined other suggested items with regard to running a successful city operation.

Mayor Richins asked for a Heritage Days report. Council Member Jeff Pearce said he has not had much discussion yet. Mayor Richins suggested having a work session at the next regular meeting. Mayor and Council agreed to have a budget discussion before and Heritage Days after the April 26, 2016 meeting.

7. **Closed Executive Session** – Utah State Code §52-4-204 & §52-4-205: The Council may consider a motion to enter into Closed Executive Session for the purpose of discussion of character, professional competence, or physical or mental health of individual(s) and pending or reasonable imminent litigation.

MOTION: Council Member Ruth Pearce motioned to close the public meeting and enter into a closed executive session. Council Member Jensen seconded the motion. A Roll Call vote was taken.

Council Member Ruth Pearce	Yes
Council Member Murtha	Yes
Council Member Jensen	Yes
Council Member Gary Robinson	Yes
Council Member Jeff Pearce	Yes

Motion passed 5-0.

Mayor and Council convened into a closed executive session.

MOTION: Council Member Ruth Pearce motioned to close the closed executive session and open the public meeting. Council Member Robinson seconded the motion. A Roll Call vote was taken.

Council Member Ruth Pearce	Yes
Council Member Murtha	Yes
Council Member Jensen	Yes
Council Member Robinson	Yes
Council Member Jeff Pearce	Yes

Motion passed 5-0.

8. Adjourn.

Mayor Richins motioned to adjourn at 8:45pm.

ATTEST:

BRUCE RICHINS
Mayor

JENNIE KNIGHT

City Recorder

Approved this 26th day of April, 2016

HARRISVILLE CITY

SENIOR CORPS WEEK

OFFICIAL PROCLAMATION – No. 2016-01

WHEREAS, older Americans bring a lifetime of skills and experience that can be tapped to meet the challenges in our communities; and

WHEREAS, for more than four decades Senior Corps, and its three programs – RSVP, Senior Companions, and Foster Grandparents – have proven to be a highly effective way to engage Americans ages 55 and over in meeting national and community needs; and

WHEREAS, each year Senior Corps provides opportunities for nearly 330,000 older Americans across the nation, including approximately 488 volunteers in Weber County; and

WHEREAS, Senior Corps volunteers last year provided more than 82 million hours of service, helping to improve the lives of our most vulnerable citizens, strengthen our educational system; protect our environment, provide independent living services, and contribute to public safety; and

WHEREAS, Senior Corps volunteers build capacity of organizations and communities by serving through more than 65,000 nonprofit, community, educational, and faith-based community groups nationwide; and

WHEREAS, at a time of mounting social needs and growing interest in service by older Americans, there is an unprecedented opportunity to harness the talents of 55-plus volunteers to address community challenges; and

WHEREAS, service by older Americans helps volunteers by keeping them active, healthy, and engaged; helps our communities by solving local problems, and helps our nation by saving taxpayer dollars, reducing healthcare costs, and strengthening our democracy; and

WHEREAS, the seventh annual Senior Corps Week is May 16-20, 2016, and is an opportunity to thank Senior Corps volunteers for their service and recognize their positive impact and value to our communities and nation;

NOW, THEREFORE, IT IS PROCLAIMED that Harrisville City, Utah, designates May 16-20, 2016, as Senior Corps Week and urges citizens to recognize Senior Corps and volunteers for their valued benefits to our community.

DATED THIS _____ DAY OF _____, 2016.

Mayor: _____

Attest: _____

**HARRISVILLE CITY
ORDINANCE 479**

INTERNATIONAL FIRE CODE UPDATE

AN ORDINANCE OF HARRISVILLE CITY, UTAH, AMENDING CHAPTER 8.06 OF THE MUNICIPAL CODE TO UPDATE THE INTERNATIONAL FIRE CODE; MAKING TECHNICAL CHANGES; SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Harrisville City (hereinafter “City”) is a municipal corporation, duly organized and existing under the laws of the state of Utah;

WHEREAS, *Utah Code Annotated* §58-56-1, et. seq., 1953, as amended, contains the Utah Uniform Building Standards Act which requires each political subdivision in the state to adopt building codes adopted by the Uniform Building Code Commission (hereinafter “Commission”);

WHEREAS, the International Fire Code is adopted and regularly updated by the Commission;

WHEREAS, the City Council received a request from North View Fire District to update the Harrisville Municipal Code as provided herein;

NOW, THEREFORE, be it ordained by the City Council of Harrisville City as follows:

Section 1: Repealer. Any other ordinance or portion of the municipal code inconsistent with this Ordinance is hereby repealed and any reference thereto is hereby vacated.

Section 2: Amendment. Chapter 8.06 of the *Harrisville Municipal Code* is hereby amended in its entirety to read as follows:

**Chapter 8.06
INTERNATIONAL FIRE CODE**

Sections:

- 08.06.010. Adoption of the International Fire Code.**
- 08.06.020. Revised Sections of the International Fire Code.**
- 08.06.030. Storage Limits.**
- 08.06.040. Administration, Enforcement, and Penalties.**

08.06.010. Adoption of the International Fire Code adopted.

1. Code Adoption. The most current edition of the International Fire Code, as adopted by the State of Utah (hereafter “the Code”) published by the International Code Council, Inc., including appendices provided herein, are hereby adopted by Harrisville City and by this reference are made part of the municipal code to the same extent and effect as though such were fully set forth herein subject to the additions, deletions and changes provided in this Chapter.
2. Appendices Adoption. The following Appendices to the International Fire Code are hereby included in this adopted as if they were fully integrated into the International Fire Code. Any activity which is governed by the terms of the International Fire Code shall also comply with the terms of these appendices:

- a. Appendix A: Board of appeals.
 - b. Appendix B: Fire flow requirements for buildings.
 - c. Appendix C: Fire hydrant locations and distribution.
 - d. Appendix D: Fire apparatus access roads.
 - e. Appendix E: Hazard categories.
 - f. Appendix F: Hazard ranking.
 - g. Appendix G: Cryogenic fluids - weight and volume equivalents.
3. Interpretation. If any provisions of the International Fire Code or any Appendix is found to be in conflict with the City's public works standards or other portions of the municipal code, the stricter provision(s) shall apply.

08.06.020. Revised Sections of the International Fire Code.

The following sections of Appendix A, B, and C are revised as follows:

4. Section A101 Appeal Authority. An appeal authority is hereby established and designated as the Board of Trustees for the North View Fire District for the purpose of hearing applications for modification of the Code in accordance with Section 108.
5. Deletions. Subsections A101.1 through A101.10 as hereby deleted from the Code.
6. B104.4 General, Single Family Dwellings. The fire area for single family dwellings shall be defined as the total floor area of all floor levels within the exterior walls, used to protect storage or use areas, except as modified in section B104.4.1.
7. Section B104.4.1 Area Separation. Portions of single family dwellings which are separated by fire walls constructed in accordance with the Code or as may be specified in the *International Residential Code*, where applicable, are allowed to be considered as separate fire areas.
8. Delete section B105.1 and insert the following:
 - a. B105.1 One and two family dwellings. The minimum fire flow requirements for one and two family dwellings having a fire area which does not exceed 5,000 square feet shall be provided by the available fire flow and augmented by the Weber Fire District. Fire flow and flow duration for dwellings having a fire area in excess of 5,000 square feet shall not be less than that specified in table B105.1.
 - b. Exception. A reduction in required fire flow, as approved, is allowed when the building is equipped with an approved automatic fire sprinkler system.
 - c. B105.1.1. When water mains or other fixed systems, capable of supplying fire hydrants are available, fire hydrants shall be installed and spaced per Appendix C and Section 507 of the Code.
 - d. B105.1.2. Fire Sprinklers are not required for single family dwellings that originally did not exceed 5,000 Square feet, when adding an addition of 25% or less to the total square footage, when the addition is outside the existing roof-line of the structure.
 - e. B105.2 Exception. Exception to this includes Group U occupancies.
9. C103.1 Single Family Dwellings Amended. In subdivisions comprised of only single family dwellings and type "U" buildings the number of fire hydrants need not exceed the number of lots.
10. 901.6.2 Records Amended. Records of all system inspections, tests, and maintenance required by the referenced standards shall be maintained on the premises for a minimum of three (3) years and shall be submitted to the North View Fire District in the form an manner as prescribed by the Fire Marshall within five (5) working days after the same is completed.

8.60.030. Storage Limits.

1. Flammable Products. Under Section 3406.2.4.4, the storage of flammable or combustible liquids

- in outside above ground tanks is prohibited, unless the tanks meet the requirements of Sections 3404.2.9.6.1 through 3404.2.9.6.10, except for storage within the following limits:
- a. The storage does not exceed ten (10) gallons of class I flammable liquids in all residential zones.
 - b. The storage does not exceed sixty (60) gallons of class II and III liquids in all residential zones, or
 - c. The storage does not exceed four hundred (400) gallons of class I, II and III liquids in all other zones.
2. Bulk Storage. Under Section 3406.2.4.4, no bulk storage of flammable or combustible liquids shall be permitted within the City.
 3. Cryogenic Fluid. Under Section 3204.3.1.1, a permit from the North View Fire District is required for any amount of flammable cryogenic fluid used within the City, except that a permit will not be required for:
 - a. Vehicles equipped for and using cryogenic fluids as the primary fuel for propelling the vehicle, or
 - b. For refrigeration.
 4. Liquefied Petroleum Gas. Under Section 3804.2, the storage of liquefied petroleum gas is limited to eight hundred (800) gallons in all residential zones, and two thousand (2,000) gallons in all other zones.

11.08.040. Administration, enforcement, and penalties.

1. Administration. The North View Fire District shall administer this Chapter and shall enforce the same.
 - a. Fire Chief. The Chief of the North View County Fire District is hereby designated as the Fire Chief of Harrisville City.
 - b. Fire Marshall. The Fire Chief may designate a Fire Marshall for the City, or an authorized deputy, to assist in execution of the provisions of this chapter and such is authorized to issue citations or penalties authorized by law that may be deemed appropriate for each violation of this chapter.
 - c. Code. A copy of the Code as may be required to be maintained by state law or by the municipal code shall be maintained at the main office of the North View Fire District and shall be available to the public for review during regular business hours.
2. Enforcement. The North View Fire District or authorized City official or law enforcement officer may issue citations or otherwise assist with the enforcement of this Chapter.
3. Penalty. In addition to other remedies provided by law, a violation of this chapter without an otherwise prescribed penalty is a class “B” misdemeanor.

Section 3: Severability. If a court of competent jurisdiction determines that any part of this Ordinance is unconstitutional or invalid, then such portion of this Ordinance, or specific application of this Ordinance, shall be severed from the remainder, which remainder shall continue in full force and effect.

Section 5: Effective date. This ordinance take effect immediately after approval and posting.

PASSED AND ADOPTED by the City Council on this _____ day of _____, 2016.

BRUCE RICHINS, Mayor

ATTEST:

JENNIE KNIGHT, City Recorder

RECORDED this ___ day of _____, 2016.
PUBLISHED OR POSTED this ___ day of _____, 2016.

CERTIFICATE OF PASSAGE AND PUBLICATION OR POSTING

According to the provision of U.C.A. §10-3-711, 1953 as amended, I, the municipal recorder of Harrisville City, hereby certify that foregoing Ordinance was duly passed and published, or posted at 1) City Hall 2) the Harrisville Cabin and 3) 2150 North on the above referenced dates.

JENNIE KNIGHT, City Recorder

DATE: _____

Business License Revenue received for FY 2015 - \$49,789
--

There are approximately 200 business licenses issued
--

Revenue loss in possible business license program (Giving them a 25% discount on their business license fees)
--

100% Participation	-\$6,250
75% Participation	-\$4,688
50% Participation	-\$3,125
25% Participation	-\$1,563

Walmart is not eligible for this program (they make up approximately 50% of our business license fee revenue)

**HARRISVILLE CITY
ORDINANCE 469**

BUSINESS LICENSE REGULATIONS AND GENERAL REVENUE

AN ORDINANCE OF HARRISVILLE CITY, UTAH, REPEALING IN PART AND RE-ENACTING IN PART TITLE 3 OF THE MUNICIPAL CODE TO BE RENAMED “BUSINESS LICENSE REGULATIONS AND GENERAL REVENUE”; RENUMBERING VARIOUS CHAPTERS; IMPLEMENTING NEW LICENSE FEES RECOMMENDED BY THE CITY’S BUSINESS LICENSE CONSULTANT; MAKING TECHNICAL CHANGES; SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Harrisville City (hereinafter “City”) is a municipal corporation, duly organized and existing under the laws of the state of Utah;

WHEREAS, *Utah Code Annotated* §10-8-84 authorizes the City to provide for safety, preserve health, promote prosperity, peace, and good order;

WHEREAS, *Utah Code Annotated* §10-1-203 states “the legislative body of a municipality may license for the purpose of regulation and revenue any business within the limits of the municipality and may regulate that business by ordinance.”

WHEREAS, *Utah Code Annotated* §10-3-703 states “governing body of each municipality may impose a minimum criminal penalty for the violation of any municipal ordinance by a fine not to exceed the maximum class B misdemeanor fine under Section 76-3-301 or by a term of imprisonment up to six months, or by both the fine and term of imprisonment.”

WHEREAS, *Utah Code Annotated* §10-8-41.5 authorizes the regulation of sexually oriented businesses;

WHEREAS, *Utah Code Annotated* §10-8-41.6 requires the city to regulate retail tobacco specialty businesses;

WHEREAS, *Utah Code Annotated* §10-8-42 authorizes the city to regulate or prohibit the manufacture, sale, and possession of intoxicating liquors;

WHEREAS, the City retained the services of Zion’s Bank to conduct a Business License Fee Analysis and desires to implement the same;

WHEREAS, the City seeks to provide for uniform business regulations, accountability, public health, and public safety;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the Harrisville City, Utah, as follows:

Section 1. Repeal and Re-enactment. Chapter 4.60 entitled “Equal Employment” and Chapter 4.62 entitled “Equal Housing” of the *Harrisville Municipal Code* is hereby repealed entirely in favor of this Ordinance. Except where Chapters state otherwise and are renumbered, Title 3 of the *Harrisville Municipal Code* is hereby repealed and re-enacted to read “Business License Regulations and General Revenue” as follows:

Section 2: Renumbered. The following Chapters are hereby renumbered and remain in full force and effect as presently written:

Chapter 3.30 is renumbered to be 3.17 Sales and Use Tax

Chapter 3.40 is renumbered to be 3.19 Municipal Energy Sales and Use Tax

Chapter 3.90 is renumbered to be 3.21 Telecommunications License Tax

Title 3

BUSINESS LICENSE REGULATIONS AND GENERAL REVENUE

Chapters:

- 3.01 Business Licensing**
- 3.03 Address and Sales Tax**
- 3.05 Alcohol Beverage Control**
- 3.07 Retail Sale of Tobacco Products**
- 3.09 Residential Solicitation**
- 3.11 Sexually Oriented Businesses**
- 3.13 Non-discrimination Policy**
- 3.15 Good Landlord Program**
- 3.17 Sales and Use Tax**
- 3.19 Municipal Energy Sales and Use Tax**
- 3.21 Telecommunications License Tax**

Chapter 3.01 Business Licensing

Sections:

- 3.01.010. Unlawful to operate a business without a license.**
- 3.01.020. Definitions.**
- 3.01.030. Adoption of study and determination.**
- 3.01.040. Uniform business license regulations.**
- 3.01.050. Business license application.**
- 3.01.060. Business license fees.**
- 3.01.070. Exceptions to the business license fee.**
- 3.01.080. Licensing authority.**

- 3.01.090. Inspection and enforcement authority.**
- 3.01.100. License denial, revocation, or suspension.**
- 3.01.110. Notice of action.**
- 3.01.120. Appeal authority.**
- 3.03.130. Address and sales tax filing requirement.**
- 3.01.140. Penalties.**

3.01.010. Unlawful to operate a business without a license.

1. Authority to regulate. In accordance with *Utah Code Annotated* §10-1-203(2), 1953, as amended, or its successor statute, the city hereby prescribes that all businesses, including home businesses, operating in the city to be licensed for the purpose of regulation and revenue and the same are subject to applicable regulations established by ordinance.
2. License required. Unless exempted by state, federal, or local law, it shall be unlawful for any person to engage in any business, home business, or similar operation within the city, whether on a temporary or permanent basis, without first procuring the license required by this title.
3. Non-transferable. All licenses issued under the provisions of this title are non-transferable and expire as set forth in this title.

3.01.020. Definitions.

In addition to the definition set forth in *Utah Code Annotated* §10-1-203, 1953, as amended, adopted and incorporated herein for the purposes of this title, the following additional definitions apply to this title:

1. “Applicable authority” means either the licensing authority or the inspection and enforcement authority or both acting in the scope of their authority set forth in this title.
2. “City” or “municipality” means the corporate boundaries of Harrisville City, Utah.
3. “City attorney” means the attorney or his designee for Harrisville City, Utah.
4. “Complainant” means a person, including the administrator, who files a complaint under this chapter.
5. “Conciliation” means the attempted resolution of issues raised in a complaint filed under this chapter, or raised in the investigation of the complaint, through informal negotiations involving the complainant, the respondent and the administrator.
6. “Conciliation agreement” means a written agreement setting forth the resolution of issues by conciliation under this chapter.
7. “County” means the geographical area comprising Weber County, Utah.
8. “Discrimination” means any direct or indirect exclusion, distinction, segregation, limitation, refusal, denial, or other differentiation in the treatment of a person based upon unlawful discrimination as specified in this title or because of a person’s association with any such person. Discrimination shall not be interpreted to require, grant, or accord preferential treatment to any person or protected class of persons.
9. “Dwelling” means any building or structure, or a portion of a building or structure, occupied as, or designed or intended for occupancy as, a residence of one or more

- families in the county and vacant land that is offered for sale or lease for the construction or location of a dwelling in the county.
10. “Employee” means any individual applying with or employed by an employer. The term does not include an elected official.
 11. “Employer” is defined in *Utah Code Annotated* §34A-5-102(8).
 12. “Employment agency” is defined in *Utah Code Annotated* §34A-5-102(9)
 13. “Home occupation” means any income-producing use conducted upon premises occupied as residential and as further defined in the land use ordinances.
 14. “Inspecting and enforcement authority” means any federal, state, county, or local authority that may inspect, investigate, or enforce upon a business compliance with any governing law. The inspection and enforcement authority has the ability to issue citations or seek other remedy for a violation of law under its respective jurisdiction. Any law enforcement officer of any jurisdiction shall be considered an ex-officio inspection and enforcement authority under this title.
 15. “Labor organization” means any organization that exists for the purpose in whole or in part of collective dealing with employers concerning grievances, terms or conditions of employment or other mutual aid or protection in connection with employment.
 16. “Licensing authority” means the city licensing officer designated to administer this title, issue a business license, or review and/or revoke the license of a business operating in the city, or the city council only as specifically provided herein.
 17. “Municipal services” is defined by *Utah Code Annotated* §10-1-203.
 18. “Otherwise qualified” means a person who possesses the following required by an employer for any particular job, job classification, or position:
 - a. Education;
 - b. Training;
 - c. Ability;
 - d. Moral character;
 - e. Integrity;
 - f. Disposition to work;
 - g. Adherence to reasonable rules and regulations; and
 - h. Other job related qualifications required by an employer.
 19. “Person” means one or more individuals, partnerships, associations, corporations, legal representatives, trusts or trustees, receivers, and the city.
 20. “Real estate broker or salesperson” means a principal real estate broker, an associate real estate broker, or a real estate sales agent as those terms are defined in *Utah Code Annotated* §61-2-2 or any successor statute of Utah law.
 21. “Religious organization” means a religious corporation, association, educational institution, society, trust or any entity or association which is wholly owned or controlled subsidiary or agency of any religious corporation, association, society trust, or corporation sole.
 22. “Regulating authority” means any federal authority, state authority, local authority, or professional organization that must first license an individual or business prior to receiving a business license. The regulating authority includes such entities as the Utah

Division of Occupational and Professional Licensing, the local health department, the Utah State Bar, the fire Marshall or related designee, the local planning commission, any land use authority, and similar authorities.

23. “Rent” means to lease, sublease, let, or otherwise grant for a consideration the right to occupy premises not owned by the occupant.
24. “Residential real estate related transaction” means the making or purchasing of loans or providing other financial assistance for purchasing, constructing, improving, repairing, or maintaining a dwelling; or secured by residential real estate; or selling, brokering, or appraising residential real property in the county.
25. “Respondent” means a person identified in a complaint as having committed an unlawful practice under this chapter.
26. “Person” means any individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, partnership, joint venture, club, company, business trust, corporation, association, society or other group of individuals acting as a unit, whether mutual, cooperative, fraternal, non-profit, or otherwise.
27. “Schedule” means the business license fee schedule set forth in the Study.
28. “Study” means the Business License Study prepared by the City’s consultant along with any supplement or update to the same.
29. “Temporary license” means any license issued to a business not to exceed a period of 45 calendar days.
30. “Unlawful practice” means a discriminatory act or practice relating to housing or employment that is prohibited under this title.

3.01.030. Adoption of study and determination.

1. Study adopted. The Business License Fee Study prepared by Zion’s Bank dated March 5, 2015, (hereafter referred to as the “Study”), is hereby adopted and incorporated herein by this reference for all fees relating to residential rental units. The Business License Analysis prepared by Lewis, Young, Robertson & Burningham dated May 2008 (hereafter referred to as the “Study”), remains adopted and incorporated herein by this reference for all other non-residential rental businesses.
2. Determination. In accordance with *Utah Code Annotated* §10-1-203, the city hereby determines what constitutes basic, disproportionate, and enhanced levels of municipal service as set forth in the Study based upon the amounts reasonably related to the costs for municipal services as identified in the Study.

3.01.040. Uniform business license regulations.

1. Applicability. The following types of businesses are required to obtain a license before engaging in any business within the city:
 - a. Any business operating within the municipality.
 - b. Any business engaged in the sale of alcohol.
 - c. Any businesses engaged in the sale of certain tobacco products as defined in state law.
 - d. Any temporary business that is temporarily located within the municipality.

- e. Any home occupation within the municipality.
 - f. The owner of a rental residential dwelling unit within the municipality.
 - g. A residential solicitor who is soliciting within the municipality.
 - h. Any sexually oriented business.
2. Classification. All businesses shall be classified by the licensing authority based upon the classifications outlined in the Study. The business license fees prescribed shall be uniform with respect to the class upon which such fee is imposed.
 3. Applicability of other laws. The issuance of a business license to a business does not warrant that the business conforms to all applicable law. It is the continuing duty of the business owner to ensure that the business is operating within the law. Businesses in the city shall comply with the other applicable laws and ordinances that govern the business, including:
 - a. The applicable federal, state, and local law.
 - b. Applicable regulations enforced by any regulating authority.
 - c. Land use ordinances.
 - d. Applicable building and fire codes.
 4. Posting license required. It shall be the duty of any person conducting a licensed business in the city to display the business license issues by the city. Such license shall be posted in a prominent place on the premises used for such business at all times.
 5. Unlawful uses of a license. It is unlawful to do any of the following with a business license certificate:
 - a. Counterfeit a license certificate.
 - b. Deface or mutilate a license certificate that is required to be posted.
 - c. Steal or otherwise remove a license certificate.
 - d. To sell or otherwise transfer any license certificate to another.
 - e. To use a license beyond the scope for the business for which it was issued.
 6. License period. All licenses will be issued on a calendar year basis and shall expire as of December 31 of the issuing year. Licenses, except for solicitors, temporary licenses, and newly established businesses, shall be due and payable on or before January 1 of the current calendar year in which the license has been applied for.
 - a. Late fees shall be assessed on January 2, unless an extension is provided by the city administrator for one or more classes for good cause.
 - b. Solicitors and temporary licensees must obtain a license upon conducting their first job or business transaction within the city for the current year.
 - c. New businesses must obtain a license before conducting such business.
 7. Branch establishments. A separate license must be obtained for each branch establishment or separate location of a business engaged within the city, as if such branch establishment or location were a separate business. Each license authorizes the licensee to engage only in the business licensed at the location and in the manner designated in such license.
 8. Shared premises. Where two or more different classification of businesses being conducted at the same location, each shall obtain a separate license and pay the required license fee for each business. This section does not permit multiple businesses to operate

at the same location where the municipal code or land use regulations otherwise limit the number of business at a particular location.

9. Renewal. The city administrator may develop an online license renewal program for convenience and compliance, along with rules and regulations substantially consistent with the chapter.

3.01.050. Business license application.

1. Application form and filing. An application for a business license shall be made in the form and manner provided by the city administrator and shall be filed with the city’s licensing officer.
2. Application contents. The application shall include the following:
 - a. Provide the name and location of the business.
 - b. State the name of the applicant.
 - c. State the type of entity under which the business is organized.
 - i. If an entity registered, incorporated or organized with the Utah Department of Commerce, specify the name and address of the registered agent with Utah Department of Commerce who is authorized to receive service of process and any communication regarding the applicant’s license.
 - ii. Provide the state sales tax reporting number and federal tax identification number, as applicable.
 - d. Provide the state contractor’s license number, state real estate broker’s license number, or other professional license number issued by the state or a regulating authority, if applicable.
 - e. Provide information relating to the purpose and general operation of the business, including:
 - i. Its primary operation and function.
 - ii. The number of employees.
 - iii. Building square footage, site frontage, and dimensions of its building and grounds, as needed.
 - iv. Whether it engages in the sale of alcohol or beer.
 - v. Whether it is a home occupation.
 - vi. Whether it engages in the handling or use of hazardous material, explosives, or an ultra hazardous activity.
 - vii. Emergency contact numbers and related information.
 - viii. Any additional information required by the city administrator on the application to assist in the regulation of a business or as may be needed for the purpose of issuing the license.
3. Business to provide updated information. The applicant or his designee is responsible to provide to the licensing official, in writing, updated information relating to any change in the information in the application within ten (10) days of the change.

3.01.060. Business license fees.

Any business license fees imposed and levied shall be on an annual basis by the classification of business specified the Business License Fee Schedule as determined by the Study, and shall be administered as follows:

1. Fees imposed. The Business License Fee Schedule set forth in the Study is hereby adopted and incorporated herein by this reference for each classification of business identified therein as determined by the licensing officer. Said Business License Fee Schedule is hereby imposed as the business license fee upon each respective classification of business set forth in the Schedule. The Schedule may be updated or amended from time-to-time.
2. Fee adjustment. The city administrator may, in consultation with the licensing authority, make minor or temporary fee adjustments for good cause, unreasonable hardship, or considerations of basic fairness on a case-by-case basis.
3. Programs. The city may adjust license fees as provided herein:
 - a. Phasing. Upon request by a business, increases in the schedule may be phased in over a two (2) year period. Phasing does not apply to residential rental businesses.
 - b. Programs. Businesses participating in a program offered by the City, subject to being in good standing, are eligible for program and fee discounts as follows:
 - i. Chapter 3.15 provides for the “Good Landlord Program” for residential rentals. In order for a residential rental business to obtain any program reductions, the rental business shall complete and follow an agreement relating to such programs. If the licensing officer or enforcement authority discovers that an affidavit for the program reduction was incorrect or falsified by a rental business, then that rental business shall not be eligible for the fee reduction or discount for the next business license renewal year.
 - ii. “Good Business Programs”
 - (1) Large retail is eligible for an fifty percent (50%) asset protection discount based upon the implementation of an “asset protection program” that includes employing an asset protection team and providing appropriate industry standard security measures.
 - (2) As a measure to encourage business activities that may decrease the disproportional impact, the Police Department, in conjunction with the licensing authority, shall coordinate and implement a Good Business Program curriculum for all businesses, other than large retail, desiring to voluntarily participate in such a program. The licensing authority shall develop a Schedule providing up to a twenty-five percent (25%) fee discount for businesses participating in the Good Business Program and its curriculum.
4. Payment of license fee. Any applicant must include the fee with any application upon filing of an application. The fee shall be in an amount equal to the fee designated on the Schedule for the classification of the business as assigned by the licensing officer. No license shall issue until all fees are paid.
5. Prorated license fee. The applicant of a new business starting after January 1 that is issued a business license for the unexpired portion of the calendar year may request the license

- fees be calculated prorated based upon the remainder portion of the calendar year so long as this request is made contemporaneous with filing of the application.
6. License renewal. Annual business license renewal shall include payment of the appropriate licensing fee based upon the classification of the business.
 7. Late fees. The following late fees apply to any person who engages in business prior to submitting a completed application and payment of all fees or fails to renew a license after such expires:
 - a. Within 30 days of the fee due date, the late fee shall be the license fee, plus 25% of the total specified fee for said license.
 - b. After 30 days of the fee due date, the license or renewal fee shall be the license fee plus 50% of the total specified fee for said license.
 8. Fees generally. The license fee and any late fees shall continue to accrue each year that the business operates without a license, except where such accrual is waived by the licensing authority for good cause. Any license fee, and all late fees and penalties thereon, shall constitute a debt to the city and may be collected by court proceedings in the same manner as any other debt or may be turned over to a collection agency, which remedy shall be in addition to all other existing remedies. The payment of late fees does not relieve any person from fully complying with all other requirements of law, nor from any other prescribed penalties provided by the municipal code.
 9. Refund policy. Unless otherwise provided herein, no business license fee is refundable for any reason whatsoever, once the license has been issued. If a license is denied or the application is withdrawn by applicant before approval, the applicant shall be entitled to a refund, less the base license fee amount, which shall be retained to offset application processing costs.

3.01.070. Exceptions to the business license fee.

A person or business is exempt from business license fees as provided in this part, notwithstanding, this part does not exempt a residential solicitor from any applicable provisions of the residential solicitation provisions of this title. No business license fee shall be imposed under this chapter upon the following persons or businesses:

1. Any person engaged in activities that are solely religious or eleemosynary, excepting any disproportional fee.
2. Any business or person exempted from obtaining a business license by state law.
3. Any contractor holding a valid state license and regulated by the state in accordance with Part 3, Chapter 55, Title 58 of the *Utah Code Annotated*, where the contractor does not maintain an office located within this city.
4. Any alarm company providing services in the city where the same holds a valid license issued by another jurisdiction in the state and where the alarm company does not maintain an office within the city.
5. Any tow truck motor carrier holding a valid business license to perform tow truck service where the tow truck service does not maintain an office within the city.

6. Any person selling surplus household goods or furnishings at a private residence in the garage or yard, if such sales are held in accordance with the applicable requirements and frequency set in the municipal code.
7. A bona fide agricultural operation or family food production.
8. Any minor operating a parental supervised home business grossing nominal amounts per year.

3.01.080. Licensing authority.

The following are business licensing authorities:

1. Licensing officer. The licensing officer, designated and operating under the direction of the city administrator, is the licensing authority required to administer the provisions of this title, and shall:
 - a. Receive initial license applications and fees filed with the city and process the same in accordance with this chapter.
 - b. Classify the business within the appropriate fee schedule based upon the information supplied in the application, and as such information may be supplemented by the inspection and enforcement authority or city administrator.
 - c. Collect the appropriate fee based upon classification and process the fee according to the financial policies of the city.
 - d. Request that applicant provide additional information when questions arise or to verify the accuracy of information offered in an application or relating to an existing business license.
 - e. Coordinate initial inspections, investigations and enforcement with the inspection and enforcement authority.
 - f. Collect all fees and forward such to the designated financial officer.
 - g. Maintain municipal records and information regarding business licenses.
 - h. Forward any information or matters involving action on a business license to the city administrator where there are concerns or where appropriate.
 - i. Approve or deny a license within a reasonable time. Notify applicant the reason for denial by mail.
 - j. Following license approval, issue a business license certificate that is prepared and signed by the licensing officer which shall:
 - i. Be issued by the city in the form and manner determined by the licensing official.
 - ii. Specify by name the person, firm, or corporation to whom it is issued.
 - iii. Designate the location where the business shall be conducted.
 - iv. Specify the classification of the business and license number.
 - v. Be mailed to the address indicated on the application within a reasonable time after approval.
 - k. Communicate matters involving business licenses and related concerns to the city administrator.
 - l. Forward enforcement matters to an inspection and enforcement authority.

- m. Notify the applicant, licensee, or other interested party of the status or any action relating to an application or license.
 - n. Renewal applications do not require re-approval, except where there is a code violation.
2. City council. The city council is a licensing authority who may review a business license, upon request and for cause, in order to make independent review or investigation into any license issued or pending issuance, and may waive fees for good cause shown.

3.01.090. Inspection and enforcement authority.

The mayor or city administrator may designate one or more inspection and enforcement authorities to administer the provisions of the municipal code for any proposed or existing businesses within the jurisdiction of the municipality. Any officer designed as inspection and enforcement authority shall be responsible to:

1. Conduct code inspections. Inspections may be conducted by the inspection authority as follows:
 - a. Prior to the issuance of a new business license at a given location, or a business with a change to its application, the applicant shall permit inspection of the business premise by any regulating authority and by the inspection and enforcement authority to ensure compliance with the law and the municipal code.
 - b. Ongoing inspection of any business or business premises may be conducted by any regulating authority or by the inspection and enforcement authority any time during business hours, or as otherwise arranged, in ensure ongoing compliance with the municipal code and other applicable law.
2. Conduct investigations. Investigations may be conducted relating to any proposed business to verify the accuracy of the information relating to its application, responding to issues, or complaints relating to any existing business operation.
3. Coordination. Coordinate investigations and enforcement with the licensing authority.
4. Violations and remedies. Any regulating authority or inspecting and enforcement may:
 - a. Issue a notice of violation to the business in the city for a violation of law.
 - b. Issue a certificate of non-compliance and require a corrective action plan for any business in the city for a violation of the law.
 - c. Issue a citation to the business or any person at the business who has allegedly violated the law.
 - d. Seek administrative, injunctive, or other relief allowed by law.
 - e. Recommend to the licensing authority that a business license be suspended or revoked.
5. Cause for action. It is cause for business license suspension, revocation, or adverse action for any business to:
 - a. Violate local building, fire, or health code.
 - b. Violate occupational and safety laws and regulations.
 - c. Violate applicable provisions of federal law, state law, or the municipal code.
6. Review. Forward documentation and represent the city in matters involving business license suspension, revocation, or adverse action to the appropriate authority.

3.01.100. License denial, revocation, suspension, or adverse action.

The licensing officer has grounds to deny, suspend, revoke, or take adverse action on any business license, effective after the expiration of the appeal period, if the applicant or licensee:

1. Obtained a license by fraud or deceit.
2. Otherwise provided false or incomplete information on its license application to mislead any city official, a licensing authority, a regulating authority, or the inspecting and enforcement authority.
3. Failed to update its information on its application as provided in this chapter, or failure to fully pay required fees.
4. Failed to pay any duly imposed property taxes, other taxes, or any fees imposed by the city.
5. Failed to meet the requirements for issuance of a license set forth in the municipal code.
6. Has violated federal, state, county, or local law governing operation or licensing of the business.

3.01.110. Notice of action.

The licensing officer shall notify the applicant of any action in writing by regular mail, certified mail, or personal service, of:

1. The issuance of the license. Notification is fulfilled by mailing the license certificate to the address indicated upon the business license application of the business.
2. Action. The denial, suspension, or revocation of a license and the reason for such action.

3.01.120. Appeal authority.

The appeal authority shall hear and decide any matter involving the denial, revocation, suspension, disputed classification, or other unresolved issue relating to a business license. An appeal may be made in writing by an adverse party seeking to appeal classification, denial, suspension, revocation, or other adverse action relating to a business license.

1. Time for written appeal. A adverse party may file a written appeal under this chapter to the administrative hearing officer or appeal authority by filing a written appeal with the city recorder within ten (10) days of any final adverse decision. The written appeal shall state the reason(s) for the appeal, adequately show the standing of the adverse party, state grounds for the appeal, set forth the alleged error of the licensing authority, provide evidence or documentation, and state the relief sought.
2. Appeal authority. Unless otherwise provided by law, the appeal authority shall consist of an administrative hearing officer designated by the city administrator.
3. The appeal authority shall:
 - a. Hear and decide all appeals under this chapter.
 - b. Act in a quasi judicial manner and serve as the final arbiter of issues involving the interpretation or application of applicable law.
 - c. Exercise other powers and duties prescribed by law or assignment.
4. Appeal generally. No person may challenge in district court any decision of the city or its enforcement officer(s) until that person has complied with the appeal procedure of this

chapter and has exhausted all administrative remedies pertaining to such appeal. No adversely affected party shall present a theory of relief in district court that was not first presented to the appeal authority. Adversely affected parties are precluded from pursuing duplicate or successive appeals before the appeal authority as a condition of the adversely affected party's duty to exhaust administrative remedies.

5. Filing fee. An administrative filing fee of \$20 shall be paid for each appeal.

3.03.130. Address and sales tax filing requirement.

1. City address required. Each business located in the city shall denote its address as located in Harrisville City.
2. Sale taxes. Each business located within the city shall properly file all required sales and use tax returns in accordance state law and the rules and regulations of the Utah State Tax Commission, and shall:
 - a. Maintain at all times a current sales and use tax account number the Utah State Tax Commission properly coded to the city with the appropriate outlet denoted, if an outlet number is necessary.
 - b. Properly denote the sales and use tax code for Harrisville City on any tax filing or other document requiring such.

3.01.140. Penalties.

Penalties are cumulative, not exclusive. Any criminal penalties are charged under this title may be imposed upon the business owner, operator, manager, and/or employee as the case may be. In addition to the other penalties provided by law for a violation of this title, the following penalties apply:

1. Civil penalties. For engaging in any business activity in violation of this title there is imposed a warning for first offenses, \$100 fine for second offenses, \$500 fine for third offenses, and \$1,000 for each subsequent offense in a given licensing year.
2. Criminal penalties. Any business activity that violates this title shall be a class B misdemeanor, and each day a violation continues constitutes a separate offense.

Chapter 3.03
(Reserved)

Chapter 3.05
Alcoholic Beverage Control

- 3.05.010. Definitions.**
- 3.05.020. License required.**
- 3.05.030. License classifications.**
- 3.05.040. License fee.**
- 3.05.050. Licensing requirements.**

3.05.060. Inspection and enforcement.

3.05.070. Restrictions.

3.05.080. Suspension and revocation.

3.05.090. Appeals.

3.05.100. Implementation.

3.05.110. Penalties.

3.05.010. Definitions.

The definitions set forth in *Utah Code Annotated* §32B-1-102, 1953, as amended, are adopted and incorporated herein by this reference. For the purpose of this chapter, the following additional definitions apply:

1. “Alcohol or alcoholic beverage” means both “beer,” “wine,” and “liquor” collectively when referenced in this chapter, unless otherwise distinguished.
2. “Alcoholic Beverage Control Act” means Title 32B of the *Utah Code Annotated*, or its successor statute.
3. “Annual” means a calendar year.
4. “Enforcement officer” means any law enforcement officer or any other person designated by the city to enforce this chapter.
5. “Food” means an appetizer, entrée, or meal of substantive food customarily served to a patron at a dine-in restaurant.
6. “Local authority” means Harrisville City, Utah.
7. “Licensing authority” means the city official designated by the city administrator to issue a license under this chapter.

3.05.020. License required.

In accordance with *Utah Code Annotated* §11-10-1, no person may operate an association, restaurant, club, business, or similar establishment that allows a person to purchase, possess, or consume an alcoholic product on the premises of said association, restaurant, club, business, or similar establishment without a valid alcohol license as provided in this chapter. In addition to the requirements of this chapter, an association, restaurant, club, business, or similar establishment shall comply with the requirements of *Utah Code Annotated* §32B 1 101, et seq., entitled the “Alcoholic Beverage Control Act” and other applicable laws and regulations.

3.05.030. License classifications.

An applicant within the City may apply for the following six (6) classes of license subject to availability as provided in this part:

1. Class “A” retail licenses. This license is issued by the licensing authority subject to compliance with this chapter and shall:
 - a. Entitle the licensee to sell beer on the premises licensed in original containers for consumption off-premise in accordance with the Utah Alcoholic Beverage Control Act.
 - b. This class of license is appropriate for grocery and convenience store type establishments.

- c. There is no limit on the number of this class of license that may be issued.
2. Class “B” retail licenses. This license is issued by the licensing authority subject to compliance with this chapter and shall:
 - a. Entitle the licensee to sell a patron beer in original containers and/or wine served on-premise for consumption by a legal patron on-premise in conjunction with the sale of food in accordance with the Alcoholic Beverage Control Act.
 - b. This class of license is appropriate for dine-in restaurant establishments.
 - c. There is no limit on the number of this class of license that may be issued.
3. Class “C” retail license. This license is issued by the licensing authority subject to compliance with this chapter and shall:
 - a. Entitle the licensee to sell beer in original containers, draft beer, wine, and/or alcohol on-premise in conjunction with the sale of food in accordance with the Alcoholic Beverage Control Act.
 - b. This class of license is also appropriate for restaurant establishments that make specialty beer (micro-brewery with food service).
 - c. There is no limit on the number of this class of license that may be issued.
4. Class “D” retail license. This license is issued by the licensing authority subject to compliance with this chapter and shall:
 - a. Entitle the licensee to sell alcohol for consumption on-premises in accordance with the Alcoholic Beverage Control Act.
 - b. This class of license is appropriate for bars or clubs.
 - c. There is no limit on the number of this class of license that may be issued.
5. Class “E” retail or wholesale license. This license is issued by the licensing authority subject to compliance with this chapter and shall:
 - a. Entitle the licensee to manufacture, warehouse, store, and sell an alcoholic beverage for off-premise consumption in accordance with the Alcoholic Beverage Control Act.
 - b. This class of license is appropriate for beer manufacturing and beer distribution facilities.
 - c. There is no limit on the number of this class of license that may be issued.
6. Class “F” temporary license. This license is issued by the licensing authority subject to compliance with this chapter and shall:
 - a. Entitle the licensee to sell beer for on-premise consumption for a period of time not to exceed thirty (30) days. This class of license is non-renewable during a calendar year.
 - b. This class of license is appropriate for special events.
 - c. There is no limit on the number of this class of license that may be issued.

3.05.040. License fee.

In accordance with *Utah Code Annotated* §11-10-3, in addition to the business license fees imposed by the local authority, including any accrued late fees, an annual alcohol license fee is hereby imposed in the amount of \$300.00 for each class of license established in this chapter.

3.05.050. Licensing requirements.

The local authority shall only issue a license for the sale or distribution of alcohol based upon the license classifications authorized in this chapter.

1. State requirements. Applicant shall comply with the provisions of *Utah Code Annotated* §11-10-2, as amended.
2. License required. It is unlawful for any person to engage in the business of selling an alcoholic beverage within the city without first obtaining the licenses required by this chapter.
3. Administration. The licensing authority shall administer this chapter under the direction of the city administrator.
4. Application and fee. Any person seeking a license to sell an alcoholic beverage shall submit a written application to the licensing authority as provided for in this chapter which shall be accompanied by the appropriate application/license fee required. The application/license fee is not refundable in the event that the application is denied. However, the applicant is given thirty (30) days after notice from the city of a deficiency to cure a denied or defective application without the requirement of repayment of the application/license fee.
5. Information required. All applications for a license to sell an alcoholic beverage shall be made in writing upon the form provided by the licensing authority. The application shall state:
 - a. The name of the person desiring a license to sell an alcoholic beverage.
 - b. The name of the business.
 - c. The location where business is to be conducted.
 - d. The names of all partners holding more than a twenty percent (20%) interest in the business.
 - e. The class of license sought.
 - f. Other information specified on the application as determined by the city administrator, or any other information required by ordinance or statute.
6. Review and approval. An application that complies with this chapter shall be issued by the licensing officer after review and approval by the licensing authority. An application that does not meet the requirements of this chapter shall be denied by the licensing authority.
7. License owner. A license for the sale of alcohol is issued in the name of the business operator or owner rather than the name of the business. In the event of a change of the business operator or ownership, a new application and license is required along with the application fee.
8. Nontransferable. Licenses issued under this chapter are not transferable.
9. Renewal. A license issued under this chapter shall be renewed annually in conjunction the renewal schedule for business licenses.
10. Display. The holder of a license issued under this chapter shall display in a conspicuous location the license issued by the licensing authority along with any license issued by the governing state agency for the sale of any alcoholic beverage.

11. Time limit on operation. If a holder of a license issued under this chapter fails to open or to conduct business within the jurisdiction of the local authority for a period of one (1) year after issuance of the license, then said license is void and a new application and fee must be submitted and approved by the licensing authority.

3.05.060. Inspection and enforcement.

The licensing official or enforcement official may conduct an inspection regarding any license issued under this chapter to assure compliance with applicable law. The holder of a license issued under this chapter, by accepting said license, irrevocably consents to allow the inspection and search of the licensed premises by any licensing officer and/or the enforcement officer for any alcoholic beverage or for any other goods illegally possessed or kept, or for any evidence of any alleged alcohol related crime under investigation by law enforcement. The licensee further consents to the seizure of alcohol that exceeds that classification limits set upon the license holder or alcohol related property in violation of this chapter.

3.05.070. Restrictions.

The following restrictions in this section apply to all license classes and persons.

1. State law. It is unlawful to sell alcohol in violation of the Utah Alcoholic Beverage Control Act, or its successor.
2. Compliance. It is unlawful for an applicant or licensee to violate *Utah Code Annotated* §11-10-1, this chapter, the municipal code, or any terms under which a license was issued.
3. Limits on hours. It is unlawful for a person or any class of licensee to sell or otherwise furnish a patron or other person with an alcoholic beverage during the hours from one o'clock (1:00) A.M. to six o'clock (6:00) A.M.
4. Exceed license. It is unlawful to sell an alcoholic beverage except in the manner for which he has been so licensed pursuant to the provisions of this chapter.
5. Licensed premises. It is unlawful for any licensee to sell an alcoholic beverage anywhere within the city, except upon or within the premises licensed for such sale.
6. Advertising and promotions limitations. It is unlawful to advertise the sale of an alcoholic beverage, except in full compliance with the Alcoholic Beverage Control Act and regulations duly made thereunder by the state. It is unlawful for any licensee to give away or offer a free lunch, free food, or similar promotion in connection with the sale of an alcoholic beverage.
7. Intoxicated person. It is unlawful to sell an alcoholic beverage to a person who appears to be intoxicated by drugs or alcohol, or who is under the influence of any intoxicating beverage.
8. Under age. It is unlawful to sell or serve an alcoholic beverage to any person under the age of 21, or allow a person under the age of 21 years to sell the same.
9. Unlawful product. It is unlawful for any licensee to purchase or acquire or allow to be kept upon the licensed premises any alcoholic beverage not lawfully acquired from a brewer or wholesaler licensed under the provisions of the Alcoholic Beverage Control Act, or as part of a duly approved micro-brewery. It is unlawful for any licensee to keep

- any liquor product on the licensed premises that exceeds the scope of the license class or violates the Alcoholic Beverage Control Act.
10. Gambling. It is unlawful for any licensee to have, possess, store or display upon the licensed premises any gambling or gaming device or any lottery tickets, or to allow any such device or tickets to be brought upon the premises for any purpose.
 11. Access. It is unlawful for any serving area, door, or entryway to be locked or barricaded in any way so as to interfere with the free entrance to the licensed premises by any enforcement officer at any time while the premises is occupied or open to the public. However, licensee may maintain upon the premises a locked storeroom for the keeping of goods and supplies used in the business.
 12. Lookouts and warning devices. It is unlawful for any person commonly known as a lookout to be stationed or maintained to give warning of an approach of any enforcement officer. It is unlawful to maintain or operate any device which is used or capable of being used to give warning to persons of the approach of an enforcement officer.
 13. Respondeat superior. The licensee shall be responsible under this chapter for all of the activities of his employees and hereunder, the licensee unconditionally guarantees to the city that neither he nor his employees will violate the terms of this chapter, and for breach of such guarantee, the license may be revoked. It is unlawful for the owner or any licensee to:
 - a. Fail to maintain full control of the conduct of the business upon the licensed premises.
 - b. Fail to inform employees of the requirements of law relating to the sale of alcohol in the state of Utah.
 - c. Fail to maintain control of employees.
 14. Adverse action. It is unlawful for any person to sell an alcoholic beverage after the revocation or suspension of any license issued to said person.
 15. Set-backs. It is unlawful to operate a business where an alcoholic beverage is sold at retail for off premise consumption within the set-back distance of a “community location” as defined in *Utah Code Annotated* §32B-1-102(21), according to the specified set-back distances for each class of license set forth in *Utah Code Annotated* §32B-1-202, or otherwise in state law, unless the establishment pre-existed this chapter.
 16. Restricted activities. It is unlawful to sell an alcoholic beverage at:
 - a. A dance related business that is not classified or defined as a club.
 - b. On public property.
 - c. A sexually-oriented business.
 - d. A theater or cinema.
 17. Nuisances. Notwithstanding this chapter, it is unlawful to keep or maintain a nuisance that results from the sale of an alcoholic beverage.

3.05.080. Suspension and revocation.

In accordance with *Utah Code Annotated* §11-10-1(4), an enforcement officer may suspend or revoke a license issued under this chapter as follows:

1. Suspension. If a licensee has been issued a warning or citation for a violation of this chapter and a second violation occurs within a one (1) year period, then the enforcement officer may suspend a license for up to thirty (30) days. In lieu of a suspension, the enforcement officer may issue a civil penalty not to exceed \$1,000.00 for a violation of this chapter.
2. Revocation. An enforcement officer may revoke a license issued under this chapter if a license has another violation of this chapter where a suspension has been made within a one (1) year period prior to the violation. Any revocation made under this chapter shall continue for a period of one (1) year after which an applicant may resubmit an application under this chapter.
3. Educational requirement. An enforcement officer may issue a suspension to any licensee for a violation of educational requirements set forth in *Utah Code Annotated* §32B 5 401, et seq. In lieu of suspension, and, based upon the facts and circumstances, the enforcement officer may impose a fine of up to \$250.00 for a violation of this part.
4. Operational requirements. It is cause for immediate revocation or suspension for a licensee who violates the operational requirements set forth in Title 32B of the *Utah Code Annotated*, depending upon the severity of a violation(s).

3.05.090. Appeals.

Any appeal under this chapter shall be made in accordance with Section 3.01.120.

3.05.100. Implementation.

The city administrator may establish rules of procedure consistent with this chapter for the effective implementation of this chapter.

3.05.110. Penalties.

The following penalties apply and are not mutually exclusive:

1. Civil. Each violation of this chapter constitutes a civil fine not to exceed \$1,000. Each day a violation continues constitutes a separate offense. The city may seek any civil remedy provided by law including abatement and injunctive relief for a violation of this chapter or for situations that constitute a public nuisance relating to alcoholic beverages.
2. Criminal. Each violation of this chapter is a class B misdemeanor.

Chapter 3.07
RETAIL SALE OF TOBACCO PRODUCTS

Section:

3.07.010. Retail tobacco specialty business.

3.07.020. Heath Department.

3.07.010. Retail tobacco specialty business.

A retail tobacco specialty business as defined by *Utah Code Annotated* §10-8-41.6 is subject to the additional regulations provided for in *Utah Code Annotated* §10-8-41.6. In addition to the

causes for revocation of a business license specified in this title, the city may revoke a business license for a retail tobacco specialty business if it violates *Utah Code Annotated* §10-8-41.6.

3.07.020. Health Department.

A retail tobacco specialty business shall comply with any requirements of the local health department and provide documentation of the same to the city upon request.

**Chapter 3.09
RESIDENTIAL SOLICITATION**

Sections:

- 3.09.010. Purpose.**
- 3.09.020. No other city license or approval required.**
- 3.09.030. Definitions.**
- 3.09.040. Exemptions from chapter.**
- 3.09.050. Solicitation prohibited.**
- 3.09.060. Registration of solicitors.**
- 3.09.070. Application form.**
- 3.09.080. Written disclosures.**
- 3.09.090. When registration begins.**
- 3.09.100. Issuance of certificates.**
- 3.09.110. Form of certificate and identification badge.**
- 3.09.120. Maintenance of registry.**
- 3.09.130. Non-transferability of certificates.**
- 3.09.140. Denial, suspension, or revocation of a certificate of registration.**
- 3.09.150. Appeal.**
- 3.09.160. Deceptive soliciting practices prohibited.**
- 3.09.170. “No soliciting” notice.**
- 3.09.180. Duties of solicitors.**
- 3.09.190. Time of day restrictions.**
- 3.09.200. Buyer’s right to cancel.**
- 3.09.210. Penalties.**

3.09.010. Purpose.

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

2. General statement of policy. There must be a balance between these substantial interests of the city and its citizens, and the effect of the regulations in this chapter on the rights of those who are regulated. Based on the collective experiences of city officials derived from regulating business activity, protecting persons and property from criminal conduct, responding to the inquiries of citizens regarding door-to-door solicitation, the experience of its law enforcement officers and those affected by door-to-door canvassing and solicitation, as well as judicial decisions outlining the boundaries of constitutional protections afforded and denied persons seeking to engage in door-to-door solicitation, the city adopts this chapter to promote the city’s substantial interests in:
 - a. Respecting citizen’s decisions regarding privacy in their residences;
 - b. Protecting persons from criminal conduct;
 - c. Providing equal opportunity to advocate for and against religious belief, political position, or charitable activities; and
 - d. Permitting truthful and non-misleading door-to-door solicitation regarding lawful goods or services in intrastate or interstate commerce.
3. The city finds that the procedures, rules and regulations set forth in this chapter are narrowly tailored to preserve and protect the city interests referred to herein while at the same time balancing the rights of those regulated.

3.09.020. No other city license or approval required.

1. Registered and exempt. Registered solicitors and persons exempt from registration by law need not apply for, nor obtain, any other license, permit, or registration from the city to engage in door-to-door solicitation in addition to the requirements of this chapter.
2. No general licenses. Any business licensed by the city under another classification that uses employees, independent contractors, or agents for door-to-door solicitation in an effort to provide any tangible or intangible benefit to the business, is required to have its solicitors obtain a certificate, unless otherwise exempt.
3. No other license. Those responsible persons or entities associated with registered solicitors need not apply for, nor obtain, any other license, permit, or registration from the city, provided they do not establish a temporary or fixed place of business in the city.
4. Other authority. Nothing herein is intended to interfere with or supplant any other requirement of federal, state, or other local government law regarding any license, permit, or certificate that a registered solicitor is otherwise required to have or maintain.

3.09.030. Definitions.

For the purpose of this chapter, the following additional definitions apply:

1. “Advocating” means speech or conduct intended to inform, promote, or support religious belief, political position, or charitable activities.
2. “Appeals officer” means the local appeal authority, city magistrate, or hearing officer designated or responsible for hearing and deciding any appeal relating regarding the denial or suspension of a certificate and issuing a decision as required by this chapter.

3. “Appellant” means the person or entity appealing the denial or suspension of a certificate, either personally as an applicant or registered solicitor, or on behalf of the applicant or registered solicitor.
4. “Applicant” means an individual who is at least sixteen (16) years of age and not a corporation, partnership, limited liability company, or other lawful entity who applies for a certificate permitting door-to-door solicitation.
5. “Application form” means a standardized form provided by the city to an applicant to be completed and submitted as part of registration.
6. “BCI or BCI report.” means an original or copy, dated no older than 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 status exists for the applicant.
7. “Business” means a commercial enterprise licensed by the city as a person or entity under this title, having a fixed or temporary physical location within the city.
8. “Certificate” means a temporary, annual, or renewal certificate permitting door-to-door solicitation in the city applied for or issued pursuant to the terms of this chapter.
9. “Charitable Activities” means advocating by persons or entities that either are, or support, a charitable organization.
10. “Charitable Organization” includes any person, joint venture, partnership, limited liability company, corporation, association, group, or other entity:
 - a. That is:
 - i. A benevolent, educational, voluntary health, philanthropic, humane, patriotic, religious or eleemosynary, social welfare or advocacy, public health, environmental or conservation, or civic organization;
 - ii. For the benefit of a public safety, law enforcement, or firefighter fraternal association; or
 - iii. Established for any charitable purpose; and
 - b. That is tax exempt under applicable provisions of the Internal Revenue Code of 1986 as amended, and qualified to solicit and receive tax deductible contributions from the public for charitable purposes.
 - c. Charitable organization, within the meaning of the “Charitable Solicitation Act” set forth in *Utah Code Annotated* §13-22-2(1)(a) and (b), including 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.
11. “Competent individual” means a person claiming or appearing to be at least eighteen (18) years of age and of sufficiently sound mind and body to be able to engage in rational thought, conversation, and conduct.

12. “Completed application” means a fully completed application form, a B.C.I, two copies of the original identification relied on by the applicant to establish proof of identity, and the tendering of the applicable fees.
13. “Criminally convicted” means the final entry of a conviction, whether by a plea of no contest, guilty, entry of a judicial or jury finding of guilt, which has not been set aside on appeal or pursuant to a writ of habeas corpus. The criminal conviction is that offense of which the applicant or registered solicitor was convicted, without regard to the reduced status of the charge after completion of conditions of probation or parole, and charges dismissed under a plea in abeyance or diversion agreement.
14. “Disqualifying status” means anything specifically defined in this chapter as requiring the denial or suspension of a certificate, and any of the following:
 - a. The applicant or registered solicitor has been criminally convicted of:
 - i. Felony homicide;
 - ii. Physically abusing, sexually abusing, or exploiting a minor;
 - iii. The sale or distribution of controlled substances, or;
 - iv. Sexual assault of any kind.
 - b. Criminal charges currently pending against the applicant or registered solicitor for:
 - i. Felony homicide;
 - ii. Physically abusing, sexually abusing, or exploiting a minor;
 - iii. The sale or distribution of controlled substances, or;
 - iv. Sexual assault of any kind.
 - c. The applicant or registered solicitor has been criminally convicted of a felony within the last ten (10) years.
 - d. The applicant or registered solicitor has been incarcerated in a federal or state prison within the past five (5) years.
 - e. The applicant or registered solicitor has been criminally convicted of a misdemeanor within the past five (5) years involving a crime of:
 - i. Moral turpitude, or
 - ii. Violent or aggravated conduct involving persons or property.
 - f. A final civil judgment been entered against the applicant or registered solicitor within the last five (5) years indicating that:
 - i. The Applicant or Registered Solicitor had either engaged in fraud, or intentional misrepresentation, or
 - ii. That a debt of the Applicant or Registered Solicitor was non-dischargeable in bankruptcy pursuant to 11 U.S.C. § 523(a)(2), (a)(4), (a)(6), or (a)(19).
 - g. The applicant or registered solicitor currently on parole or probation to any court, penal institution, or governmental entity, including being under house arrest or subject to a tracking device.
 - h. The applicant or registered solicitor has an outstanding arrest warrant from any jurisdiction.
 - i. The applicant or registered solicitor is currently subject to a protective order based on physical or sexual abuse issued by a court of competent jurisdiction.

15. “Door-to-door solicitation” means the practice of engaging in or attempting to engage in conversation with any person at a residence, whether or not that person is a competent individual, while making or seeking to make or facilitate a home solicitation sale, or attempting to further the sale of goods and or services.
16. “Entity” includes a corporation, partnership, limited liability company, or other lawful entity, organization, society or association.
17. “Fees” means the cost charged to the applicant or registered solicitor for the issuance of a certificate and/or identification badge, which shall not exceed the reasonable costs of processing the application and issuing the certificate and/or identification badge.
18. “Final civil judgment” means a civil judgment that would be recognized under state law as a judgment to which collateral estoppel would apply.
19. “General business license” means a business license required to operate a business in the city under any other chapter of this title.
20. “Goods” means one or more tangible items, wares, objects of merchandise, perishables of any kind, subscriptions, or manufactured products offered, provided, or sold.
21. “Home solicitation sale” means to make or attempt to make a sale of goods or services by a solicitor at a residence by means of door-to-door solicitation, regardless of:
 - a. The means of payment or consideration used for the purchase;
 - b. The time of delivery of the goods or services; or
 - c. The previous or present classification of the Solicitor as a solicitor, peddler, hawker, itinerant merchant, or similar designation.
22. “Licensing Officer or licensing authority” means the city official or authority responsible for receiving from an applicant or registered solicitor the completed application and either granting, suspending, or denying the applicant’s certificate.
23. “No solicitation sign” means a reasonably visible and legible sign that states: “No Soliciting,” “No Solicitors,” “No Salespersons,” “No Trespassing,” or words of similar import.
24. “Political position” means any actually held belief, or information for, against, or in conjunction with any political, social, environmental, or humanitarian belief or practice.
25. “Registered solicitor” means any person who has been issued a current certificate by the city.
26. “Registration” means the process used by the city licensing officer to accept a completed application and determine whether or not a certificate will be denied, granted, or suspended.
27. “Religious belief” means any sincerely held belief, or information for, against, or in conjunction with, any theistic, agnostic, or atheistic assumption, presumption or position, or religious doctrine, dogma, or practice regardless of whether or not the belief or information is endorsed by any other person or public or private entity.
28. “Residence” means any living unit contained within any building or structure that is occupied by any person as a dwelling consistent with the zoning laws of the city, together with the lot or other real property on which the living unit is located. This does not include the sidewalk, public street or public rights of way.

29. “Responsible person or entity” means that person or entity responsible to provide the following to an applicant, registered solicitor, and the competent individual in a residence to whom a sale of goods or services is made or attempted to be made by means of a home solicitation sale:
 - a. Maintaining a state sales tax number, a special events sales tax number, computing the sales taxes owing from any sale of goods or services, paying the sales taxes, and filing any required returns or reports;
 - b. Facilitating and responding to requests from consumers who desire to cancel the sale pursuant to applicable contractual rights or law; and
 - c. Refunding any monies paid or reversing credit card charges to those persons who timely rescind any sale pursuant to applicable contractual rights or law.
30. “Sale of goods or services” means the conduct and agreement of a solicitor and the competent individual in a residence regarding a particular good(s) or service(s) that entitles the consumer to rescind the same within three days under any applicable federal, state, or local law.
31. “Services” means those intangible goods or personal benefits offered, provided, or sold to a competent individual of a residence.
32. “Soliciting, solicit, or solicitation” means any of the following activities:
 - a. Seeking to obtain sales or orders for the exchange of goods, wares, merchandise or perishables of any kind, for any kind of remuneration or consideration, regardless of whether advance payment is sought;
 - b. Seeking to obtain prospective customers to apply for or to purchase insurance, subscriptions to publications, or publications;
 - c. Seeking to obtain contributions of money or any other thing of value for the benefit of any person or entity;
 - d. Seeking to obtain orders or prospective customers for goods or services.
 - e. Seeking to engage an individual in conversation at a residence for the purpose of promoting or facilitating the receipt of information regarding religious belief, political position, charitable conduct, or a home solicitation sale; or
 - f. Other activities falling within the commonly accepted definition of soliciting, such as hawking or peddling.
33. “Solicitor or solicitors” means a person(s) engaged in door-to-door solicitation.
34. “Submitted in writing” means the information for an appeal of a denial or suspension of a certificate, submitted in any type of written statement to the city offices by certified, registered, priority, overnight or delivery confirmation mail, facsimile, or hand delivery.
35. “Substantiated report” means an oral, written, or electronic report:
 - a. Submitted to and documented by the city by a:
 - i. A competent individual who is willing to provide law enforcement or other city employees with publicly available identification of their name, address, and any other reliable means of contact;
 - ii. City law enforcement or licensing officer; or
 - iii. Any other regularly established law enforcement agency at any level of government.

- b. That provides any of the following information regarding a registered solicitor:
 - i. Documented verification of a previously undisclosed disqualifying status of a registered solicitor;
 - ii. Probable cause that the registered solicitor has committed a disqualifying status which has not yet been determined to be a disqualifying status;
 - iii. Documented, eye-witness accounts that the registered solicitor has engaged in repeated patterns of behavior that demonstrates failure by the registered solicitor to adhere to the requirements of this chapter; or
 - iv. Probable cause that continued licensing of the registered solicitor creates exigent circumstances that threaten the health, safety, or welfare of any individuals or entities within the city.
36. “Waiver” means the written form provided to applicant by the city wherein applicant agrees that the city may obtain a name/date of birth BCI background check on the applicant for licensing purposes under this chapter, and which contains applicant’s notarized signature.

3.09.040. Exemptions.

- 1. Except as provided herein, the following are exempt from registration under this chapter:
 - a. Invitee. Persons specifically invited to a residence by a competent individual prior to the time of the person’s arrival at the residence.
 - b. Licensee. Persons whose license, permit, certificate or registration with the State of Utah permits them to engage in door-to-door solicitation to offer goods or services to an occupant of the residence.
 - c. Delivery service. Persons delivering goods to a residence pursuant to a previously made order, or persons providing services at a residence pursuant to a previously made request by a competent individual.
 - d. Non-profit. Persons advocating or disseminating information for, against, or in conjunction with, any religious belief, or political position regardless of whether goods, services, or any other consideration is offered or given, with or without any form of commitment, contribution, donation, pledge, or purchase.
 - e. Charity. Persons representing a charitable organization. The charitable exemption shall apply to students soliciting contributions to finance extracurricular social, athletic, artistic, scientific or cultural programs, provided that the solicitation has been approved in writing by the school administration, and that such student solicitors carry current picture student identification from the educational institution for which they are soliciting.
- 2. Limitations. Those persons exempt from registration are not exempt from the duties and prohibitions outlined in Sections 3.09.170, 3.09.180 and 3.09.190 while advocating or soliciting.

3.09.050. Solicitation prohibited.

Unless otherwise authorized, permitted, or exempted pursuant to the terms and provisions of this chapter, being in or upon a private residence within the city by solicitors, for the purpose of home

solicitation sales or to provide goods or services, is prohibited and is punishable as set forth in this chapter.

3.09.060. Registration of solicitors.

Unless otherwise exempt under this chapter, all persons desiring to engage in door-to-door solicitation within the city, prior to doing so, shall submit a completed application to the licensing officer and obtain a certificate.

3.09.070. Application form.

The licensing officer shall provide a standard application form for use for the registration of solicitors. Upon request to the licensing officer, or as otherwise provided, any person or entity may obtain in person, by mail, or facsimile, a copy of this application form. Each application form shall require disclosure and reporting by the applicant of the following information, documentation, and payment of the appropriate fee:

1. Disclosures. An affirmation that the applicant has received and reviewed the disclosure information required by this chapter.
2. Contact information. The following information shall be provided by applicant:
 - a. Applicant's true, correct and legal name, including any former names or aliases used during the last ten (10) years;
 - b. Applicant's telephone number, home address and mailing address, if different;
 - c. If different from the Applicant, the name, address, and telephone number of the responsible person or entity; and
 - d. The address by which all notices to the applicant required under this chapter are to be sent.
3. Identity. An in-person verification by the licensing officer of the Applicant's true identity by use of any of the following which bear a photograph of said Applicant:
 - a. A valid drivers license issued by any state.
 - b. A valid passport issued by the United States.
 - c. A valid identification card issued by any state.
 - d. A valid identification issued by a branch of the United States military.
4. Documentation. Upon verification of identity, the original identification documentation submitted to establish proof of identity shall be returned to the applicant. A copy of the identification may be retained by the licensing officer.
5. State. The applicant shall provide proof that either the applicant, or the responsible person or entity, has registered with the Utah State Department of Commerce.
6. Sales tax. The applicant shall provide a special events sales tax number for either the applicant, or for the responsible person or entity for which the applicant will be soliciting.
7. Marketing. The following documentation shall be provided by applicant:
 - a. The goods or services offered by the Applicant, including any commonly known, registered or trademarked names.
 - b. Whether the applicant holds any other licenses, permits, registrations, or other qualifications required by federal or state law to promote, provide, or render advice regarding the offered goods or services.

8. BCI Check. The applicant shall provide:
 - a. An original or a copy of a BCI background check as defined in this chapter.
 - b. A signed copy of a waiver whereby applicant agrees to allow the city to obtain a name/date of birth BCI background check on applicant for purposes of enforcement of this chapter as set forth in *Utah Code Annotated* §53-10-108(1)(b).
 - c. Responses to questions regarding disqualifying status. The applicant shall be required to affirm or deny each of the following statements on the application form:
 - i. Has the applicant been criminally convicted of:
 - (1) Felony homicide.
 - (2) Physically abusing, sexually abusing, or exploiting a minor.
 - (3) The sale or distribution of controlled substances.
 - (4) Sexual assault of any kind.
 - ii. Are any criminal charges currently pending against the Applicant for:
 - (1) Felony homicide.
 - (2) Physically abusing, sexually abusing, or exploiting a minor.
 - (3) The sale or distribution of controlled substances.
 - (4) Sexual assault of any kind.
 - iii. Has the Applicant been Criminally Convicted of a felony within the last ten (10) years.
 - iv. Has the Applicant been incarcerated in a federal or state prison within the past five (5) years.
 - v. Has the Applicant been Criminally Convicted of a misdemeanor within the past five (5) years involving a crime of:
 - (1) Moral turpitude.
 - (2) Violent or aggravated conduct involving persons or property.
 - vi. Has a final civil judgment been entered against the applicant within the last five (5) years indicating that:
 - (1) Applicant had either engaged in fraud, or intentional misrepresentation.
 - (2) That a debt of the applicant was non-dischargeable in bankruptcy pursuant to 11 U.S.C. § 523(a)(2), (a)(4), (a)(6), or (a)(19).
 - vii. Is the applicant currently on parole or probation to any court, penal institution, or governmental entity, including being under house arrest or subject to a tracking device.
 - viii. Does the applicant have an outstanding arrest warrant from any jurisdiction.
 - ix. Is the applicant currently subject to a protective order based on physical or sexual abuse issued by a court of competent jurisdiction.
9. Fee. The Applicant shall pay such fees as determined applicable by the city, which shall not exceed the reasonable cost of processing the application and issuing the certificate and/or identification badge.

10. Execution of application. The applicant shall execute the application form, stating upon oath or affirmation, under penalty of perjury, that based on the present knowledge and belief of the applicant, the information provided is complete, truthful and accurate.

3.09.080. Written disclosures.

The application form shall be accompanied by written disclosures notifying the applicant of the following:

1. Authorization. Applicant’s submission of the application authorizes the city to verify information submitted with the completed application including:
 - a. Applicant’s address.
 - b. Applicant’s and/or responsible person or entity’s state tax identification and special use tax numbers, if any.
 - c. Validity of the applicant’s proof of identity.
2. Research. The city may research any publically available sources for information on the applicant, including but not limited, to databases for any outstanding warrants, protective orders, or civil judgments.
3. Identity. Establishing a valid proof of identity is required before registration is made.
4. Fee. Payment of the applicable fee amount must be submitted by applicant with any completed application.
5. BCI Report. Applicant must submit a Utah Bureau of Criminal Investigations (BCI) background check with a completed application. To the extent permitted by state and/or federal law, the applicant’s BCI background check shall be classified as confidential, protected, or private record not available for public inspection. If an original BCI report is submitted by the applicant, the licensing officer may make a copy of the BCI report and return the original to the applicant.
6. Public record. The city will maintain copies of the applicant’s application form, proof of identity, and certificate and/or identification badge. These copies are public records available for inspection on demand at the city office whether or not a certificate is denied, granted, or renewed.
7. Supporting documents. Applicant shall provide any additional supporting documentation relating to the criteria pertaining to disqualifying status.
8. Temporary certificate. A request for a temporary certificate will be granted or denied the same business day that a completed application is submitted.

3.09.090. When registration begins.

The licensing officer shall not begin the registration process unless the applicant has submitted a completed application.

3.09.100. Issuance of certificates.

The licensing officer shall review the completed application submitted by the applicant and issue a certificate in accordance with the following:

1. Temporary certificate.

- a. A temporary certificate shall issue allowing the Applicant to immediately begin door-to-door solicitation upon all the following conditions being met:
 - i. Applicant’s submission of a completed application.
 - ii. Applicant’s submission of the required fee.
 - iii. Applicant establishes proof of identity.
 - iv. The applicant’s representations on the application form do not affirmatively show a disqualifying status.
 - v. BCI does not affirmatively show a disqualifying status.
 - vi. Applicant has not previously been denied a certificate by the city, or had a certificate revoked for grounds that still constitute a disqualifying status under this chapter.
 - b. Expiration. A temporary certificate will automatically expire after twenty-five (25) calendar days from issuance, or upon grant or denial of an annual certificate, whichever period is shorter.
2. Annual certificate. Within twenty-five (25) calendar days of the issuance of a temporary certificate the city licensing officer shall:
- a. Take any and all actions it deems appropriate to verify the truthfulness and completeness of the information submitted by the applicant, including, but not limited to those disclosed with the application form.
 - b. Issue written notice to the applicant and the responsible person or entity, if any, that the applicant either:
 - i. Will be issued an annual certificate, eligible for renewal one year from the date of issuance of the temporary certificate; or
 - ii. Will not be issued an annual certificate for reasons cited in section 3.09.140 of this chapter.
3. Renewal certificate. An annual certificate shall be valid for one year from the date of issuance of the temporary certificate and shall expire at midnight on the anniversary date of issuance. Any annual certificate that is not suspended, revoked, or expired may be renewed upon the request of the registered solicitor and the submission of a new completed application and payment of the fee, unless any of the conditions for the denial, suspension or revocation of a certificate are present as set forth in section 3.09.140, or a disqualifying status is present.

3.09.110. Form of certificate and identification badge.

1. Certificate form. Should the licensing officer determine that the applicant is entitled to a certificate, the licensing officer shall issue a certificate to the applicant. The certificate shall list the name of the registered solicitor and the responsible person or entity, if any, and the date on which the certificate expires. The certificate shall be dated and signed by the license officer. The certificate shall be carried by the registered solicitor at all times while soliciting in the city.
2. Identification badge. If the city issues an identification badge, with a certificate, the identification badge shall be worn prominently on his or her person while soliciting in the city. The identification badge shall bear the name of the city and shall contain:

- a. The name of the registered solicitor.
- b. Address and phone number of the registered solicitor, or the name, address, and phone number of the responsible person or entity is provided.
- c. A recent photograph of the registered solicitor.
- d. The date on which the certificate expires.

3.09.120. Maintenance of Registry.

The licensing officer shall maintain and make available for public inspection a copy or record of every completed application received and the certificate or written denial issued by the city. The licensing officer may furnish to the head of the city’s law enforcement provider a listing of all applicants, those denied, and those issued a certificate.

3.09.130. Non-transferability of certificates.

Certificates shall be issued only in the name of the applicant and shall list the responsible party or entity, if any. The certificate shall be non-transferable. A registered solicitor desiring to facilitate or attempt to facilitate home solicitation sales with different goods, services, responsible person or entity shall submit a written change request to the licensing officer prior to the commencement of such a change. An amended certificate based on the changed information shall issue for the balance of time remaining on the solicitor’s previous certificate before the amendment was filed. Before the amended certificate is issued to the registered solicitor, the registered solicitor may be required to pay any amendment fees, update any the identification badge, and provide any additional updated information to the registered solicitors original application.

3.09.140. Denial, suspension, or revocation of a certificate of registration.

1. Denial. Upon review, the licensing officer is prohibited from issuing a certificate to an applicant as provided in this section.
 - a. Denial of temporary certificate. Any of the following is a basis for denial of a temporary certificate:
 - i. The application form is incomplete.
 - ii. Applicant fails to:
 - (1) Establish proof of identity;
 - (2) Provide a BCI report; or
 - (3) Applicant does not pay the required fees.
 - iii. The completed application or BCI report indicates that the applicant has a disqualifying status.
 - iv. The applicant has previously been denied a certificate by the city, or has had a certificate revoked for grounds that still constitute a disqualifying status under this chapter.
 - b. Denial of issuance. Any of the following is a basis for denial of issuance of an annual certificate:
 - i. The information submitted by the applicant at the time of the granting of the temporary certificate is found to be incomplete or incorrect.

- ii. Since the submission of the completed application, the applicant is subject to a previously undisclosed or unknown disqualifying status.
 - iii. Applicant fails to make payment of the required fees.
 - iv. Since the submission of the application, the city has received a substantiated report regarding the past or present conduct of the applicant for a violation of this chapter.
 - v. Since the submission of the application, the city or other governmental entity has either criminally convicted or obtained a civil injunction against the applicant for violating federal, state, or municipal laws in a manner rising to the level of a disqualifying status.
 - vi. Since the submission of the application, a final civil judgment has been entered against the applicant indicating that:
 - (1) The applicant had either engaged in fraud, or intentional misrepresentation; or
 - (2) That a debt of the applicant was non-dischargeable in bankruptcy pursuant to 11 U.S.C. § 523(a)(2), (a)(4), (a)(6), or (a)(19).
- c. Denial of renewal. Any of the following is a basis for denial of an annual certificate renewal:
- i. The information submitted by the applicant when seeking renewal of a certificate is found to be incomplete or incorrect.
 - ii. Since the submission of the renewal application, the applicant is subject to a previously undisclosed or unknown disqualifying status.
 - iii. Failure to make payment of any required fee.
 - iv. Since the submission of the application or granting of a certificate, the city has received a substantiated report regarding the past or present conduct of the solicitor in violation of this chapter.
 - v. The city or other governmental entity has either criminally convicted or obtained a civil injunction against the applicant for violating federal, state, or municipal laws in a manner rising to the level of a disqualifying status.
 - vi. Since the submission of the application, a final civil judgment has been entered against the applicant indicating that:
 - (1) Applicant had either engaged in fraud, or intentional misrepresentation, or;
 - (2) That a debt of the applicant was non-dischargeable in bankruptcy pursuant to 11 U.S.C. § 523(a)(2), (a)(4), (a)(6), or (a)(19).
2. Suspension or revocation. The city shall either suspend or revoke a certificate when any of the basis warranting the denial of a certificate occurs.
3. Notice. Upon determination of the licensing officer to deny an applicant’s completed application or to suspend a registered solicitor’s certificate, the city shall:
- a. Cause written notice to be sent to the applicant or registered solicitor by the method indicated in the completed application.
 - b. The notice shall:

- i. Specify the grounds for the denial or suspension, the documentation or information the city relied on to make the decision, the availability of the documentation for review by applicant upon one (1) business day notice to the city, and the date upon which the denial or suspension of the certificate shall take effect.
- ii. State that the applicant or registered solicitor has ten (10) business days from the receipt of the notice of denial or suspension to appeal the same.
- iii. The denial or suspension of the certificate shall be effective no sooner than two (2) calendar days from the date the notice is sent, unless that suspension is because of exigent circumstances outlined in section 3.09.030, in which case, the suspension is effective immediately.
- iv. The denial or suspension shall remain effective unless and until the order is rescinded, overturned on appeal, or determined by a court to be contrary to equity or law.
- v. Failure to appeal the suspension of a certificate automatically results in its revocation.

3.09.150. Appeal.

An applicant or registered solicitor whose certificate has been denied or suspended shall have the right to appeal to the appeal authority or other designated hearing officer.

1. Standing. Any appeal must be submitted by either the applicant, the responsible person or entity, or authorized legal counsel.
2. Procedure. The following procedures and requirements shall apply to all appeals:
 - a. The appeal must be submitted in writing to the city recorder or designee within ten (10) business days of the decision from which the appeal is taken.
 - b. The appeal shall describe in detail the nature of the appeal, the action complained of, and the grounds for appeal.
 - c. Upon request of the applicant or registered solicitor, within one business day, the city will make available any information upon which it relied in making the determination to either deny or suspend the certificate.
3. Standard of review. The appeals officer shall review, de novo, all written information submitted by the applicant or registered solicitor to the licensing officer, any additional information relied upon by the licensing officer as the basis for denial, suspension or revocation, and any additional information supplied by the city, applicant or registered solicitor. Any additional information submitted by any party to the appeal to the appeals officer shall be simultaneously submitted to the opposing party. If requested, any party shall have three (3) business days to submit rebuttal documentation to the appeals officer regarding the additional information submitted by the opposing party.
4. Decision. The appeals officer will render a decision no later than fifteen (15) calendar days from the date the appeal was taken, unless an extension of time is agreed upon by the parties. In the event that any party to the appeal submits rebuttal information as allowed in section 3.09.150, the fifteen (15) calendar days shall be extended to include the additional three (3) days for rebuttal.

- a. The denial or suspension of the certificate shall be reversed by the appeals officer if upon review of the written appeal and information submitted, the appeals officer finds that the licensing officer made a material mistake of law or fact in denying or suspending the applicant or registered solicitor' certificate.
 - b. If the written appeal and information submitted indicates that the licensing officer properly denied or suspended the certificate of the applicant or registered solicitor, the denial or suspension of the certificate shall be affirmed and constitute a determination that the suspended certificate is revoked.
 - c. The decision of the appeals officer shall be delivered to the applicant or registered solicitor by the means designated in the completed application, or as otherwise agreed during the appeal process.
5. Exhaustion. The applicant is required to exhaust all administrative remedies relating to an application before filing suit or initiating a proceeding in any court.
- a. After the ruling of the appeals officer, the applicant or solicitor is deemed to have exhausted all administrative remedies with the city.
 - b. Nothing herein shall impede or interfere with the applicant's, solicitor's, or city's right to seek relief in a court of competent jurisdiction after exhausting all administrative remedies.

3.09.160. Deceptive soliciting practices prohibited.

The following activities are prohibited:

1. Fraud. No solicitor shall intentionally make any materially false or fraudulent statement in the course of soliciting.
2. Improper display of identification. A solicitor fails to properly display any identification badge required by this chapter to the consumer during face-to-face solicitation.
3. False name. No solicitor uses a fictitious name, an alias, or any name other than his or her true and correct name.
4. No endorsement. No solicitor shall represent directly or by implication that the granting of a certificate of registration implies any endorsement by the city of the solicitor's goods or services or of the individual solicitor.

3.09.170. Notice of "No Solicitation."

Any occupant of a residence may give notice of a desire to refuse solicitors by displaying a "No Solicitation" or similar sign which shall be posted on or near the main entrance door or on or near the property line adjacent to the sidewalk leading to the residence. Such sign shall not exceed the size parameters specified in the land use ordinance relating to signs. The display of such sign or placard shall be deemed to constitute notice to any solicitor that the inhabitant of the residence does not desire to receive and/or does not invite solicitors. It shall be the responsibility of the solicitor to check each residence for the presence of any such notice. The provisions of this section shall apply also to solicitors who are exempt from registration.

3.09.180. Duties of solicitors.

Solicitors shall have the following duties prescribed by law, notwithstanding the issuance of a certificate:

1. Check for notice. Every person soliciting or advocating shall check each residence for any “No Soliciting” or similar sign or placard notifying a solicitor not to solicit on the premises. If such sign or placard is posted such solicitor shall desist from any efforts to solicit at the residence or dwelling and shall immediately depart from such property.
2. Desist. No solicitor shall knock on the door, ring the doorbell, or in any other manner attempt to attract the attention of an occupant of a residence that bears a “No Solicitation” sign or placard for the purpose of engaging in or attempting to engage in advocating, a home solicitation sale, door-to-door soliciting, or soliciting.
3. False purpose. No solicitor shall through ruse, deception, or fraudulent concealment of a purpose to solicit, to take action calculated to secure an audience with an occupant at a residence.
4. Leave premises. Any solicitor who is at any time asked by an occupant of a residence or dwelling to leave shall immediately and peacefully depart.
5. No contact. No solicitor shall intentionally or recklessly make any physical contact with, or touch another person without the person’s consent.
6. Consent. No solicitor shall follow a person into a residence without their explicit consent.
7. Pressure tactics. No solicitor shall continue to repeat soliciting after a person and/or competent individual has communicated clearly and unequivocally their lack of interest in the subject, goods or services of the solicitor.
8. Order. No solicitor shall use obscene or profane language in a place or under circumstances which could cause a breach of the peace or good order of the city in accordance with *Utah Code Annotated* §10-8-50, 1953, as amended, or engage in any disorderly conduct as prohibited by law.

3.09.190. Time of day restrictions.

It shall be unlawful for any person, whether licensed or not, to solicit at a residence before 9:00 a.m. or after 9:00 p.m Mountain Time, unless the solicitor has express prior permission from the resident to do so.

3.09.200. Buyer’s right to cancel.

In any home solicitation sale, unless the buyer requests the solicitor to provide goods or services without delay in an emergency, the seller or solicitor shall present to the buyer and obtain buyer’s signature to a written statement which informs the buyer of the right to cancel within three (3) days after signing an agreement to purchase. Such notice of “Buyer’s right to cancel” shall be in the form required by *Utah Code Annotated* §70C-5-103, 1953, as amended, in addition to any other related state or federal law.

3.09.210. Penalties.

Any person who violates any term or provision of this chapter shall be guilty of a class B misdemeanor and shall be punished by a fine of not to exceed \$1,000.00 and/or a jail sentence of not to exceed six (6) months.

Chapter 3.11 SEXUALLY-ORIENTED BUSINESSES

Sections:

- 3.11.010. Purpose.**
- 3.11.020. Applicability.**
- 3.11.030. Legislative findings.**
- 3.11.040. Definitions.**
- 3.11.050. Statutory prohibitions not affected by this chapter.**
- 3.11.060. License required.**
- 3.11.070. Classification and multiple licensing.**
- 3.11.080. Fees.**
- 3.01.090. Business and employee application requirements.**
- 3.11.100. Issuance of license.**
- 3.11.110. General regulations.**
- 3.11.120. Class specific regulations.**
- 3.11.130. Denial, suspension, or revocation of license.**
- 3.11.140. Enforcement and penalties.**

3.11.010. Purpose.

The purpose of this chapter is to regulate sexually-oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of the city, and to establish reasonable and uniform regulations to prevent deleterious secondary effects of sexually-oriented businesses within the city. This chapter establish reasonable and uniform regulations governing the time, place and manner of operation of sexually-oriented businesses and employees of those businesses in the city. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of or reasonable access to any communicative materials, including sexually-oriented materials. Similarly, it is neither the intent nor effect of this chapter to restrict or deny access by adults to sexually-oriented materials protected by the First Amendment of the U.S. Constitution or state equivalent, or to deny access by the distributors and exhibitors of sexually-oriented entertainment to their intended market. Neither is it the intent nor effect of this Chapter to condone or legitimize the distribution of obscene or indecent material.

3.11.020. Applicability.

1. Generally. This chapter imposes regulatory standards and license requirements on certain business activities which are characterized as sexually-oriented businesses, and certain employees of those businesses characterized as sexually-oriented business employees. Except where the context or specific provisions require, this chapter does not supersede or nullify any other related ordinances, including, but not limited to, those codified in this title or other portions of the municipal code.
2. Other purpose. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing “specified sexual activities” or “specified anatomical areas” and still be categorized as a

“sexually-oriented business.” Such other business purposes will not serve to exempt such commercial establishments from being categorized as a “sexually-oriented business” as long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials that depict or describe “specified sexual activities” or “specified anatomical areas.” A principal business purpose need not be a primary use of an establishment so long as it is a significant use based upon the visible inventory or commercial activity of the establishment.

3. Exemptions. This chapter does not apply to state or local educational institutions, or establishments that provide licensed medical care facilities, licensed therapists or counseling centers, pharmacies, or the sale of medically recognized items or contraceptives.

3.11.030. Legislative findings.

The city council hereby adopts the following finding related to the adverse secondary effects of adult uses and sexually-oriented businesses on the community:

1. Case law. The adverse secondary effects of adult uses and sexually-oriented businesses set forth in the cases of: *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 426 U.S. 50 (1976); and *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *Arcara v. Cloud Books, Inc.*, 478 U.S. 697, (1986); *California v. LaRue*, 409 U.S. 109 (1972); *Iacobucci v. City of Newport, Ky*, 479 U.S. 92 (1986); *United States v. O'Brien*, 391 U.S. 367 (1968); *DLS, Inc. v. City of Chattanooga*, 107 F.3d 403 (6th Cir. 1997); *Kev, Inc. v. Kitsap County*, 793 F.2d 1053 (9th Cir. 1 986); *Hang On, Inc. v. City of Arlington*, 65 F.3d 1248 (5th Cir. 1995); and *South Florida Free Beaches, Inc. v. City of Miami*, 734 F.2d 608 (11th Cir. 1984) are hereby adopted by this reference and incorporated herein.
2. Studies. The findings set forth in the studies conducted in other cities including, but not limited to: Phoenix, Arizona; Minneapolis, Minnesota; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas; Seattle, Washington; Oklahoma City, Oklahoma; Cleveland, Ohio; and Beaumont, Texas; and findings reported in the Final Report of the Attorney General’s Commission on Pornography (1986), the Report of the Attorney General’s Working Group on the Regulation of Sexually Oriented Businesses (June 6, 1989, State of Minnesota), and statistics obtained from the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention are hereby adopted by this reference and incorporated herein.
3. Police powers. That city council finds that *Utah Code Annotated* §§ 10-8-84 and 10-8-60 authorizes the city to exercise certain police powers and nuisance abatement powers, including but not limited to providing for safety and preservation of health, promotion of prosperity, improve community well-being, peace and good order for the inhabitants of the city.
4. Regulatory authority. That city council finds that an adult use or sexually-oriented business is, in accordance with *Utah Code Annotated* §10-1-203(1)(a), an “. . . enterprise [that is] carried on for the purpose of gain or economic profit . . .”; and that *Utah Code*

Annotated §10-1-203(2) provides that the “. . . legislative body of a municipality may license for the purpose of regulation and revenue any business within the limits of the municipality and may regulate that business by ordinance.”

3.11.040. Definitions.

For the purpose of this chapter, following words shall have the following meaning:

1. “Adult arcade” means any place to which the public is permitted or invited wherein coin-operated or token-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of “specified sexual activities” or “specified anatomical areas.”
2. “Adult bookstore” or “adult video store” means a commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration any of the following:
 - a. Books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides, or other visual representations that depict or describe “specified sexual activities” or “specified anatomical areas”; or
 - b. Instruments, devices, or paraphernalia that are designed for use in connection with “specified sexual activities.”
3. “Adult cabaret” means a nightclub, bar, juice bar, restaurant, bottle club, or other commercial establishment, whether or not alcoholic beverages are served, which regularly features persons who appear nude and/or semi-nude.
4. “Adult motel” means a hotel, motel, or similar commercial establishment that:
 - a. Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”; and has a sign visible from the public right of way that advertises the availability of this adult type of photographic reproductions; or
 - b. Offers a sleeping room for rent for a period of time that is less than twenty-four (24) hours; or
 - c. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than twenty-four (24) hours.
5. “Adult motion picture theater” means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown that are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas” regardless of whether the viewing is as an audience or individually.
6. “Adult theater” means a theater, concert hall, auditorium, or similar commercial establishment that regularly features persons who appear, in person, in a state of nudity or semi-nudity.

7. “Customer” means a patron of a sexually-oriented business as defined in this chapter.
8. “Employ,” “employee,” and “employment” describe and pertain to any person who performs any service on the premises of a business, on a full-time, part-time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.
9. “Escort” means any person who, for pecuniary compensation, agrees or offers to act as a companion, date, guide, out-call service entertainer or dancer, or out-call service model for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person. Escort shall not be construed to include persons who provide business or personal services, such as licensed private nurses, aides for the elderly or handicapped, social secretaries or similar service personnel whose relationship with their patron is characterized by a bona fide contractual relationship and who provide a service not principally characterized as dating or socializing. Escort shall also not be construed to include persons providing services such as singing telegrams, birthday greetings, or similar activities characterized by appearances in a public place, contracted for by a party other than the person for whom the service is being performed
10. “Escort service,” “escort agency,” “escort service runner,” or “out-call service” means a person, business, third party association, agent, broker, contractor, or other who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration regardless whether of whether said person, business, third party association, agent, broker, contractor, or other is directly employed, self-employed, or an independent contractor.
11. “Licensee” means a person in whose name a license under this chapter has been issued, as well as the individual listed as an applicant on the application for a license under this chapter.
12. “Nude” or “nudity” means a state of dress in which the areola of the female breast, or male or female genitals, pubic region or anus are covered by less than the covering required in the definition of semi-nude.
13. “Nude model studio” or “semi-nude model studio” means any place where a person who appears in a state of nudity or semi-nudity or displays “specified anatomical areas” is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons for consideration.
14. “Operate” or “operation” or similar term means to cause to function or to put or keep in a state of doing business.
15. “Operator” means any person on the premises of a sexually-oriented business who causes the business to operate. A person may operate a sexually-oriented business whether or not that person is an owner, part owner, or licensee of the business.
16. “Person” means an individual, proprietorship, partnership, corporation, association, or other legal entity.
17. “Premises” mean the real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually oriented business, the grounds, private walkways, and parking lots and/or

- parking garages adjacent thereto, under the ownership, control, or supervision of the licensee, as described in the application for a business license or the space as actually used by the licensed business.
18. “Semi-nude” or “semi-nudity” means a female in a state of dress in which opaque clothing covers no more, or little more, than the nipple and areola of the female breast, the genitals, pubic region and anus; or a male, a state of dress in which opaque clothing covers no more, or little more, than the genitals, pubic region and anus.
 19. “Sexual device” means any three-dimensional object designed or marketed for stimulation of the male or female human genital organ or anus or for sadomasochistic use or abuse of oneself or others and shall include devices such as dildos, vibrators, penis pumps, and physical representations of the human genital organs. Nothing in this definition shall be construed to include any bona fide medical device, contraceptive, or device primarily intended for protection against sexually transmitted diseases.
 20. “Sexual device shop” means a commercial establishment that regularly features sexual devices.
 21. “Sexual encounter center” means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:
 - a. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
 - b. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity.
 22. “Sexually oriented business” or “adult use” means any of the following as defined in this chapter:
 - a. Adult arcade.
 - b. Adult bookstore.
 - c. Adult video store.
 - d. Adult cabaret.
 - e. Adult motel.
 - f. Adult motion picture theater.
 - g. Adult theater.
 - h. Escort service.
 - i. Escort agency.
 - j. Escort service runner.
 - k. Out-call service.
 - l. Nude model studio.
 - m. Semi-nude model studio.
 - n. Sexual device shop.
 - o. Sexual encounter center.
 23. “Sexually-oriented business employees” means those employees who work on the premises of a sexually-oriented business in activities related to the sexually oriented portion of the business, including the owner, operator, and management.
 24. “Specified anatomical areas” mean:

- a. The human male genitals in a discernibly turgid state, even if fully and opaquely covered.
 - b. Less than completely and opaquely covered human genitals, pubic region, buttocks, or a female breast below a point immediately above the top of the areola.
25. “Specified criminal activity” means prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution, or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; sexual assault; rape; molestation of a child; or any similar sex-related offenses to those described above under the criminal or penal code of this state, other states, or other countries for which a person has plead guilty, plead nolo contendere, or been convicted of the charges and less than five (5) years have elapsed for misdemeanor charges, or less than ten (10) years has elapsed for felony charges. The time period elapsed for the purposes of this definition shall be measured from the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or a person residing with the applicant.
26. “Specified sexual activity” means any of the following:
- a. Actual or simulated intercourse, oral copulation, masturbation or sodomy; or
 - b. Actual or simulated excretory functions as a part of or in connection with any of the activities described in (a) above.
27. “Transfer of ownership or control” of a sexually-oriented business means and includes any of the following:
- a. The sale, lease, or sublease of the business;
 - b. The transfer of securities that form a controlling interest in the business, whether by sale, exchange, or similar means; or
 - c. The establishment of a trust, gift, or other similar legal device that transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

3.11.050. Statutory prohibitions not affected by this chapter.

1. Obscenity. Nothing in this chapter shall be deemed to permit or allow the showing or display of any matter which is contrary to applicable federal or state statues prohibiting obscenity.
2. Lewdness. Nothing in this chapter shall be deemed to permit or allow conduct or the showing or display of any matter which is contrary to the provisions of *Utah Code Annotated* §76-5-401 et seq.

3.11.060. License required.

1. Business. It is unlawful for any person to operate a sexually-oriented business, as specified herein, without first obtaining a sexually oriented business license as provided

in this chapter and as otherwise regulated by the municipal code. The sexually-oriented business license may specify the type(s) of classifications for which it is obtained.

2. Employee. It is unlawful for any sexually-oriented business to employ anyone at a sexually oriented business in the capacity of a sexually-oriented business employee, unless that employee first obtains a sexually-oriented business employee license.
3. Exclusions. The provisions of this chapter shall not apply to any sex therapist or similar individual licensed by the state to provide bona fide sexual therapy or counseling, licensed medical practitioner, licensed nurse, psychiatrist, psychologist, nor shall it apply to an authorized educator for authorized classroom education or course work.

3.11.070. Classification and multiple licensing.

1. Classifications. The classifications for sexually-oriented businesses shall be as follows:
 - a. Adult bookstore or adult video store.
 - b. Adult cabaret.
 - c. Adult motel.
 - d. Adult motion picture theater.
 - e. Escort service.
 - f. Semi-nude model studio.
 - g. Sexual device shop.
 - h. Sexual encounter center.
2. Multiple licensing. Each classification of sexually-oriented business shall require separate licensing.

3.11.080. Fees.

Each applicant for a sexually-oriented business or for an employee license shall be required to pay regulatory license fees as set by ordinance or resolution, or as established as part of a fee schedule. An application is not complete until all required fees have been fully paid.

3.01.090. Business and employee application requirements.

1. Application. Before a business or employee may operate an application shall be approved and license shall be issued to an applicant to a operate a sexually-oriented business or act as a sexually oriented business employee. Each applicant shall be on a form provided by the city license authority which includes the following information:
 - a. Name. The correct legal name of applicant, corporation, partnership, limited partnership or entity doing business under an assumed name. If the applicant is a corporation, partnership or limited partnership, or individual or entity doing business under an assumed name, the name of each partner or each principal of an applicant, and include all officers and directors. Any holding company or similar entity holding ownership of the applicant shall also be specified.
 - b. Applicant information. Applicant information provided to the city shall be classified as a protected a record. The applicant shall provide the following information:
 - i. Any other names or aliases used by the individual;

- ii. Proof that applicant is at least eighteen (18) years of age and place of birth by providing a certified copy of a valid birth certificate.
- iii. A authenticated copy of a valid driver’s license or other government issued photo identification that indicates:
 - (1) Height;
 - (2) Weight;
 - (3) Color of hair;
 - (4) Color of eyes;
- iv. Current address and telephone number for business.
- v. Current residence address and telephone number.
- vi. Valid taxpayer identification numbers, including: sales tax number, employer identification number, and social security number.
- vii. At least two passport quality photographs of applicant.
- viii. Fingerprint cards on a form provided by a county sheriff or law enforcement agency where applicant resides.
- ix. A valid health certificate for employee applicants in accordance with any requirements of the Weber-Morgan Health Department, stating that the individual has, within thirty days immediately preceding the date of the original or renewal application, been examined and found to be free of any contagious or communicable diseases.
- x. Employment history stating the businesses owned, occupations held, and employment history of the applicant for the past three (3) years immediately preceding the date of filing the application.
- xi. License history detailing the license or permit history of the applicant for the five (5) years immediately preceding the date of the filing of the application which details whether such applicant previously operated or sought to operate a sexually-oriented business within the United States or any territory. Include whether applicant has had any prior business license or permit denied, revoked or suspended, or has ever had any professional or vocational license or permit denied, revoked or suspended. State the reasons for any such denial, revocation or suspension, state the date of such action, and the location, the name of the issuing or denying jurisdiction. Provide a copy of any order of denial, revocation, or suspension as an attachment to the application.
- xii. A statement provided by applicant of whether any sexually-oriented business in which an applicant has had an influential interest in the previous five (5) years been declared by a court of law to be a nuisance; or been subject to an administrative or court order of closure or padlocking.
- xiii. A statement whether the applicant, or a person residing with the applicant, has been convicted, or is awaiting trial on pending charges, of a “specified criminal activity” and, if so, the “specified criminal activity” involved, the date, place, and jurisdiction of such.

2. Property and site plan. Applicant shall provide an accurate diagram drawn to scale showing the configuration of the premises, including a statement of total floor space occupied by the business. Prior to issuance of a license, the premises must be inspected by the health department, fire department, building department, zoning department and police department. In the event the applicant is not the owner of record of the real property upon which the business or proposed business is or is to be located, the application must be accompanied by a notarized statement from the legal or equitable owner of the interest applicant is to have in the property specifically acknowledging that the owner understands that applicant is seeking a license for a sexually-oriented business on the property. Applicant shall furnish the name, address, and phone number of the owner of record of the property.
3. Classification and description. Applicant shall state the classification of the sexually-oriented business sought and describe the services to be provided by the business, with sufficient detail to allow reviewing authorities to determine what business will be transacted on the premises, together with a schedule of usual fees for services to be charged by the licensee and any rules, regulations, or employment guidelines under or by which the business intends to operate. This description shall also include:
 - a. Date of proposed to commence operation.
 - b. Hours of operation of the business.
 - c. Safety plan that details the methods of protecting health and safety of the employees and patrons and preventing illegal activity on the premises.
 - d. Employee supervision protocol detailing employee supervision procedures that will be enforced to prevent employees from engaging in acts of prostitution or other criminal activities.
 - e. Screening protocol that will be enforced to screening employees and customers in order to promote the health and safety of employees and customers, and prevent the transmission of disease and prevent prostitution or other criminal activity.
4. Survey certificate. A current certificate and straight-line drawing prepared by a registered land surveyor within thirty (30) days of application. Survey certificate shall depict the property lines and the structures containing any existing sexually-oriented businesses, established religious institution, school, public park or recreation area, or family-oriented entertainment business within one thousand (1000) feet of the property. For purposes of this part, a use is considered existing or established if it is in existence at the time the application is submitted.
5. Fee. Payment of the applicable fee shall accompany each application.

3.11.100. Issuance of license.

1. Requirements. The licensing authority shall issue a license to the applicant within a reasonable time after receipt of a completed application, unless the official finds one or more of the following:
 - a. The applicant is a minor.

- b. The applicant is overdue in payment to the city of taxes, fees, fines or penalties assessed against the applicant or imposed on the applicant in relation to a sexually-oriented business or property where such is located.
 - c. The applicant has falsely answered a material question or request for information as authorized by this chapter.
 - d. The applicant has violated a provision of this chapter or similar provisions found in statutes or ordinances from any jurisdiction within five (5) years immediately preceding the application.
 - e. Applicant or person with whom applicant is residing has been convicted, or is awaiting trial on pending charges, of a “specified criminal activity” as defined in this chapter. No deference shall be given for an appeal of involving “specified criminal activity.”
 - f. The proposed sexually-oriented premises business has been disapproved by the Weber-Morgan Health Department, the fire department, the police department, the building official, the land use authority, or other enforcement authority, or is not in compliance with applicable laws and ordinances of the city.
 - g. The required license fees have not been fully paid.
 - h. The application is found to be materially incomplete.
 - i. The applicant for the proposed business is in violation of or not in compliance with this chapter or similar provisions found in statutes or ordinances from any jurisdiction.
 - j. The proposed sexually-oriented business location is within one thousand (1000) feet straight-line distance of an existing religious institution, school, public park or recreation area, or family-oriented entertainment business.
2. Agency review. Each agency and department reviewing an application shall be afforded ample time to conduct a proper review of an application. Any agency or department may determine that the application is incomplete and inform the licensing authority of the same. If an application is determined to be incomplete, the licensing authority shall notify the applicant specifying the items that are incomplete.
 3. Cure period. An applicant shall have ten (10) days from the date of notice of the licensing authority to cure any incomplete information relating to the application.
 4. Application denial. In the event the licensing authority determines that an applicant is not eligible for a sexually-oriented business license or more than ten (10) days have elapsed since the notice of incomplete application was issued, the applicant shall be given notice in writing of the reasons for the denial.
 5. Appeal. An applicant may appeal a denied license to the appeal authority in accordance with the procedures for appeal set forth in this title.
 6. Renewal. A license may annually renew upon the written application of the applicant and a finding by the licensing authority that the applicant is in compliance with the application requirements of this chapter and other applicable regulations of the municipal code.

3.11.110. General regulations.

1. Compliance. The applicant shall comply with the representations made in the approved application and shall provide the licensing authority with updated information for any material changes relating to the accuracy of the information contained in the application.
2. Inspections. As a condition of license approval, inspections may be conducted anytime and as may be provided in this title.
3. Alcohol prohibited. It is unlawful to sell or consume alcohol on the premises of any sexually-oriented business.
4. Minors prohibited. It is unlawful to allow minors on the premises of any sexually-oriented business, or allow, offer, or agree to conduct any escort business where a minor is present.
5. Locking outside door. It is unlawful to allow the outside door of any sexually-oriented business to be locked while any customer(s) are present on the premises.
6. Gambling. It is unlawful to allow, offer, or agree to gambling on a licensed premises.
7. Touching. It is unlawful to allow, offer, or agree to any sexually-oriented business employee touching or being touched by any patron or customer; except that escort employees and customers may touch, except that any touching of “specified anatomical areas,” whether clothed or unclothed, is prohibited. It is unlawful to place any money or object on or within the costume or person of any performer; or to give or offer to give to any such performer any drinks, money, or object while such performer is performing. Money may be placed on the stage, which shall not be picked up by the performer except by hand.
8. Specified sexual activities. It is unlawful for any person at a sexually-oriented business or for any licensee to allow, offer, commit, or agree to any “specified sexual activity” involving any customer, patron, or employee.
9. Nudity. It is unlawful to allow, offer, or agree to any sexually-oriented business employee to appear before any customer or patron in a state of nudity. It is unlawful to place anything within a costume or adjust or move a costume while performing so as to render the performer in a state of nudity.
10. Performers. It is unlawful for any employee or performer to touch in any manner any other person while performing, to throw any object or clothing while performing, or to accept any money or any other gift directly from any person while performing.
11. Massages prohibited. No massage therapy license shall be issued to, or upon the same premises as, or to an employee or business partner of, a sexually-oriented business.
12. Zoning. All land use permits and applicable approvals shall be received from the land use authority before the issuance of a business license for a sexually-oriented business shall be issued.
13. Premises licensed. It is unlawful to conduct business under a license issued pursuant to this chapter at any location other than the licensed premises. Any location to which telephone calls are automatically forwarded by such business shall require a separate license.
14. Name. It is unlawful for any sexually-oriented business to do business in the city under any name other than the business name specified in the application.

15. Uniform regulations. A sexually-oriented business shall comply with the uniform business license regulations set forth in this title.
16. Non-transferable. Licenses issued under this chapter a non-transferable.
17. Hours of operation. Sexually-oriented businesses may only operate between the hours of 10 AM to 10 PM. It is unlawful to be open to the public during any other hours.

3.11.120. Class specific regulations.

1. Adult arcade. Must comply with the land use regulations.
2. Adult bookstore. Must comply with the land use regulations.
3. Adult video store. Must comply with the land use regulations.
4. Adult cabaret. Must comply with the zoning regulations. Adult theaters shall separate the performance area from the patrons by a minimum of three (3) feet, which separation shall be delineated by a physical barrier at least three (3) feet high.
5. Adult motion picture theater. Must comply with the zoning regulations. Adult theaters shall separate the performance area from the patrons by a minimum of three (3) feet, which separation shall be delineated by a physical barrier at least three (3) feet high.
6. Adult theater. Must comply with the zoning regulations. Adult theaters shall separate the performance area from the patrons by a minimum of three (3) feet, which separation shall be delineated by a physical barrier at least three (3) feet high.
7. Escort service. It is unlawful for any sexually-oriented business classified as an escort service or any employee of the same that is contracted in the city to fail to comply with the following requirements:
 - a. Contract. All businesses licensed to provide escort services pursuant to this chapter shall provide to each patron a written contract in receipt of pecuniary compensation for services. The contract shall clearly state the type of services to be performed, the length of time such services shall last, the cost to the patron and any special terms or conditions relating to the services performed. The contract need not include the name of the patron. The business licensee shall keep and maintain a copy of each written contract pursuant to this section for a period not less than one year from the date of provision of services thereunder. The contracts shall be numbered and entered into a register listing the contract number, date, names of all employees involved in the contract and pecuniary compensation paid.
 - b. Location and contact. All escort services licensed pursuant to this chapter shall maintain an open office or telephone at which the licensee or licensee's designated agent may be personally contacted during all hours escort employees are working. The address and phone number of the license location shall appear and be included in all patron contracts and published advertisements. For escort businesses which premises are licensed within the corporate limits of the city, private rooms or booths where the patrons may meet with the escort employee shall not be provided at the open office or any other location by the service, nor shall patrons meet escort employees at the business premises. Escort business shall not be operated as a home business.

- c. Advertising. Escort services shall not advertise in such manner that would lead a reasonably prudent person to conclude that “specified sexual activities” would be performed by the escort employee.
 - d. Licensing location. Employees of any escort services where said services are provided within the city shall be licensed by the city in accordance with this chapter regardless of the primary location of the escort service.
 8. Escort service runner. It is unlawful for any sexually-oriented business classified as an escort service runner or any employee of the same that is contracted in the city to fail to comply with the following requirements:
 - a. Contract. All businesses licensed to provide escort services pursuant to this chapter shall provide to each patron a written contract in receipt of pecuniary compensation for services. The contract shall clearly state the type of services to be performed, the length of time such services shall last, the cost to the patron and any special terms or conditions relating to the services performed. The contract need not include the name of the patron. The business licensee shall keep and maintain a copy of each written contract pursuant to this section for a period not less than one year from the date of provision of services thereunder. The contracts shall be numbered and entered into a register listing the contract number, date, names of all employees involved in the contract and pecuniary compensation paid.
 - b. Location and contact. All escort services licensed pursuant to this chapter shall maintain an open office or telephone at which the licensee or licensee’s designated agent may be personally contacted during all hours escort employees are working. The address and phone number of the license location shall appear and be included in all patron contracts and published advertisements. For escort businesses which premises are licensed within the corporate limits of the city, private rooms or booths where the patrons may meet with the escort employee shall not be provided at the open office or any other location by the service, nor shall patrons meet escort employees at the business premises. Escort business shall not be operated as a home business.
 - c. Advertising. Escort services shall not advertise in such manner that would lead a reasonably prudent person to conclude that “specified sexual activities” would be performed by the escort employee.
 - d. Licensing location. Employees of any escort services where said services are provided within the city shall be licensed by the city in accordance with this chapter regardless of the primary location of the escort service.
 9. Nude model studio. Must comply with the land use regulations. It is unlawful for business premises licensed for semi-nude entertainment to:
 - a. Permit a bed, sofa, mattress, or similar furnishing in any room on the premises, except that a sofa may be placed in a reception room open to the public or in any office to which patrons are not admitted, and except that in an adult theater, such items may be on the stage as part of a performance.

- b. Allow any door on any room used for business, except for the door to an office to which patrons shall not be admitted, outside doors and restroom doors to be lockable from the inside.
 - c. Provide any room in which the employee or employees and the patron are alone together without a separation by a solid physical barrier at least three (3) feet high and six (6) inches wide. The patron or patrons shall remain on one side of the barrier and the employee or employees shall remain on the other side of the barrier.
10. Out-call service. It is unlawful for any sexually-oriented business classified as an out-call service or any employee of the same that is contracted in the city to fail to comply with the following requirements:
- a. Contract. All businesses licensed to provide escort services pursuant to this chapter shall provide to each patron a written contract in receipt of pecuniary compensation for services. The contract shall clearly state the type of services to be performed, the length of time such services shall last, the cost to the patron and any special terms or conditions relating to the services performed. The contract need not include the name of the patron. The business licensee shall keep and maintain a copy of each written contract pursuant to this section for a period not less than one year from the date of provision of services thereunder. The contracts shall be numbered and entered into a register listing the contract number, date, names of all employees involved in the contract and pecuniary compensation paid.
 - b. Location and contact. All escort services licensed pursuant to this chapter shall maintain an open office or telephone at which the licensee or licensee's designated agent may be personally contacted during all hours escort employees are working. The address and phone number of the license location shall appear and be included in all patron contracts and published advertisements. For escort businesses which premises are licensed within the corporate limits of the city, private rooms or booths where the patrons may meet with the escort employee shall not be provided at the open office or any other location by the service, nor shall patrons meet escort employees at the business premises. Escort business shall not be operated as a home business.
 - c. Advertising. Escort services shall not advertise in such manner that would lead a reasonably prudent person to conclude that "specified sexual activities" would be performed by the escort employee.
 - d. Licensing location. Employees of any escort services where said services are provided within the city shall be licensed by the city in accordance with this chapter regardless of the primary location of the escort service.
 - e. Nude model studio. Must comply with the land use regulations.
11. Semi-nude model studio. Must comply with the land use regulations. It is unlawful for business premises licensed for semi-nude entertainment to:
- a. Permit a bed, sofa, mattress, or similar furnishing in any room on the premises, except that a sofa may be placed in a reception room open to the public or in any

- office to which patrons are not admitted, and except that in an adult theater, such items may be on the stage as part of a performance.
- b. Allow any door on any room used for business, except for the door to an office to which patrons shall not be admitted, outside doors and restroom doors to be lockable from the inside.
 - c. Provide any room in which the employee or employees and the patron are alone together without a separation by a solid physical barrier at least three (3) feet high and six (6) inches wide. The patron or patrons shall remain on one side of the barrier and the employee or employees shall remain on the other side of the barrier.
12. Sexual device shop. Must comply with the land use regulations.
 13. Sexual encounter center. Must comply with the land use regulations.

3.11.130. Denial, suspension, or revocation of license.

1. Grounds. The appropriate authority has grounds to take adverse action, deny, suspend, or revoke a business license issued under this chapter for any cause set forth in this title, or based upon the following additional grounds:
 - a. A violation or finding that the business or employee who should be licensed under this chapter is not in compliance with the provisions of this chapter or the municipal code.
 - b. Refusal to allow any inspection of the premises of the sexually oriented business specifically authorized by this chapter or by any other statute or ordinance.
 - c. Knowingly operated the sexually-oriented business or worked under an employee license during the period when the business license or employee license was suspended.
 - d. Committed an offense or criminal act which would be grounds for denial of any license for which the time period required has not elapsed.
2. Procedure. The licensing authority shall notify an applicant or licensee of any action regarding the disposition of a license or for license denial, suspension, and revocation by mailing the applicant a notice in writing via regular mail, certified mail, or personal service, of said action and the reason for the same. Any license suspension or revocation may be up to one (1) year per violation.
3. Appeal. Any aggrieved party is entitled to an appeal of any action taken by a licensing authority as set forth in this title.

3.11.140. Enforcement and penalties.

Penalties are cumulative, not exclusive. Any criminal penalties are charged under this title may be imposed upon the business owner, operator, manager, and/or employee as the case may be. In addition to the other penalties provided by law for a violation of this title, the following penalties apply:

1. Civil fines. Any person or business engaging in any business activity that violates a provision of this chapter may be fined by the appropriate authority up to \$1,000.00, per

- offense, in accordance with *Utah Code Annotated* §10-3-703. Each day a violation continues constitutes a separate offense.
2. Criminal penalties. Any person or business engaging in any business activity that violates this chapter shall be a class B misdemeanor in accordance with *Utah Code Annotated* §76-3-301(d). Each day a violation continues constitutes a separate offense.
 3. Other remedies. In addition to other remedies provided by this chapter or by law, the licensing authority may seek injunctive relief and any other remedy provided by law or equity.
 4. General provisions.
 - a. Public nuisance. A business or licensee that commits two (2) or more violations under this chapter in a single year may be enforced as a public nuisance under state law.
 - b. Respondeat superior.
 - i. Employee violations. Every act or omission by an employee that constitutes a violation of this chapter shall be deemed the act or omission of the sexually-oriented business licensee and/or operator. If such act or omission occurs either with the authorization, knowledge or approval of the licensee and/or operator, or as a result of the licensee’s and/or operator’s negligent failure to supervise the conduct of the employee, the sexually-oriented business licensee is punishable for such act or omission in the same manner as if the licensee committed the act or omission.
 - ii. Responsibility. A sexually-oriented business licensee and/or operator shall be responsible for the conduct of all employees while on the licensed premises and any act or omission of any employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the licensee and/or operator for the purposes of determining whether any license shall be revoked, suspended, or renewed.

Chapter 3.13
Reserved

Chapter 3.15
GOOD LANDLORD PROGRAM

Section:

- 3.15.010. Purpose.**
- 3.15.020. Definitions.**
- 3.15.030. Business license and fee required.**
- 3.15.040. Program requirements.**
- 3.15.050. Inspections.**
- 3.15.060. Adverse action.**
- 3.15.070. Administration.**
- 3.15.080. Property maintenance.**

3.15.090. Site plan requirements.

3.15.110. Penalties.

3.15.010. Purpose.

The purpose of this chapter is to encourage open and equal access to rental properties that are properly managed and maintained in the city while providing the property owner incentives to participation in a Good Landlord Program.

3.15.020. Definitions.

The following definitions apply to this chapter in addition to the other definitions set forth in this title:

1. “Agreement” means the binding agreement entered with the city as part of the program.
2. “Schedule” means the business license fee schedule as it relates to a rental dwelling unit and the program. Base license fee, disproportionate license fee, and enhanced license fees are specifically defined in *Utah Code Annotated* §10-1-203, 1953, as amended.
3. “Rental dwelling unit” means any individual dwelling unit that is rented, loaned, leased, or hired out to be used or occupied as a home or residence. This definition is inclusive of any buildings or apartment buildings so arranged, designed, built, rented, loaned, 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.
4. “Owner” mean the person having ownership. Person includes any individual, group of individuals, partnership, corporation, association or other legal entity.
5. “Owner occupied” means a person having ownership of a maximum of one rental unit who also occupies the same location as a primary residence.
6. “Program” means the Good Landlord Program of the city.

3.15.030. Business license and fee required.

1. License. Any owner of a rental dwelling unit shall obtain and maintain current a business license. Owners of more than one rental dwelling unit shall be required to obtain only one business license, provided that the owner furnishes to the city all owner contact information as well as a current, complete list of the rental dwelling units owned.
2. Fee schedule. There is hereby imposed upon the owner of any rental dwelling unit a business license fee based upon a study adopted by this title as conducted and updated by the city in accordance with state law.
3. Time of payment. Any owner of any rental dwelling unit shall pay the fees set forth in the fee schedule at the time of application for a new or renewal license.
4. Failure to make payment. Failure to timely make a payment required pursuant to a payment plan as described above may result in the suspension or revocation of the license and the imposition of penalty fees as set forth in this title.
5. Fee reduction. Reduced fees apply to members of the program as set forth in this chapter.
6. Joint and several liability. If there is more than one owner, including purchases under contract, each owner shall be jointly and severally liable to pay the business license fees set forth in the fee schedule.

3.15.040. Program requirements.

The owner, or authorized agent, of any rental dwelling unit may apply for admission into the city's Good Landlord Program subject to the following:

1. Program requirements:
 - a. Completion and approval of the landlord application.
 - b. At least ten (10) years of experience as a landlord, or complete a property management training course.
 - c. Execution of a written, binding agreement with the city regarding landlord's obligations as set forth in this chapter.
2. Landlord's obligations. Each landlord participating in the program shall perform the following:
 - a. Tenant screening. Landlord shall perform all of the following screening requirements for all tenants prior to move in:
 - i. Application. Landlord shall require each prospective tenant to complete a rental application, which shall include the tenant's information. Landlord shall keep the application on file for the full term of the lease.
 - ii. Criminal background check. Landlord shall obtain a criminal history for each tenant as well as each occupant of the premises, who is 18 years or older, including information from the Utah Sex Offender Registry to verify whether or not the tenant or occupants are registered sex offenders. Landlord shall keep all criminal histories on file for the full term of the lease.
 - iii. Identification. Landlord shall require every prospective tenant to provide a identification card, which landlord may copy and keep on file for the full term of the lease.
 - iv. Credit check. Landlord shall obtain a credit history from every prospective tenant over the age of 18. Landlord may copy and keep the credit application on file for the full term of the lease.
 - v. Income/employment verification. Landlord shall obtain income/employment verification from every prospective tenant.
 - vi. Rental references. Landlord shall obtain contact information for all previous landlords with in the last three (3) years.
 - vii. Tenant selection. Landlord shall consider the following criteria, at a minimum, for tenant selection and will refuse to rent to any prospective tenants or other occupants who:
 - (1) Provided false information to the landlord on the application or otherwise.
 - (2) Have been convicted of:
 - (a) Any drug or alcohol related crime in the past three (3) years;
 - (b) Any crime related to property damage in past three (3) years.

- (c) Any prostitution or any sex offense in the past (5) years.
 - (d) Violent crime, assault, or any crime that involved a weapon in the past three (3) years.
 - (3) Appears on the Utah Sex Offender Registry.
 - b. Eviction. Landlord will promptly evict problems tenants that are involved in drugs, criminal activity, or other illegal activities.
 - c. Executed lease. Landlord shall execute a valid Utah Apartment Association Lease or similar written lease agreement with each tenant, which shall include the provisions listed in any landlord training packet prepared by the licensing authority, and those set in this chapter.
 - d. Landlord training. Any Landlord with less than ten (10) years experience, or Landlord’s designated agent, agrees every two (2) years to:
 - i. Attend and complete a landlord training program provided by the Utah Apartment Association.
 - ii. Complete other activities that substitute for such training as approved by the city administrator. Such activities may include self study programs or similar training courses that assists a landlord in property management.
- 3. City’s obligations. The city shall perform the following for each landlord participating in the program:
 - a. Fee reduction. Upon admission and continuance in the program, the disproportionate fee imposed on the landlord shall be reduced as provided in this title or the Schedule.
 - b. Conduct inspections. The city may conduct at annual inspections at landlord request to identify problems or violations of law without penalty.
 - c. Discretionary waiver. The city reserves the right to waive, amend or otherwise forgive a landlord’s violation of their agreement, if, at the city’s sole discretion, grounds exist for such a determination.
 - d. Program eligibility deadline. Upon application for a business license, a qualified landlord is eligible for admission into the program.
- 4. Termination and effect. A landlord may be terminated from the program if:
 - a. Landlord fails to fulfill its obligations under the written, binding agreement.
 - b. Landlord has more than (2) violations under this chapter or other governing law within a calendar year.
 - c. Landlord is not relieved of liability to the city for damages sustained by virtue of any breach by Landlord and shall immediately pay an amount to the city equal to the annual disproportionate rental fee that was reduced or discounted under this title or the Schedule, plus any other penalties provided by this chapter for breach of violation.

3.15.050. Inspections.

- 1. Generally. Inspection and enforcement officials are designated in this title. Authorized officials shall be permitted to make an inspection to enforce any of the provisions of this title or any other applicable statute or ordinance, and may enter any building or may enter

upon any premises during regular business hours; or, if there are no regular business hours, the officers or their authorized representatives shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If the property owner or other responsible person refuses to allow the enforcement officers to enter and inspect the property, the officer may obtain and execute a search warrant.

2. Entry upon proper request. No owner, occupant or any other person having charge, care or control of any building or premises shall fail or neglect, after proper request or warrant is made, to properly permit entry therein by the authorized officer or his representative(s) for the purpose of inspection and enforce of this title.

3.15.060. Adverse action.

In addition to the grounds set forth in this title, a license for a rental dwelling unit in the city may take adverse action such as, including, but not limited to denial, revocation, or suspension for any one of the following reasons:

1. Noncompliance. The applicant does not meet the qualifications for a licensee as provided under this title or does not conform or comply to the laws and regulations of the city.
2. Nonpayment. Failure to make payment or a returned check for the required license fees, plus any late fees or other penalties that may apply as a result of nonpayment of a returned check.
3. Planning. Noncompliance with any requirement or condition set by the planning commission of the city, a land use authority, the appeal authority, or other governing authority defined by this title.
4. Violations. Violation of the terms of site plan approval, conditional use permit, variance, development agreement, or similar approval.
5. Inspection. The applicant licensee has refused authorized representatives of the City to make an inspection or has interfered with such representatives while in the performance of his duty in making such inspection, or failed inspections as provided herein.

3.15.070. Administration.

1. Generally. A business licensed under this chapter is subject to the issuance of a license and the administration under this title.
2. Action. The appropriate authority may, without hearing, deny, revoke, or suspend a license for the reasons provided for in this chapter. Any suspension or revocation shall take effect only after the appeal period as provided in this title has elapsed.
3. Investigation. The appropriate authority may, on his or her own initiative or in response to complaints from the general public investigate and gather evidence of violations of this title or other circumstances which may give rise to a denial, suspension or revocation.
4. Procedure. Procedure for any suspension or revocation is governed by this title. For any violation, the licensing authority may take adverse action and issue a Notice of Violation (NOV), Certificate of non-compliance, or administrative citation, and/or criminal citation in accordance with the penalties prescribed in this chapter. When taking adverse action the licensing authority may consider:

- a. Preponderance of the evidence standard of review.
 - b. Whether individual or entity involved participates in the program.
 - c. Severity of the violation(s).
 - d. History of prior violation(s) or adverse action.
 - e. Conduct and demeanor of the individual or entity involved.
 - f. Likelihood of compliance.
 - g. Mitigating factors.
 - h. Any other information obtained as part of enforcement or investigation relating to the violation(s).
5. Appeal procedure. Any person may appeal any decision made under this chapter or any adverse action in accordance with the provisions set forth in this title.

3.15.080. Property maintenance.

The owner or operator of any rental dwelling unit in the city shall conform to the most current edition of the International Property Maintenance Code. The most current edition of the International Property Maintenance Code is hereby adopted and incorporated herein by this reference.

3.15.090. Site plan requirements.

Maintain appearance and landscaping in accordance with the approved site plan for multi-family units, or for duplex and single family dwelling units in accordance with the municipal code.

3.15.110. Penalties.

A violation of this chapter constitutes a civil fine not to exceed \$1,000.

Section 3: Severability. If a court of competent jurisdiction determines that any part of this ordinance is unconstitutional or invalid, then such portion of this Ordinance, or specific application of the ordinance, shall be severed from the remainder, which remainder shall continue in full force and effect.

Section 4: Effective date. This Ordinance take effect immediately after approval and posting.

PASSED AND ADOPTED by the City Council on this ____ day of _____, 2016.

BRUCE RICHINS, Mayor

ATTEST:

JENNIE KNIGHT, City Recorder

RECORDED this ___ day of _____, 2016.
PUBLISHED OR POSTED this ___ day of _____, 2016.

CERTIFICATE OF PASSAGE AND PUBLICATION OR POSTING

According to the provision of *Utah Code Annotated* §10-3-711, 1953 as amended, I, the city recorder of Harrisville City, hereby certify that foregoing ordinance was duly passed and published, or posted at 1) 2150 North, 2) the Harrisville Cabin, and 3) City Hall on the above referenced dates.

_____ DATE: _____
City Recorder