



HARRISVILLE CITY

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

CITY COUNCIL MEETING AGENDA 363 West Independence Blvd April 12, 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."

6:00 P.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 Gary Robinson]
3. **CONSENT ITEMS**
 - a. Approve the minutes of March 8, 2016 as presented.
4. **BUSINESS ITEMS**
 - a. Weber County Health Department Presentation [Louis Cooper]
 - b. Discussion/possible action on Harrisville City Ordinance 469; Business License Regulations and General Revenue. [Bill Morris]
 - c. Discussion/possible action Harrisville's 2nd Annual Farmer's Market [Bill Morris]
5. **PUBLIC COMMENTS - (3 minute maximum)**
6. **MAYOR/COUNCIL FOLLOW-UP:**
 - a. ULCT Conference Review
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.
8. **ADJOURN**

DATE POSTED: April 11, 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, March 8, 2016 – 7:00 p.m.
Council Chambers
363 West Independence Blvd
Harrisville, Utah 84404

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

Staff: Bill Morris, City Administrator, Gene Bingham, Public Works Director, Keith Wheelwright, Police Lieutenant, Jennie Knight, City Recorder.

Visitors: Tyler Price, Landon Price, Cole VanBeekum, Jordan Jones, Danell Jones, Brandon Wilson, Nathan Averill, Alexis Martinez, Austin Teuscher, Ryan Barker.

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.

Landon Price from Troop 617 led the pledge of allegiance and Mayor Richins conducted the opening ceremony.

3. Consent Items.

- a. Approve the minutes of February 9, 2016 as presented.

Council Member Jeff Pearce asked for clarification on the street (700 West) for the sewer project on page 2. Gene Bingham confirmed this project was on 700 West.

MOTION: Council Member Ruth Pearce motioned to approve the February 9, 2016 minutes as presented. Council Member Jensen seconded the motion. All Council Members voted aye. Motion passed.

4. Business Items.

a. Discussion/possible action to North View Fire Amendment

Ryan Barker from North View Fire explained they are experiencing an increased amount of inspection requests for business licenses but they lack the man power to conduct them all. There is a data tracking system available that allows businesses to submit their inspection requests and requirements. This software would also track businesses compliance every year. Currently things are falling two to three years out of date. Layton City was the first district to implement this system. They went from 30% to

70% compliance. Salt Lake and most of Weber County are all now implementing this software. Ryan Barker said this requires a change to the fire code. The cost of this service is passed on to the business owner. Therefore, there is no cost to the fire department or the city.

Council Member Jeff Pearce asked if businesses will get a better rate on insurance. Ryan Barker said they are not requiring this. Bill Morris indicated this change would have to be adopted by ordinance. He will write up an ordinance that will be passed at a later meeting. Ryan Barker said there will be a need to adopt a new fire code shortly. Bill Morris suggested waiting until both are ready, then passing them at the same time.

b. Discussion/possible action on Harrisville City Ordinance 478; An Ordinance of Harrisville City, adopting the Franchise Agreement with Syringa Networks for Fiber Optic Service; severability; and providing an effective date.

Bill Morris explained Syringa is a fiber optic company installing cable throughout the city. This franchise agreement governs how they use the city's right of way. He informed Council at the request of Gene Bingham, he's already made a significant amount of changes but final details will still need to be worked out. The wordage of the ordinance gives him the authority to make final changes. Council Member Murtha asked whether Gene Bingham's concerns were addressed in the changes. Bill Morris explained that most concerns were regarding the protection of the right of way; other uses are secondary. He also requested if cell phone towers come into the city, they consider city property first. Gene Bingham said he also requested an annual franchise accounting statement be provided. Bill Morris clarified that equal protection must be given to all parties if competing companies come into the city as well.

Council Member Jeff Pearce asked if this is UTOPIA. Bill Morris explained that is where the city pays for fiber optics; this is not the same. This is not a governmental entity. Council Member Jeff Pearce expressed his desire for things to be left in the same condition when trenching is involved, returning the right of way to original condition. Gene Bingham said he requested to not be invasive.

Brandon Wilson from Syringa explained more details about his company. He said they are an Idaho based telecommunication company. They do not provide services to residential areas, nor do they plan to. They are here to install a cell site that is on private property on the west side of Washington Blvd. The only time this would affect private residents is if they had to reach a certain site through a residential property.

Bill Morris explained the taxes are paid directly to the state; the state holds them temporarily and then disperses them to the cities. There will be no direct payment to the city. Although the city should get a monthly statement reporting the tax collected by the state. If Syringa also provides a statement, these could be compared for accuracy. If they were to provide services to residences they would have to change the agreement. The main objective of this agreement is to protect the right of way.

Mayor Richins asked about the history of Syringa. Brandon Wilson explained a group of ranchers created their own telecommunication businesses years ago. Syringa is the collaborative effort of about 12 of these companies. They have been in Utah for five years. They service 322 individual locations; most are wireless networks. Sprint is their largest customer with Verizon being the next largest.

Mayor Richins asked if this needs to be tabled until the agreement is finalized. Bill Morris reviewed the red line changes. He recommended Council approve the ordinance adopting the agreement allowing any final adjustments to be made.

MOTION: Council Member Ruth Pearce motioned to adopt Harrisville City Ordinance 478; An Ordinance of Harrisville City, adopting the Franchise Agreement with Syringa Networks for Fiber Optic Service; severability; and providing an effective date with the authorization from Bill Morris to finalize the agreement for compliance. 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 Jeff Pearce	Yes

Motion passed 4-0.

c. Discussion/possible action to approve 2016 Crack Seal Projects

Gene Bingham explained this is an annual maintenance project and although he was slightly rushed to receive these bids on time he received six bids from reputable companies. Most of these companies have done work for the city in the past. Each year he surveys the streets and accompanies that with our specifications to put this out to bid. Sometimes the bids come in all over the board. After reviewing the bids, Aspen paving is once again the low bid. This is the time of year to do the crack seal projects because there is little moisture in the cracks.

Council Member Jeff Pearce asked how much distance city this covers. Gene Bingham clarified this is a year to year process and includes half of the city this time around. He said we have good success with this maintenance process. Mayor Richins commented he is glad we maintain the roads in this fashion.

Council Member Murtha asked if this is done before they resurface. Gene Bingham said if there is a good surface they apply the crack seal before any other process is done; thereby solidifying the road surface. Council Member Jeff Pearce said especially with the clay base we have in Harrisville. Gene Bingham said they have tried to separate this process with new roadways; trying to keep the moisture out of the road. Council Member Murtha said this is a good price to cover half of the city; compared to the previous years. Gene Bingham explained by soliciting multiple bids he is able to keep the bids reasonable. This also gives you an understanding on the contractors.

Technically under our ordinance this does not have to be put out to bid; he has discovered it helps keeps the costs low. Council Member Murtha thanked Gene Bingham for his efforts. Mayor Richins commented that getting the bids out early helps keep costs down and the work done early.

MOTION: Council Member Jensen motioned to approve the 2016 Crack Seal Projects and award the project to Aspen Paving for \$16,400. Council Member Murtha seconded the motion. A Roll Call vote was taken.

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

Motion passed 4-0.

d. Discussion/possible action to approve Harrisville City Resolution 16-01; A Resolution of Harrisville City, adopting the Weber County Pre-Disaster Mitigation Plan; and providing an effective date.

Keith Wheelwright explained this plan has been prepared through Weber County as a county wide collaboration with each city giving input. Part of our input was our assessment of our city, the emergency plan. Items such as a failure with the sump pump which would fill the basement of the city building affecting the electronics that are stored downstairs. Also included in the plan is the potential relocation of the city office buildings on 750 West.

This plan has now been approved through FEMA and each city is adopting the final draft to maintain eligibility for federal funding in case of a real emergency. There were very minimal changes made to the previous draft. The city will be required to update this plan every 5 years on our own. Mayor Richins asked why the responsibility will be shifting to the city level. Keith Wheelwright said the State deferred this responsibility to the counties for this plan and they will be deferring future plans to the city.

Bill Morris gave a brief history of the implementation of this program. Council Member Murtha pointed out coordination efforts would be difficult on city levels. Keith Wheelwright clarified we have a very good county wide emergency program. They keep tabs on what is available between all cities as resources. Bill Morris explained the county representative, Lance Peterson, has talked to FEMA about the difficulties moving this program to a city effort.

MOTION: Council Member Jeff Pearce motioned to approve Harrisville City Resolution 16-01; A Resolution of Harrisville City, adopting the Weber County Pre-Disaster Mitigation Plan; and providing an effective date. Council Member Ruth Pearce seconded the motion. A Roll Call vote was taken.

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

Motion passed 4-0.

e. Discussion/possible action disproportionate Law Enforcement Business License fee data.

Keith Wheelwright gave a brief introduction on the history of the disproportionate fee. He said he was asked to go through the study to answer some questions. The city

asked for this study to be done to establish a good landlord program. A lot of this falls on the police department because they respond to calls for service. Basic requirements to implement a good landlord program are contained in state code. The disproportionate fee study must be conducted first; Zion's bank conducted this study. They collect the information from the city by using data including calls for service and administrative costs. The disproportionate cost is strictly police because we do not have a fire department. We also do not have enhanced costs such as snow removal or private security. The base cost of the administrative services is having the police chief sign off on business licenses. For purposes of this study they averaged out two year's worth of data.

Lt. Wheelwright gave an overview of the number of residences, businesses, and home occupations. This provided a base of what the cost is to each resident or business. He explained the cost per call on average based on the costs that have decreased as they have become more efficient. They absorbed the increase in activity without increasing man power.

The study also breaks each business down based on category. Lt. Wheelwright clarified staff is not recommending any change to the current business license fees for any businesses in the city. To implement the good landlord program they would take the base business license fee and add the cost to manage the good landlord program. One thing to note; a landlord is only required to have one business license, even if they own multiple properties within the city. Also the business license fee may be reduced or waived if the landlord participates in a compliance program.

Mayor Richins asked if this is specifically in the PUD zones. Council Member Jensen asked if this is specifically the older resident area. Lt. Wheelwright said most of the calls to those areas are medical calls. The good landlord program is mostly for rentals in multiple family housing areas but not exclusively. Bill Morris explained the business license fee study reflected the highest fee allowed. Council has the authority to adjust these fees. Council Member Murtha said the study reflects we are out of compliance on a few classifications. Bill Morris said there were several that would actually go down, and some we are not collecting on at all. He clarified Council is welcome to leave the current fees in place.

Council Member Jensen suggested Council consider what is going to be coming in. Bill Morris said this just sets the classification for the licensing. Council Member Jensen expressed her desire to maintain fairness with businesses. Bill Morris said the study also reflects the portion the city is subsidizing. He reminded Council of the requirement to conduct this study every five years if they implement the good landlord program. Council Member Jeff Pearce asked what the legislature is doing with regard to the good landlord program. Bill Morris said he is not aware of any changes yet. Lt. Wheelwright said his understanding is they were proposing an lighter requirement with regard to felons ability to rent. Part of the rehabilitation of felons is related to the type of community they are living in. He explained if the city is tracking the landlords, they will be held accountable for the renters. Council Member Murtha asked about those businesses who make it difficult due to bad behavior. He said the city cannot charge the differently if they are in the same classification. He asked what the city is doing to hold them accountable. Lt. Wheelwright explained in the case of Walmart, they are not necessarily held responsible for retail thefts that occur because they participate in an

asset protection program. Our police department works with them regularly to help keep the disproportionate fee as low as possible. He also pointed out due to the man power of our current police department, they are only responding to calls. They do not have enough man power to actively police these areas unless they are responding to a call. Bill Morris suggested having a good business program. The city is allowed to offer a workshop where businesses can receive a discount on licensing fees for attendance. Council Member Murtha asked what has been done to reduce variable costs on the city's end. Lt. Wheelwright said they control the amount of overtime allowed. He did clarify that some of the "variable costs" are actually more fixed. They must replace broken or old equipment. One example is Tasers. They must be serviced regularly and well as regular maintenance on vehicles. As far as man power goes, they do their best to control this.

Council Member Jensen expressed her interest in starting a good business program. This would give control back to the business owners to bring themselves into compliance with city regulations. Bill Morris said this would be a proactive model for businesses.

f. 2016 Moderate Income Housing Update Report.

Bill Morris explained every two years we are required to adopt this report, relating to housing throughout the city. Each time the state code is reviewed, demographic information is outlined and income levels are obtained from HUD. We then review all new development in the city. The county assessor's office provides the data to determine a moderate income housing level based on the standard 30 year mortgage rate. Our report shows 90% of housing is available to moderate income housing. Additionally we are still building moderate income housing. This report is sent to the state along with our surrounding cities. Council Member Jeff Pearce asked if this report includes new developments. Bill Morris clarified the data is within the last month. Once this report is in place, we become eligible for CDBG grants.

MOTION: Council Member Jeff Pearce motioned to approve the 2016 Moderate Income Housing Update Report. Council Member Jensen seconded the motion. All Council Members voted aye. Motion passed.

g. Discussion/update on General Plan & Economic Development and proposal from Better City.

Bill Morris explained that he and Council Member Murtha met with Matt Godfrey about a proposal to review the general plan and economic development. Matt Godfrey is here with a proposal as the city is looking to redo general plan; specifically the economic development element. Bill Morris said we would bifurcate these elements with Gene Bingham working on the public works elements and Matt Godfrey working on the economic development.

Matt Godfrey said after they met on economic development he felt uncomfortable making a proposal to Harrisville because this is his home town. He worked in the maintenance department. He believes the correct approach is to do a general plan that focuses on economic development, keeping the end in mind. He suggested the city hire a consulting company that can draw a plan and also implement the plan.

At this time he is here to offer a volunteer service until he is no longer available in June. During this time he is willing to offer his services to develop a revenue and expense strategic plan using current budgets and trend lines looking towards future projections and where the gaps are occurring. Ultimately trying to determine when the expenses will exceed revenue; then the city can develop a plan to overcome this. Additionally he would like to meet with stake holders throughout the city and reach out to the public to see what input is received on the future look of Harrisville City. This creates a road map to make this possible by developing frame work and making meaningful decisions. Bill Morris pointed out with the approval of the Moderate Income Housing plan, which shows the majority of Harrisville City accommodating moderate to low income housing, a redevelopment plan may be necessary as well. As older homes become rentals, we would have a plan in place before issues develop. He suggested Council utilize Matt Godfrey as a volunteer and when he becomes unavailable look towards whether or not they want to pay for additional services. Mayor Richins thanked Matt Godfrey for his willingness to volunteer.

5. Public Comments - (3 minute maximum)

Jordon Jones, 266 W. 2275 N. wanted to say he's noticed speeding in his area. Council Member Jensen asked which road specifically. He said particularly on 300 West.

Landon Price, 558 W 2300 N, suggested having speed bumps and other things would slow down the speeding in that area.

Cole VanBeekum, noticed speeding off of 2300 North. He suggested more patrol might help in this area.

Tyler Price, 558 W. 2300 N, suggested Council look into automatic speeding notice signs, and wondered whether these are a good deterrent. This seems to be working on Shady Lane in Pleasant View City. Lt Wheelwright said each sign is approximately \$3,000 but is definitely something to consider. Mr. Price suggested increased patrol with more police visibility; or installing speed bumps. Gene Bingham said they are not allowed to install asphalt bumps on public right of way. Mayor Richins said they recognized the speeding in our park area was reduced with the implementation of the removable speed bumps.

Mayor Richins expressed his appreciation the scout troop stayed to listen for so long.

6. Mayor/Council Follow-up:

Mayor Richins informed Council the next scheduled council meeting is on caucus night. He recommended cancelling this meeting so everyone is available to attend the caucuses. The next regularly scheduled meeting is April 12th with a budget work session. Mayor and Council agreed to hold the budget work session before the meeting.

Mayor and Council agreed a Heritage Days work session is needed. Council Member Jensen asked about a meeting schedule. Mayor Richins suggested the sooner the better.

Council Member Ruth Pearce said she has a volunteer opportunity who may be able to help with the Farmer's Market.

Council Member Jensen said there is racing going on each night by her stop sign. Lt. Wheelwright asked for details. Council Member Jensen gave details and the police department will review this area.

7. Adjourn.

Mayor Richins motioned to adjourn at 8:40pm.

ATTEST:

BRUCE RICHINS
Mayor

JENNIE KNIGHT
City Recorder
Approved this 12th day of April, 2016

**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 within the home and carried on by persons residing in the home, which use is clearly incidental and secondary to the use of the dwelling and does not change the residential character. The home occupation typically allows the home to be used for maintaining a business telephone and receiving mail. In addition to the licensing provisions of this title for a home occupation, the applicant shall also comply with the applicable requirements of 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.
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 issued 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 1986); *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)_____ 2)_____ and 3)_____ on the above referenced dates.

_____ DATE: _____
City Recorder