Title 5

BUSINESS LICENSES AND REGULATIONS

Chapters:

5.02 License Office and License Official
5.04 License Certificates and Regulations
5.06 Business License Fees
5.08 Procedure for Obtaining License
5.10 License Revocation
5.11 Hearings—Decision—Enforcement—Appeal
5.12 License Transferability
5.14 Temporary Licenses
5.16 Board of License Equalization
5.20 Inspections
5.22 Alarm Systems—Intrusion and Physical Duress
5.24 Alcoholic Beverage License
5.26 Ambulances and Invalid Coaches
5.28 Amusement Devices—Billiard, Pool and Bagatelle Halls—Bowling Alleys—Card and Game Rooms
5.30 Auctions
5.32 Auto Wreckers
5.36 Commercial Vehicle Licenses
5.38 Dancehalls—Public, Teenage, or Clubs
5.40 Employment Offices
5.42 Excavation Operations
5.44 Expressmen and Draymen
5.46 Exterminators, Fumigators, and Pest Control
5.47 Financial Institutions
5.48 Fire and Damaged Goods Sales
5.50 Fireworks
5.52 Flammable and Combustible Material Handlers
5.53 Food or Grocery Stores
5.54 Home Occupations
5.56 House Movers
5.58 Laundries—Dry Cleaners—Automatic Dry-cleaning Machines
5.59 Liquidation-type Sales
5.60 Lodgings—Hotels, Motels, and Other
5.62 Massage Establishments
5.64 Mobile Home Parks, Trailer Parks, and Auto Courts
5.66 Motion Picture Theaters
5.68 Multiple Rental Dwelling Units
5.70 Nursing and Convalescent Homes
5.72 Outdoor Advertisers

5.74 Parking Lots and Garages—Parking or Storage
5.75 Pawnbrokers
5.76 Private Detectives
5.77 Restaurants
5.78 Scavengers
5.79 Secondhand, Coin Dealers and Junk Dealers
5.80 Service Stations
5.82 Sexually-Oriented Businesses and Employee Licensing
5.84 Shooting Galleries
5.85 Short-Term Rentals
5.86 Solicitors, Canvassers, and Peddlers
5.87 Swap Meets and Flea Markets
5.88 Vending Machines
5.90 Vending Machines—Cigarettes
5.92 Garage/Yard Sales

Chapter 5.02

LICENSE OFFICE AND LICENSE OFFICIAL

Sections:

5.02.010 Definitions.
5.02.020 Office created—Personnel.
5.02.030 License official—Powers and duties.

5.02.010 Definitions.

Whenever used in this title or elsewhere within any city ordinance:

A. "License department" means the license office of the city.

B. "License official" means the city's community development director or other designee appointed by the city.

5.02.020 Office created—Personnel.

There is hereby created a license office within the city. The city's community development director shall be the license official and shall have charge of the license office and shall direct the same subject to and in accordance with such terms and conditions as the manager may prescribe pursuant to this title.

5.02.030 License official—Powers and duties.

The license official shall assess each licensee in accordance with the provisions of this title and the applicable statutes of Utah, and shall receive all license fees required herein to be paid. The assessment shall be based upon the rates herein established. The license official shall also keep and maintain a suitable index, properly alphabetized, containing the names of all licensees of each and every class to be assessed and of all miscellaneous licensees.

Chapter 5.04

LICENSE CERTIFICATES AND REGULATIONS

Sections:

5.04.010 Business rules and regulations.
5.04.020 Posting license on premises required.
5.04.030 License certificate to be shown to officials.
5.04.040 Unlawful uses of certificates.

5.04.010 Business rules and regulations.

Rules and regulations covering the health, safety, morals, peace, good order, comfort and convenience of the general public with respect to any business covered under this title shall be adopted by the city, and copies of such rules and regulations shall be made available to and displayed by the licensee affected thereby in a conspicuous place upon the licensed premises.

5.04.020 Posting license on premises required.

It shall be the duty of any person conducting a licensed business in the city to keep his license posted in a prominent place on the premises used for such business at all times.

5.04.030 License certificate to be shown to officials.

It shall be the duty of each and every person to whom a certificate of license has been issued to show the same at any proper time when requested to do so by the license official or other law enforcement officer.

5.04.040 Unlawful uses of certificates.

It is unlawful to counterfeit a business license, or to deface or mutilate the same while it is required to be posted, or to remove it or attempt to remove it therefrom without destroying it, or to use, or permit the same to be used at any place other than that designated therein, or for any licensee to place or permit it to be placed or be in any place of business or upon one amusement device, contrivance, game, machine or vehicle after it has been placed in or upon any place of business, amusement device, game, machine or vehicle prohibited or declared to be unlawful by this title or any other ordinance or law.

Chapter 5.06

BUSINESS LICENSE FEES

Sections:

5.06.010 Definitions.
5.06.020 License—Required.
5.06.030 Exemptions.
5.06.040 License—Fee.
5.06.050 General business license fee schedule.
5.06.060 License—Branch establishments.
5.06.070 Title provisions not exclusive.
5.06.080 Fees and interstate commerce activities.
5.06.100 Fee payments—Delinquency penalties.
5.06.110 Term.
5.06.120 Civil actions to recover fees.
5.06.130 License application—Public records—Exceptions.
5.06.140 Filing false return prohibited.

5.06.010 Definitions.

For the purpose of this title, the following terms shall have the meanings herein prescribed:

A. "Business" means and includes all activities engaged in within the incorporated limits of the city, carried on for the purpose of gain or economic profit, and for the purposes of these provisions shall include nonprofit corporations, except that the acts of employees rendering service to employers shall not be included in the term "business" unless otherwise specifically prescribed.

B. "Employee" means the operator, owner or manager of a place of business and any persons employed by such person in the operation of that place of business, in any capacity, and also any salesman, agent, leased employee or independent contractor engaged in the operation of that place of business, in any capacity.

C. "Engaging in business" means and includes, but is not limited to, the sale of tangible personal property at retail or wholesale, the manufacturing of goods or property, and the rendering of personal services for others for a consideration by persons engaged in any profession, trade, craft, business, occupation, or other calling, except the rendering of personal services by an employee to his employer under any contract of personal employment.

D. "Fee schedule" means the business license ordinance fee schedule adopted pursuant to section 5.06.050 hereof, as the same may be amended from time to time.

E. "Number of employees" means the number of employees engaged at the place of business each regular working day during the preceding calendar year. In computing such number, each regular full-time employee shall be counted as one employee, and each part-time employee shall be counted as one employee.

F. "Person" means any individual, receiver, assignor, trustee in bankruptcy, trust, estate, firm, partnership, limited liability company, joint venture, club, company, joint stock company, business trust, corporation, association, society or other group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise.

G. "Place of business" means any location maintained or operated by a licensee within the city, from which business activity is conducted or transacted.

5.06.020 License—Required.

It is unlawful for any person to engage in business within the city without first procuring the license required by this chapter.

5.06.030 Exemptions.

No license fee shall be imposed under this chapter upon businesses which are exempt from both property taxes and privileges taxes or upon any person engaged in business that is specifically exempt from licensing by political subdivisions under the laws of the United

States or the state of Utah; nor shall any such fee be imposed upon any person doing business within the city who has paid a like or similar license tax or fee to some other governmental unit within the state, which governmental unit exempts from its license tax or fee, by written interlocal cooperation agreement, businesses domiciled in the city and doing business in such unit.

5.06.040 License—Fee.

There is hereby levied upon the business of every person engaged in business in the city at a place of business within the city, not otherwise in this title specifically provided, an annual license fee for "general or temporary business license," plus all additional fees as provided in section 5.06.050.

5.06.050 General business license fee schedule

A fee schedule specifying the various fees under this title is set forth in Chart 5.06.050. The fee schedule may be amended from time to time by the city council.

5.06.060 License—Branch establishments.

A separate license must be obtained for each branch establishment or location of business engaged in business within the city as if such branch establishment or location were a separate business, and each license shall authorize the licensee to engage only in the business licensed thereby at the location or in the manner designated in such license; provided, that warehouses and distributing places used in connection with or incident to a business licensed under this title shall not be deemed to be separate places of business or branch establishments.

5.06.070 Title provisions not exclusive.

The general business license required under this title is in addition to all other licenses and permits required by other ordinance provisions. No person shall engage in business without first procuring the necessary licenses and permits that are required by other provisions of the ordinances, in addition to the license required by this chapter.

5.06.080 Fees and interstate commerce activities.

None of the license fees provided for by this title shall be applied to cause an undue burden on interstate commerce. In any case where a license fee is believed by a licensee or applicant to place an undue burden on interstate commerce, he may apply to the license official for an adjustment of the fee. Such application may be made before, at, or within six months after payment of the prescribed license fee. The applicant shall, by affidavit and supporting testimony, show his method of business and the gross volume or estimated gross volume of business, and such other information as the license official may deem necessary in order to determine the extent, if any, of such undue burden on commerce. The license official shall then conduct an investigation, comparing applicant's business with other businesses of like nature, and shall make findings of fact from which he shall determine whether the fee fixed by this chapter is discriminatory, unreasonable or unfair as to applicant's business, and shall recommend to the city council a license fee for the applicant in an amount that is nondiscriminatory, reasonable and fair. If the city council is satisfied that such license fee is the amount that the applicant should pay, it shall fix the license fee in such amount. If the regular license fee has already been paid, the city council shall order a refund of the amount over and above the fee fixed by the board. In fixing the fee to be charged, the license official shall have the power to base the fee upon a percentage of gross sales, or employees, or may use any other method that will assure that the fee assessed shall be uniform with that assessed on businesses of like nature;

provided, however, that the amount assessed shall not exceed the fee prescribed in the "General Business License" section of the fee schedule.

5.06.100 Fee payments—Delinquency penalties.

A. Business license fees for new businesses shall be due and payable upon making application to the license department. The application shall not be processed until the fee is paid.

B. Business license fees for renewal businesses shall be due and payable each year on or before the last day of the month in which the license was originally issued. If the license fee is not paid by the due date, a twenty-five percent penalty of the amount of the fee shall be added to the original amount due. If the fee is still not paid within one month after the due date, a one hundred percent penalty of the amount of the fee shall be added to the original amount due. If the fee plus penalty is still not paid within two months of the due date, the business shall be considered to be operating without a business license in violation of this title, subject to criminal prosecution for every day of operation after two months from the due date and the license fee, if a license is granted thereafter, shall be doubled.

C. Penalty fees may be appealed to the license official in writing who may, for good cause shown, refund all or part of the applicable penalty fee that has been paid. The decision of the license official may be appealed to the board of license equalization as set forth in Chapter 5.16 of this title. The board of license equalization may, upon good cause, recommend that all or part of the penalty fee be refunded.

5.06.110 Term.

All business licenses, except temporary licenses, shall expire each year at the last day of the month in which the license was originally issued.

5.06.120 Civil actions to recover fees.

A. Where this title requires a license to be obtained from the city, the fee being fixed by ordinance, and where such fee is not paid at the time or in the manner provided in this title, a civil action may be brought in the name of the city against the person failing to pay such license fee, in any court of this state having jurisdiction of such action, to recover the same, any penalties that may attach, the city's reasonable attorney's fees incurred in such action, and/or to enjoin further operation by the licensee. Where several amounts for licenses as fixed by any city ordinance shall remain due and unpaid by any person, the amounts may be joined as separate causes of action in the same complaint in a civil action.

B. The city attorney shall prepare, bring and prosecute the civil actions contemplated by this title upon the request of the city.

5.06.130 License application—Public records—Exceptions.

A. License applications shall be public records and information contained therein shall be public except for specific items of data that the license official designates or classifies as private, controlled or protected data consistent with the provisions of the Government Records Access and Management Act (UTAH CODE ANN. §63G-2-101, *et seq.*).

B. It is unlawful for any person to make public or to inform any other person of the contents of any information contained therein, except as authorized in this section.

5.06.140 Filing false return prohibited.

It is unlawful for any person to knowingly file a license application, or provide false information in conjunction with a license application.

Chapter 5.08

PROCEDURE FOR OBTAINING LICENSE

Sections:

5.08.010 License—Required to carry on business.
5.08.020 Persons subject to licensing.
5.08.030 License—Application—Contents.
5.08.040 License—Application—Fees and waiver.
5.08.050 Fees not refunded when.
5.08.060 Application fee refunds.
5.08.070 Application investigation.
5.08.090 Additional investigations.
5.08.100 Report of investigations.
5.08.110 License—Application—Action by manager.
5.08.120 Compliance with building and zoning requirements.
5.08.130 License—Application—Approval.
5.08.140 License—Denial conditions.
5.08.150 Appeal hearing—On denial of license—Effect of denial.
5.08.190 License—Effect of denial.

5.08.010 License—Required to carry on business.

Unless exempted by state or federal law, it is unlawful for any person to engage in or carry on or operate any business in the city, or to use any property for such business, without first making application for and obtaining the required license from the city.

5.08.020 Persons subject to licensing.

Whenever a license is required for the maintenance, operation or conduct of any business or establishment, or for doing business or engaging in any activity or occupation, any person or corporation shall be subject to the requirements if, by himself or through an agent, employee or partner, he holds himself forth as being engaged in the business or occupation, or solicits patronage therefor, actively or passively, or performs or attempts to perform any part of such business or occupation in the city.

5.08.030 License—Application—Contents.

A. Licenses, permits and applications required by ordinance shall be made with the city's license official. Each application shall state the name of the business; the name of the applicant; the permit or license desired; the location of the business, if any; the time covered and the fee to be paid; the name, street address and mailing address, if different, of the business agent who is authorized to receive service of process and any communication regarding the applicant's license via certified mail, return receipt requested; and such additional information as may be needed for the purpose of guidance of the city officials in issuing the permit or license. Any change in the above information furnished by the license applicant shall be forwarded, in writing, within ten days after the change, to the license official.

B. Forms for all license and permits, and the application therefor, shall be prepared and kept on file by the license official.

5.08.040 License—Application—Fees and waiver.

A. Each application for a license under this title shall be accompanied by the license fee required to be paid for the issuance of the license desired. In addition to the license fee regularly assessed, any applicant which shall have commenced doing business prior to obtaining a valid license shall be assessed a penalty fee. The penalty fee shall be equal to twenty-five percent of the regular license fee if the applicant has operated without a license

for less than 30 days, and shall be equal to one hundred percent of the regular license fee if the applicant has operated without a license for more than 30 days during the fiscal year in question. The fee may be paid by cash or check made payable to the city or a certified cashier's check and conditioned upon the payment of the license fee to the city in the event of the issuance of the license. Any license which has been issued pursuant to payment by means of a check shall be void and of no force or effect if such check is not honored. Applications received by the license official shall be numbered in the order of their receipt.

B. Notwithstanding the provisions of paragraph A of this section, the license official may waive the imposition of license penalty fees for:

1. New businesses which have located within the city and have not obtained a city business license; and

2. Existing businesses which have been licensed by the city and have been purchased, but the new owner has not reapplied for a city business license.

C. The license official may waive such penalty fees as provided in section 5.06.100 above only upon the following conditions:

1. The business makes application for a city business license within five working days after being notified by the city that such a license is required; or the business voluntarily makes application for a business license prior to notification by the city; and

2. The business has either been located in the city for less than two years or the purchase of the business occurred less than two years prior to the business application.

D. The license official may not, under any circumstances, waive the business license fees due the city for the current year or for prior years in which the business operated.

5.08.050 Fees not refunded when.

No license fee, or any part thereof, shall be refunded for any reason whatsoever, once the license has been granted or issued by the city.

5.08.060 Application fee refunds.

If a license is denied for any reason, the applicant shall be entitled to a refund to the extent the amount that accompanied the application is in excess of $35. The sum of $35, or any lesser amount, shall be retained to offset the cost of processing the application. However, the city may, in its sole discretion, refund the entire application fee if deemed appropriate under the circumstances.

5.08.070 Application investigation.

Upon receipt of an application for a license or permit, where ordinances of the city require an inspection or investigation before the issuance of such permit or license, the license official or his authorized representative or such other agency, including the police department and the planning and zoning division, as these ordinances specifically empower, shall make such investigation within five business days after the time the application was received by the agency or department. However, when adequate investigation requires correspondence with agencies or other sources of information outside the city, or the license applicant is not ready to be inspected, such investigation shall be completed within 15 days, or as soon thereafter as possible. The officer charged with the duty of making the investigation or inspection shall make a report thereon, favorable or otherwise, within five business days after making the investigation or inspection. The health department shall, for the protection of health, make or cause to be made, an inspection in regard to licenses in connection with the care and handling of food, the prevention of nuisances and the spread of disease. The fire department shall make or cause to be made inspections relating to the safety of buildings or other structures licensed hereunder.

5.08.090 Additional investigations.

The license official may refer the application for additional investigation to the fire department, police department, or other official or body for the purpose of investigation and inspection concerning the general reputation of the licensee, whether the business is or has been conducted in a lawful, quiet, orderly and helpful manner, and the conditions of health and safety of such premises, together with any other fact or facts that the city should know in acting upon the application.

5.08.100 Report of investigations.

Upon being requested to do so by the manager or the license official, the police department, fire department, or any other official or department so requested shall conduct the investigation and inspection provided for in this chapter and submit to the manager or license official a report on such investigation and inspection, together with recommendations as to whether the license should be granted or denied.

5.08.110 License—Application—Action by manager.

After receipt of the referenced reports and recommendations of the license official, police department, fire department or other official or body, the manager shall act upon the application as he deems just and proper in regard to granting or denying the same, and may order further information or investigation if such appears necessary.

5.08.120 Compliance with building and zoning requirements.

No license shall be issued for the conduct of any business, and no permit shall be issued for any thing or the performance of any act if the premises and building to be used for the purposes do not fully comply with the city's building and zoning ordinances.

5.08.130 License—Application—Approval.

In the event the city approves a business license, the business license shall be signed by the mayor or impressed by his facsimile, and forwarded to the applicant.

5.08.140 License—Denial conditions.

A. The manager, upon recommendation of the license official, will deny the issuance of a license or permit if the applicant has:

1. Been convicted of a felony or any crime involving moral turpitude; or

2. Obtained, or has aided another to obtain, a license by fraud, deceit, material misrepresentation or material omission; or

3. Failed to pay any applicable taxes or fees; or

4. Violated the laws of the state, the United States Government, the ordinances of the city, or the rules and regulations of any Utah state or city agency governing operation of the business holding the license or permit.

B. The reason for denial shall be endorsed on the application by the license official, and the city recorder shall return to the applicant, via certified mail, return receipt requested, the application, notice of the applicant's rights to an appeal and any fees that are refundable.

5.08.150 Appeal hearing—On denial of license—Effect of denial.

If the applicant files a written notice of appeal within 20 days of the notice of denial, a hearing to consider the denial of a license shall be held as provided in chapter 5.11 hereof. Unless the manager or hearing officer orders otherwise, it shall be unlawful for an applicant who has been denied a license to commence or conduct the business or occupation contemplated in the application.

5.08.190 License—Effect of denial.

If at any time a license or renewal is de-

nied under the provisions of this chapter, it shall thereafter be unlawful for any person to engage in or carry on or operate or use or permit to be operated or used, any property for any business with respect to which the license or renewal has been denied, until a license or renewal shall be granted by the city.

Chapter 5.10

LICENSE SUSPENSION, REVOCATION, OR DENIAL TO RENEW A LICENSE

Sections:

5.10.010 Enforcement powers.
5.10.020 Grounds for license suspension, revocation or denial to renew a license.
5.10.030 Notice of violation and hearing.
5.10.040 Waiting period for new license.

5.10.010 Enforcement powers.

The city shall be responsible for the enforcement of this title. The city may, on its own initiative, or in response to complaints referred from the general public or otherwise investigate and gather evidence of violations of the licensing provisions of this title.

5.10.020 Grounds for license suspension, revocation or denial to renew a license.

In addition to any fine imposed, every license or permit issued by the city may be revoked, suspended or renewal denied as prescribed herein. Upon recommendation of the license official or police department and upon a hearing held pursuant to chapter 5.11 hereof, the manager or hearing officer may revoke, suspend or deny renewal of licenses or permits, if the licensee or permittee:

A. Has been convicted of a felony or any crime involving moral turpitude;

B. Has obtained, or aided another to obtain, a license by fraud or deceit;

C. Has failed to pay any applicable taxes or fees;

D. Has violated the laws of the state, the United States Government, the ordinances of the city, or the rules and regulations of any agency of the city or the state governing the operation of the business holding a license or permit; or

E. Has refused to permit authorized officers or employees to make an inspection or to take a sample of a commodity, or has interfered with such officer or employee while in the performance of his duty in making such inspection.

5.10.030 Notice of violation and hearing.

The city shall send the licensee written notice by certified mail, return receipt requested, in care of the process agent specified in the license application, of the alleged violation and notice of hearing and the licensee's right to appear at the hearing, the consequences of the failure to appear and answer, and of the date, time and place set for the hearing.

5.10.040 Waiting period for new license.

No person denied a license, or whose license has been revoked under the provisions of this chapter, and no person associated or connected with such person in conduct of such business, shall be granted a license for the same purpose for a period of six months after the denial or revocation has occurred. However, the manager may, in his discretion, waive the prohibition against persons formerly associated or connected with an individual who has had his license revoked.

Chapter 5.11

HEARINGS—DECISION—ENFORCEMENT—APPEAL

Sections:

5.11.010 Hearing—Procedure.
5.11.020 Hearing examiner—Appointment and powers.
5.11.030 Manager's action.
5.11.040 Unlawful to operate without a license.
5.11.050 Appeal.

5.11.010 Hearing—Procedure.

A. A suspension, revocation, or denial to renew a license issued pursuant to the ordinances of the city shall not be imposed until a hearing is first held pursuant to this chapter before the manager or a hearing examiner.

B. At least 20 days prior to a hearing hereunder, the city shall cause notice of the time and place of the hearing to be served upon the licensee or applicant by mailing a copy to the licensee or applicant via certified mail, return receipt requested, in care of the licensee specified in the license or applicant specified in the application.

C. Failure to appear at such hearing or otherwise defend against suspension, revocation, denial of a license or denial to renew a license shall constitute grounds for immediate suspension, revocation, denial of a license or denial to renew a license.

D. All witnesses called at a hearing shall be sworn by a person duly authorized to administer oaths, and a record of such hearing shall be made by a recording or a court reporter. A licensee or applicant shall have the right to appear at the hearing in person or by counsel, or both, present evidence, present argument on the applicant's behalf, cross-examine witnesses, and in all proper ways defend the licensee or applicant's position.

E. If the hearing is before a hearing examiner, the hearing examiner shall, within ten days after the conclusion of the hearing, submit to the manager proposed written findings of fact, conclusions of law and order based upon and supported by the evidence presented at such hearing.

5.11.020 Hearing examiner—Appointment and powers.

The manager may appoint one or more hearing examiners upon the advice and consent of the city council, and the manager or any hearing examiner shall have power and authority to call, preside at and conduct hearings to consider the suspension, revocation, denial or approval of licenses or renewals issued by the city, including the power to examine witnesses and receive evidence, compel the attendance of witnesses, and compel the production of documents.

5.11.030 Manager's action.

A. Within 30 days after receiving the hearing examiner's proposed findings of fact, conclusions of law and order, the manager may adopt and enter the proposed findings of fact, conclusions of law and order, or may enter his own findings of fact, conclusions of law and order provided such order is based upon and supported by the record. Immediately after entry, the order shall be filed with the office of the city recorder and a copy served upon the licensee or applicant personally or by mailing a copy to the licensee or applicant via certified mail, return receipt requested.

B. In the event the manager's order institutes a sanction of suspension, probation, denial, denial to renew or revocation of a license, such sanction shall apply immediately after entry and shall apply to the licensee, applicant, the licenses issued by the city, and to the premises in question for the full term of the imposed sanction.

5.11.040 Unlawful to operate without a license.

A. It shall be unlawful for any person to commence or conduct any business, trade or occupation within the city without first procuring all applicable city business licenses.

B. If at any time a license issued under the provisions of this title is denied, suspended or revoked, it shall thereafter be unlawful for the holder of such license to conduct business on the premises described in such application or license until the old license is reinstated or a new license is issued.

5.11.050 Appeal of hearing decision.

Any licensee or applicant aggrieved by an order entered by the manager may appeal such decision to the city council within 30 days after the date of the decision. Any licensee or applicant aggrieved by an order entered by the city council pursuant to such appeal may maintain a plenary action for relief therefrom in any court of competent jurisdiction; provided the action for such relief is filed with the court within 30 days after such decision is deposited in the office of the city recorder.

Chapter 5.12

LICENSE TRANSFERABILITY

Sections:

5.12.010 License transfer limitations.
5.12.020 Transfer fee or fee for changes in partnerships and associations.

5.12.010 License transfer limitations.

A. No license granted or issued under the provisions of the ordinances of the city shall be deemed to be assignable or transferable, or to authorize any person other than the person therein mentioned or named to do business, or to authorize any other business than is therein mentioned or named to be done or transacted.

B. Persons to whom one or more licenses have been issued to transact or carry on some business at a definite location in the city may, except as hereinafter provided, make application for the transfer of said licenses for the sole purposes of transacting or carrying on the same business as is therein mentioned at some other definite location in the city. Applications therefor shall be filed with the license official ten days in advance of the proposed change. The manager, after receiving reports furnished by the license official or his authorized agent may, in his discretion, deny or grant the transfer of licenses according to the above limitations. No change shall be permitted without full compliance with the building and zoning requirements of this code.

5.12.020 Transfer fee or fee for changes in partnerships and associations.

In the event of a transfer of location as described in section 5.12.010 or in the event a partnership or association applies to delete the name or names of an individual or group of individuals from its license, a new license will be reissued for transfer of location or in the name of the new partnership or association provided the appropriate fee is paid as specified in the fee schedule adopted pursuant to section 5.06.050.

Chapter 5.14

TEMPORARY LICENSES

Sections:

5.14.010 Definitions.
5.14.020 License—Required.
5.14.025 License—Display.
5.14.030 License—Fee.
5.14.035 License application.
5.14.037 Expedited license charge.
5.14.040 License—Location.
5.14.045 License—Exemptions.
5.14.050 Inspection of merchandise.
5.14.060 License—Cleanup bond required.
5.14.070 Compliance with laws.

5.14.010 Definitions.

For the purposes of this chapter, a "temporary business" means the conduct of business which is conducted from a single designated site or premises without a permanent foundation or location from which goods, merchandise or services are sold on a temporary or seasonable basis, and includes a concert, fair, rally, bazaar or festival. The license for a temporary business shall not exceed 100 consecutive calendar days per year at any location.

5.14.020 License—Required.

It is unlawful for any person to conduct, engage in, promote or carry on a temporary business within the city, without first making application for and obtaining a temporary business license from the city.

5.14.025 License—Display.

A temporary business license granted pursuant to this chapter must be conspicuously displayed in or at the site or premises in which the temporary business is conducted and must be available for inspection.

5.14.030 License—Fee.

The fee for engaging in, carrying on, or conducting a temporary business shall be as specified in the fee schedule adopted pursuant to section 5.06.050.

5.14.035 License application.

An application for a temporary business license must be submitted ten days prior to the commencement of the temporary business and must include the following:

A. Site plan delineating where the temporary business will be located and the parking area available for patrons.

B. Written permission from the property owner where the temporary business will be located in a form acceptable to the city.

C. Acceptable evidence of a current sales tax permit, license or special event sales tax number issued by the state of Utah.

5.14.037 Expedited license charge.

The license official may (in his discretion) waive the ten day requirement of section 5.14.035 upon payment of an expedited license charge in the amount of $100.00.

5.14.040 License—Location.

The temporary business license shall specify the location at which the temporary business may be conducted, and no temporary business may be conducted at any other location.

5.14.045 License—Exemptions.

A temporary business license is not required by the following:

A. A vegetable and fruit stand that sells produce grown solely on property owned or leased by the operator of the vegetable and fruit stand and such property is located in the city.

B. Isolated or occasional sales from a private home by a person not regularly engaged

in business.

5.14.050 Inspection of merchandise.

The police department or city official may inspect all goods and merchandise to be sold pursuant to a temporary business license.

5.14.060 License—Cleanup bond required.

Any person applying for a temporary business license shall file, along with his temporary business license application, a cash bond or letter of credit in an amount established pursuant to rules and regulations of the health department. Such bonds shall cover the cost of disposing of all litter, garbage and sewage of the individuals attending, observing or performing at the temporary business license location.

5.14.070 Compliance with laws.

Temporary license holders shall comply with all applicable laws and ordinances of the city, the county and the state governing the operation of its business. In addition, all temporary business licenses shall require prior approval from all appropriate city and/or county departments, including but not limited to, the health department and the city's fire department, police department and community development department.

Chapter 5.16

BOARD OF LICENSE EQUALIZATION

Sections:

5.16.010 City council—Powers and duties.
5.16.020 Council meetings.
5.16.030 Complaints on assessments—Deadline for presentation.

5.16.010 City council—Powers and duties.

A. The city council hereby constitutes the board of license equalization for the equalization of license rates. The board shall have authority to examine the assessments made by the license official, hear complaints of aggrieved parties, and make changes in any assessments the city council concludes to be illegal, unequal, or unjust.

B. Corrections made by the city council shall be entered in detail in the record of license assessment kept by the license official, and the city council shall approve in writing such entries before the license official shall adjust the accounts.

5.16.020 Council meetings.

The city council shall meet as often as shall be necessary to complete the business of equalization. The date, time and place of each meeting shall be set by the majority vote of the city council during a regular session of the city council.

5.16.030 Complaints on assessments—Deadline for presentation.

All complaints relative to an assessment made by the license official must be presented to the city council within 30 days after such assessment, or be forever barred.

Chapter 5.20

INSPECTIONS

Sections:

5.20.010 Officers authorized to examine and inspect businesses—Powers and duties.
5.20.020 Inspections—Right of entry—Sampling of materials.
5.20.030 Complaints and citations for violations.

5.20.010 Officers authorized to examine and inspect businesses—Powers and duties.

The police department, the license official or members of his staff, and the fire department chief and his designated representatives, are hereby appointed *ex officio* license deputies who, in addition to the several duties of their respective offices or positions, are hereby authorized and empowered to examine and inspect all places of business subject to paying a license under the provisions of this code as their duty shall bring them into contact with same, inspect and verify all information listed on the license application and to see that businesses covered and authorized by the license issued are carried on or transacted in accordance with this title and other applicable law, and to report to the license official the names of all persons doing business without a license, and instances of the conduct by any party or business other than that covered by the license issued.

5.20.020 Inspections—Right of entry—Sampling of materials.

A. Whenever inspections of the premises used for or in connection with the operation of a licensed business or occupation are provided for or required by ordinance, or are reasonably necessary to secure compliance with any ordinance provision, or to detect violations thereof, it shall be the duty of the licensee, or the person in charge of the premises to be inspected, to admit thereto, for the purpose of making the inspection, any officer, employee or agent of the license official who is authorized and directed to make such inspections at any reasonable time that admission is requested.

B. Whenever an analysis of any commodity or material is reasonably necessary to secure conformance with ordinance provisions, or to detect violations thereof, it shall be the duty of the licensee whose business is governed by such provision to give to any authorized officer or employee requesting the same sufficient samples of such material or commodity as are necessary for analysis.

5.20.030 Complaints and citations for violations.

The license official and his authorized deputies shall, in the discharge and performance of their official duties, have and exercise the power to issue citations for the violation of any of the provisions of the license ordinances. The license official shall further have the duty of cooperating with the city attorney to cause complaints to be filed against all persons violating any of the provisions of the license ordinances.

Chapter 5.22

ALARM SYSTEMS—INTRUSION AND PHYSICAL DURESS

Sections:

5.22.010 Purpose and scope.
5.22.020 Definitions.
5.22.030 Registration required to operate intrusion and physical duress alarm system business and automatic dialing device.
5.22.040 Individual employee's registration.
5.22.050 Registration procedure.
5.22.060 Alarm user permits required.
5.22.070 Alarm information.
5.22.080 User instructions.
5.22.090 False alarms—Permit revocation.
5.22.100 Inter-agency communications.
5.22.110 Deliberate false alarms.
5.22.120 Penalties.
5.22.130 Policies.
5.22.140 City Liability Limitation.

5.22.010 Purpose and scope.

A. The purpose of this section is to protect the emergency services of the city from misuse.

B. This section governs intrusion and physical duress alarm systems, requires permits and registration, establishes fees, provides for the allocation of revenues and deficits, provides for revocation of the permit, provides for punishment of violations and establishes a system of administration.

5.22.020 Definitions.

A. "Alarm business" means the business by any individual, partnership, corporation or other entity of selling, leasing, maintaining, servicing, repairing, altering, replacing, removing, moving, installing, planning the installation or assisting in the installation of any alarm service.

B. "Alarm system" means any assembly of equipment, mechanical or electrical, arranged to signal the occurrence of an illegal entry or other activity requiring urgent attention and to which peace officers are expected to respond.

C. "Alarm user" means the person, firm, partnership, association, corporation, company, or organization thereof of any kind in control of any building, structure or facility wherein an alarm system is maintained.

D. "Automatic dialing device" means a device which is interconnected to a telephone line and is programmed to select a predetermined telephone number and transmit by voice message or code signal any emergency message indicating a need for emergency response.

E. "Valley 911" and "sheriff dispatch" are the governmental facilities used to receive emergency and general information from the public to be dispatched to the police department.

F. "Intrusion alarm system" means an alarm system signaling an entry or attempted entry into the area protected by the system.

G. "Coordinator" means the individual designated by the police department to issue permits and enforce the provisions of this section.

H. "False alarm" means an alarm signal eliciting a response by peace officers when a situation requiring a response by them or other emergency response unit in fact does not exist. It includes an alarm signal caused by conditions of nature which are normal for that area and subject to control by the alarm business operator or alarm user. "False alarm" does not include an alarm signal caused by extraordinarily violent conditions of nature not reasonably subject to control.

I. "Interconnect" means to connect an alarm system, including an automatic dialing device, to a telephone line, either directly or

through a mechanical device that utilizes a telephone, for the purpose of using the telephone line to transmit a message upon the activation of the alarm system.

J. "Primary trunk line" means a telephone line serving the Valley 911 system or sheriff dispatch that is designated to receive emergency calls.

K. "Physical duress system" means an alarm system signaling a robbery or other physical endangerment.

L. "Local alarm" means any noise-making alarm device.

5.22.030 Registration required to operate intrusion and physical duress alarm system business and automatic dialing devices.

A. It shall be unlawful for any person, partnership, corporation or association to own, manage, conduct or carry on the business of selling, leasing, installing, servicing, maintaining, repairing, replacing, moving or removing, or causing to be sold, leased, installed, serviced, maintained, repaired, replaced, moved or removed in or on any building, residence or other property within the city any device known as an intrusion, or physical duress alarm system, or automatic dialing device connected to an answering service, unless such person is licensed therefore in accordance with UTAH CODE ANN. §§ 58-55-101, *et seq*. and any other applicable laws or ordinances, and the name, address and certificate number or I.D. card number of such person is registered with the police department as provided herein.

B. The fee for an intrusion or physical duress alarm system business license shall be as specified on the fee schedule adopted pursuant to section 5.06.050.

C. It shall be unlawful for any person to maintain, operate, connect, or allow to be maintained, operated or connected, any automatic dialing device which automatically dials the police department and then relays any prerecorded message to report any robbery, burglary, or other emergency.

5.22.040 Individual employee's registration.

It shall be unlawful for any person employed by a person having a valid license as an alarm business or company under UTAH CODE ANN. § 58-55-101, *et seq*. to engage directly in the selling, leasing, installing, servicing, maintaining, repairing, moving or removing in or on any building or other property within the city any intrusion or physical duress alarm system unless such person shall first be licensed therefore in accordance with all applicable laws and shall register his name, address and I.D. card number with the police department. There shall be no fee for registration under this section.

5.22.050 Registration procedure.

A. Every alarm business and its employees shall register their name, address and license number of I.D. card number with the police department.

B. Along with the registration information, the registrant shall be fingerprinted and photographed by the police department.

5.22.060 Alarm user permits required.

A. Every alarm user shall have on his premises or in his possession an alarm user permit issued by the police department at no charge.

B. It shall be unlawful for any alarm business to report to the police department or other emergency service agency, any alarm system on any premises for which the alarm user has not obtained an alarm user permit.

5.22.070 Alarm information.

A. An alarm information card will be completed and submitted to the police department's alarm coordinator by the user of any alarm system prior to the operation of the

system.

B. This card shall set forth the full name, address and telephone number of both the owner or lessee on whose premises the system will be installed, operated, connected or maintained, and the name of the person or licensed alarm system business installing, maintaining, or servicing the system, as well as the type of system to be installed, operated or maintained. The card shall further contain the names, addresses and telephone numbers of three individuals who may be contacted by peace officers responding to an alarm. The persons listed shall have authority to act for the alarm user in granting peace officers access to any portion of the premises concerned and be knowledgeable in the basic operation of the alarm system. The alarm input card shall contain such additional information as the police department shall reasonably deem necessary to properly identify and locate the user, the alarm business installing, servicing or maintaining the alarm system, and the persons to be contacted in the event of the filing of an alarm report.

C. In addition to submitting the alarm information card, users of audible outside local alarm systems shall post near the alarm and at a position readable from ground level, a code number furnished by the alarm coordinator to allow reference to the alarm information card required by this section.

5.22.080 User instructions.

Every alarm business selling, leasing or furnishing to any user an alarm system which is installed on premises located in the city shall furnish the user with written instructions that provide information to enable the user to operate the alarm system properly.

5.22.090 False alarms.

Except for alarms at a wholesale or retail firearms business, intrusion alarm response shall be dispatched by the police department only after a private guard responder has confirmed that an attempted or actual crime has occurred at the alarm site.

5.22.100 Inter-agency communications.

A central station or other alarm dispatch center must provide to police department dispatch a toll-free telephone number for the conducting of business and contacting the central station dispatchers at the time of filing the alarm report.

5.22.110 Deliberate false alarms.

No person shall cause to be transmitted any intrusion or physical duress alarm knowing the same to be false or without basis in fact. Central stations shall not request law enforcement officers to respond to alarm scenes when monitoring equipment indicates an alarm system malfunction signal.

5.22.120 Penalties.

A. Any person who violates any provision of these provisions shall be guilty of a misdemeanor and, upon conviction, be subject to a fine in an amount not to exceed $1,000 or imprisonment in the county jail for a period not to exceed six months, or both such fine and imprisonment.

B. All service fees assessed under this section are due and payable within 30 days after written notice of any fee due is issued by the city. A penalty of ten percent of the fee due shall be assessed upon any person who fails to pay the fee within thirty days. The penalty shall be assessed for each thirty-day period, or fraction thereof, that the fee remains unpaid beyond the original payment period.

C. Failure to timely pay any service fees imposed in this section may result in an action to revoke the business license of the alarm business.

5.22.130 Policies.

The city council may from time to time

adopt or modify by ordinance written policies governing the allocation of the city's law enforcement resources and other emergency services to alarm systems. Such policies may, without limitation, prohibit response by the city's law enforcement personnel to alarms of specific types, specify the conditions under which the city's law enforcement personnel will respond to alarms of specific types, or in any other manner control and protect from misuse the city's emergency services.

5.22.140 City liability limitation.

Notwithstanding anything to the contrary, the timing of any response by the police department to an alarm in any particular situation is dependent on a number of factors over which the city has little or no control including, without limitation, peace officer staffing constraints and the existence of other emergency situations then prevailing. Therefore, the city will have absolutely no liability, contractual or otherwise, to any provider or to any alarm user if the police department fails to respond to any alarm or if the police department's response to an alarm is not timely. Further, the city will not be liable for any defect in the operation of intrusion or duress alarm systems.

Chapter 5.24

ALCOHOLIC BEVERAGE LICENSE

Sections:

5.24.010 Adoption of Utah Alcoholic Beverage Control Act.
5.24.020 Definitions.
5.24.030 Sales at wholesale or at retail – License required.
5.24.130 Application for alcoholic beverage license.
5.24.140 Application – Referral for investigation.
5.24.145 Certification.
5.24.150 Renewal of alcoholic beverage license.
5.24.155 Term of alcoholic beverage license.
5.24.160 License – Fees.
5.24.290 Off-premises beer retail license conditions.
5.24.300 Proximity.
5.24.420 Prohibition on issuance of a tavern beer license.
5.24.430 Special rules with respect to entertainment.

5.24.010 Adoption of Utah Alcoholic Beverage Control Act.

The Alcoholic Beverage Control Act, UTAH CODE ANN. §§ 32A-1-101 to 32A-15a-201, as amended from time to time, is hereby adopted by this reference in its entirety as if set forth in full herein. The Alcoholic Beverage Control Act as adopted herein shall be construed to apply only to the incorporated areas of the city and shall be interpreted and constructed where necessary to carry out the intent of this title.

5.24.020 Definitions.

All words and phrases used in this chapter shall have the same meaning given to them in the Alcoholic Beverage Control Act, UTAH CODE ANN. §§ 32A-1-101 to 32A-15a-201, as amended from time to time. In addition, the following words and phrases shall have the following additional meanings, unless a different meaning clearly appears from the context:

A. "Alcoholic beverage license" means a license issued by the City pursuant to this chapter.

B. "City" means the city of Cottonwood Heights.

C. "Class D private club" means a private club that meets the requirements of UTAH CODE ANN. § 32-8-5-101, et seq., and does not meet the requirements of a Class A, B or C license, or seeks to qualify as a Class D license.

D. "Current business license" means an alcoholic beverage business license issued by the city pursuant to this chapter.

E. "Limited restaurant license" means a restaurant engaged in the sale or consumption of only wine, heavy beer, and beer to patrons of the restaurant on the restaurant's premises.

F. "Off premises beer license" means any beer retailer engaged primarily or incidentally in the sale of beer to public patrons for consumption off the beer retailer's premises.

G. "On premises beer license" means any beer retailer engaged primarily or incidentally in the sale of beer to public patrons for consumption on the beer retailer's premises and includes taverns.

H. "Private club" means an organization primarily for the benefit of its members such as a social club, recreational association, fraternal association, athletic association or a kindred association.

I. "Privately hosted event" or "private social function" means a specific social, business or recreational event in which an entire room, area, or hall has been leased or rented, in advance by an identified group, and the event or function is limited in attendance to people who have been specifically designated and their guests. Privately hosted event or pri-

vate social function does not include events or functions to which the general public is invited, whether for an admission fee or not.

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

K. "Tavern" means any business establishment that is engaged primarily in the retail sale of beer to public patrons for consumption on the establishment's premises and includes a beer parlor, a parlor, a lounge, a cabaret, or a nightclub if the revenue from the sale of beer exceeds the revenue of the sale of food, although food need not be sold in the establishment.

L. "Written consent of the local authority" means written consent of the city.

5.24.030 Sales at wholesale or at retail – License required.

It shall be unlawful for any person to sell an alcoholic beverage at retail or at wholesale or permit the consumption of an alcoholic beverage on any business premises unless such person has received an alcoholic beverage license from the city and, if applicable, a license issued by the Alcoholic Beverage Control Commission. Separate licenses shall be required for each place of business. Each day of non-compliance shall constitute a separate violation.

5.24.130 Application for alcoholic beverage license.

A person seeking an alcoholic beverage license shall file a written application with the community development department of the city in a form prescribed by the city. The application shall include, but not be limited to, the following information:

A. The name, current address and telephone number of the applicant.

B. The age and date of birth of the applicant.

C. The social security number of the applicant.

D. The federal employee identification number of the applicant, if applicable, and the state sales tax identification number of the applicant.

E. The place of permanent residency of the applicant.

F. All addresses of the applicant for the previous five years.

G. All names, addresses and the names of the licensing authorities of all businesses previously and presently owned or operated by the applicant.

H. The type of license requested from the Department of Alcoholic Beverage Control.

I. The location of the premises to be licensed.

J. A statement verifying that the applicant meets all the requirements of the Alcoholic Beverage Control Act.

K. Consent for a criminal background check in such form as prescribed by the city.

L. Proof of training approved by the state.

M. An affirmative statement by the applicant that any employees who serve or sell beer shall be at least 21 years of age.

N. A sworn statement signed by the applicant that all the facts included in the application are true.

O. Any other information that the city may require.

If the applicant is a firm, partnership, association, group, corporation or a person with any other business interest in receiving a license or written consent hereunder, the above information shall be provided with respect to each partner, association member or corporate officer, director or member provided, however, that the application need only be signed by a single partner, member, corporate officer or

person who is indicated as an applicant on the application.

If the business is to be operated by a person other than the applicant, said operator must join in the application and file the same information required of an applicant. It shall be grounds for revocation of the license or written consent for any business required to be licensed by this title, to be operated by any person who has not filed his operators information at the time of renewal of the license, or, if operation is assumed during the license period, at least ten days prior to assuming operation of the business.

The application and operator's information must be subscribed by the applicant and operator who shall state under oath that the information contained therein is true.

5.24.140 Application—Referral for investigation.

The community development department shall submit copies of the application to the building department, fire department, health department and police department for investigation and approval.

5.24.145 Approval.

The approval referenced in section 5.24.140 shall be in writing and contain the following information:

1. The person's name to whom the approval relates;
2. The type of license requested;
3. The period of the license;
4. The location of the premises to be licensed;
5. The results and investigation; and
6. Recommendation to grant and/or deny the license. If the recommendation is to deny the license, a detailed reason for such recommendation.

5.24.150 Renewal of alcoholic beverage license.

Persons desiring to renew their alcoholic beverage license shall file a renewal application with the city no later than September 30 of each year. Renewal applications shall be in a form and contain such information as prescribed by the city.

5.24.155 Term of alcoholic beverage license.

All alcoholic beverage licenses expire on October 31 of each year, except for temporary-type licenses which shall be issued for a period set forth in the license. Failure to timely meet the renewal requirements shall result in automatic termination and forfeiture of the alcoholic beverage license effective on the date the existing license expired.

5.24.160 License – Fees.

Annual fees, payable in advance, for an alcoholic beverage license shall be as specified on the fee schedule adopted pursuant to section 5.06.050.

5.24.290 Off-premises beer retail license conditions.

It is unlawful for any off-premises beer retail licensee to:

1. Sell, furnish or supply beer between the hours of 1:00 a.m. and 7:00 a.m. of any day.
2. Sell beer in containers that exceed two liters.
3. Permit a minor to sell beer on the premises except under the supervision of a person 21 years of age or older who is on the premises.

5.24.300 Proximity.

A. The premises of the licensee may not be established within 600 feet of any public or private school, church, public library, public playground, or park as measured by the method in paragraph C.

B. The premises of a licensee may not be established within 200 feet of any public or

private school, church, public library, public playground, or park measured in a straight line from the nearest entrance of the proposed outlet to the nearest property boundary of the public or private school, church, public library, public playground, or park.

C. With respect to any public or private school, church, public library, public playground, or park, the 600 foot limitation is measured from the nearest entrance of the outlet by following the shortest route of ordinary pedestrian travel to the property boundary of the public or private school, church, public library, public playground, or park.

D. Subject to the other proximity requirements set forth in the Alcoholic Beverage Control Act, the proximity restrictions contained in paragraphs A and B govern unless the manager grants a written consent to a variance.

5.24.420 Prohibition on issuance of a tavern beer license.

The city shall not issue any new tavern licenses.

5.24.430 Special rules with respect to entertainment.

All entertainment at a premises of a licensee shall strictly comply with the requirements of chapter 5.82, sexually-oriented businesses and employee licensing.

Chapter 5.26

AMBULANCES AND INVALID COACHES

Sections:

5.26.010 Definitions.
5.26.020 License—Required.
5.26.030 License—Fees.
5.26.040 Operation without other licenses prohibited.
5.26.050 License—Insurance or bond required.
5.26.060 License—Vehicle certification.
5.26.070 Fares and charges to be filed.
5.26.080 Vehicles—Equipment, maintenance and operation—Inspection.
5.26.090 Vehicles—Identifying design required.
5.26.100 Vehicles—Design restrictions.
5.26.110 Vehicles—Sanitation regulations.
5.26.120 Manifests—Driver duties.
5.26.130 Recordkeeping requirements.
5.26.140 Invalid coaches—Emergency equipment prohibited.
5.26.150 Invalid coaches—Operation of street stands prohibited.
5.26.160 Inspection of vehicles.
5.26.170 Enforcement.
5.26.180 Violation—Report to manager.

5.26.010 Definitions.

The following terms, as used in this chapter, shall have the respective meanings hereinafter set forth:

A. "Ambulance" means a motor vehicle constructed and equipped with facilities to transport sick or injured persons.

B. "Invalid coach" means any self-propelled motor vehicle for hire, other than an ambulance or taxicab, and which is designed, equipped and used for the transportation of invalid or handicapped persons on a non-emergency basis. Such vehicles shall require no personnel other than the driver, and shall not be required to have first-aid equipment, flashing red lights or sirens.

C. "License" means and shall refer to the authorization granted by the city to those persons who own or operate an ambulance or invalid coach which they propose to drive or have driven upon the streets and highways of the city.

D. "Licensee" means and refers to any person holding a license under the provisions of this title.

E. "Manifest" means and refers to a daily record of all trips, showing the times and places of origin and destination, the number of passengers, the charge for each trip, and the general nature of the illness, injury or condition of each passenger.

F. "Person" means and includes an individual, a corporation or other legal entity, a partnership or unincorporated association, excluding, however, the United States, the state of Utah, or any political subdivision or instrumentality of either.

5.26.020 License—Required.

It is unlawful to operate an ambulance or invalid coach for hire within the city without having first obtained and having then in force a valid license.

5.26.030 License—Fees.

A. The annual fee, payable in advance, for a license to operate an ambulance or invalid coach shall be as specified in the fee schedule adopted pursuant to section 5.06.050. Whenever the number of vehicles operated shall be increased during the year, the licensee shall notify the license official of such change and shall pay the additional fee.

B. Fees assessed under this section shall be in lieu of any other vehicle fee required by ordinance, and the license official shall issue suitable tags or stickers for the number of vehicles covered by the license. Such tags or stickers shall be displayed in a prominent

place in each vehicle.

5.26.040 Operation without other licenses prohibited.

It is unlawful for any person who owns or controls an ambulance or invalid coach to permit it to be driven for hire without the required state and city licenses. No ambulance or invalid coach licensed by the city shall be driven at any time unless it is operated by a driver possessing a valid emergency medical services system license issued by the state of Utah.

5.26.050 License—Insurance or bond required.

A. Notwithstanding any other provisions of this section, no operations shall be conducted under any license issued pursuant hereto unless there is on file with the city bond office a certificate of insurance executed by an insurance company or association authorized to transact business in this state, upon a form as prescribed by the city, that there is in full force and effect a policy of insurance conditioned to pay any final judgment against the licensee or any settlement entered into by the licensee for bodily injury to or the death of any person resulting from the negligent operation, maintenance or use of ambulances or invalid coaches by such licensee, its servants, agents or employees, or for the loss or damage to the property of others, in the amount of $50,000 per occurrence.

B. Such policy or policies shall cover all ambulances and invalid coaches used or to be used by such licensee. In lieu of this insurance herein provided for, the city may, in its discretion, accept a bond to be approved by it under such rules and regulations as the city may prescribe, with a sufficient corporate surety or not less than two personal sureties (who shall be residents and freeholders of this state), conditioned to pay damages as herein provided for.

5.26.060 License—Vehicle certification.

No license shall be issued under this section until the police department shall have found and certified that the ambulance or invalid coach has met all standards established by the health department and by the other applicable provisions of this title.

5.26.070 Fares and charges to be filed.

Every licensee shall keep on file with the city, or with such board or officer as it shall designate, a current schedule of all fares and charges for its transportation service hereunder, and no transportation shall be performed or service rendered except in conformity therewith. This section shall not apply to rates established by agreement with any public or private school, charitable or nonprofit organization, with the federal or state governments, or any political subdivision.

5.26.080 Vehicle—Equipment, maintenance and operation—Inspection.

Prior to the use and operation of any vehicle within the city under the provisions of this title, the vehicle shall be thoroughly and carefully inspected by the police department, shall at all times be in a safe condition for the transportation of sick, injured or handicapped persons, shall be clean, of good appearance, and well-painted, and shall have such equipment as may be required by the health department, including, with respect to invalid coaches, but not limited to, the following:

A. Doorways wide enough to accommodate a wheelchair;

B. Ramps or lifting devices for elevating handicapped persons from the curb or sidewalk into the vehicle, which ramps and lifting devices must be stored inside the vehicle while it is moving;

C. Adequate means for securing handicapped persons safely to the inside of the vehicle and safety belts for all passengers:

D. A door, in addition to those provided

on such vehicles for normal ingress and egress, located at the rear, to be used as a method of escape in case of an emergency; and

E. A fire extinguisher, first aid equipment and such other supplies as may from time to time be required by the health department.

5.26.090 Vehicles—Identifying design required.

A. Each ambulance shall bear on the outside of each rear or front door, in painted letters not less than five-sixteenths inch stroke, and more than two and one-quarter inches in height, the name of the licensee and the company number, which number shall also be painted on the rear of the vehicle and, in addition, may bear an identifying design approved by the city.

B. Each invalid coach shall bear on the outside of each rear or front door in painted letters not less than five-sixteenths inch stroke and more than two and one-quarter inches in height either the words "Special Transportation" or "Invalid Coach," the name of the licensee and the company number, which name and number shall also be painted on the rear of such vehicle and, in addition, may bear an identifying design approved by the city.

5.26.100 Vehicles—Design restrictions.

No vehicle covered by this chapter 5.26 shall be licensed if the color scheme, identifying design, monogram or insignia to be used thereon shall, in the opinion of the manager, conflict with or imitate any color scheme, identifying design, monogram or insignia used on a vehicle or vehicles already operating under this chapter. If, after a license has been issued, the color scheme, identifying design, monogram or insignia is changed so as to be, in the opinion of the manager, in conflict with or in imitation of those used by any other person, owner or operator, the license for such vehicle shall be suspended or revoked.

5.26.110 Vehicles—Sanitation regulations.

Every ambulance or invalid coach operating under the provisions of this title shall be kept in a clean and sanitary condition according to the rules and regulations promulgated by the health department.

5.26.120 Manifests—Driver duties.

A. Every driver shall maintain a daily manifest as defined in section 5.26.010. All manifests shall be returned to the licensee by the driver at the conclusion of his working day. The police department shall be notified by the driver of an ambulance licensed hereunder of all cases where beating, knifing, poisoning, shooting, suicide or homicide may possibly have been involved.

B. The forms for each manifest shall be furnished to the driver by the licensee and shall be of a character approved by the city.

C. Every licensee shall retain and preserve all driver manifests in a safe place for at least one calendar year after the year in which such manifests are made. Manifests so retained shall be available to the police department, license official or their designee at any time upon request.

5.26.130 Recordkeeping requirements.

A. Every licensee shall keep accurate records of all receipts from operations, including operating and other expenses, capital expenditures, and such other operating information as may be required by the city. Records so retained shall be made available to the police department or license official for inspection upon request.

B. Every licensee shall maintain all records required by this section at a place readily accessible for examination by the city.

5.26.140 Invalid coaches—Emergency equipment prohibited.

No invalid coach licensed under this section shall be equipped with a siren or permit-

ted to operate as an emergency vehicle or permitted to carry oxygen.

5.26.150 Invalid coaches—Operation of street stands prohibited.

Licensees of invalid coaches shall not operate street stands or accept passengers except on orders received at the licensee's dispatching office or by appointment or contract.

5.26.160 Inspection of vehicles.

Every ambulance or invalid coach operating under the provisions of this title shall be inspected every six months by the police department and shall comply with all rules and regulations adopted by the health department.

5.26.170 Enforcement.

The police department or license official are authorized and directed to enforce the provisions of this chapter.

5.26.180 Violation—Report to manager.

Upon the discovery of a violation of the provisions of this title, the police department shall, in addition to the institution of criminal proceedings, report the same to the manager, who shall make such order respecting the licenses of those persons involved as the manager deems appropriate.

Chapter 5.28

AMUSEMENT DEVICES—BILLIARD, POOL AND BAGATELLE HALLS—BOWLING ALLEYS—CARD AND GAME ROOMS

Sections:

5.28.010 Definitions.
5.28.020 Amusement devices license—Required—Fees.
5.28.030 Distributor's fees.
5.28.040 License—Issuance conditions.
5.28.050 Devices to be kept in plain view.
5.28.060 Inspection of premises and devices.
5.28.070 Gambling devices not authorized.
5.28.080 Billiard, pool and bagatelle halls license—Required.
5.28.090 License—Fees.
5.28.100 Hours of operation.
5.28.110 Visibility of the interior.
5.28.120 Operation—Restrictions concerning minors.
5.28.130 Bowling alleys license—Required.
5.28.140 License—Fee.
5.28.150 Separation of bowling and lounge areas.
5.28.160 Card and game rooms—Individual license requirements.
5.28.170 Club license requirements.
5.28.180 License—Application—Contents.
5.28.190 License—Application—Investigation.
5.28.200 License—Fee.
5.28.210 Premises—Periodic inspections.
5.28.220 License—Revocation.
5.28.230 Hours of operation.
5.28.240 Unobstructed view of tables.
5.28.250 Locked doors and alarm devices prohibited.
5.28.260 Alcoholic beverages prohibited.
5.28.270 Playing for money prohibited.
5.28.280 Persons under 21 prohibited.
5.28.290 Known gamblers prohibited.
5.28.300 Amusement hall defined.
5.28.310 Amusement hall license required—Fees.
5.28.320 Amusement hall hours of operation.
5.28.330 Liquor, beer and tobacco restrictions.

5.28.010 Definitions.

As used in this chapter:

A. "Amusement device" means any machine, whether mechanically or electronically operated, that upon insertion of a coin, trade-token, slug or similar object, or upon payment of money or other consideration through use of a metered or similar device, operates or may be operated as a game or contest of skill or amusement, of any kind or description, and that contains no automatic payoff for the return of money or trade-tokens, or that makes no provision whatever for the return of money to the player. An amusement device is further defined as any machine, apparatus or contrivance that is used or that may be used as a game of skill and amusement wherein or whereby the player initiates, employs or directs any force generated by the machine, but specifically excludes a musical mechanical amusement device as hereinafter defined.

B. "Distributor" means any person, firm, corporation, partnership, LLC, association or other entity who sets up for operation by another, leases, rents, sells, distributes, or in any way provides for the purpose of operation any amusement device, whether for a fixed charge or rental, or on the basis of a division of the income derived from such devices, or otherwise.

C. "Musical mechanical amusement device" means and includes each machine vending recorded music, or a period of radio or television entertainment in return for the inser-

tion or deposit therein of a coin, trade-token, slug, or similar object; provided, however, that this does not include coin-operated radios or television sets in private quarters.

5.28.020 Amusement devices license—Required—Fees.

A. It is unlawful to install, operate or maintain for public patronage or operation of an amusement device or musical mechanical amusement device without having first obtained a license therefor. Applications shall be made to the license official.

B. The fee for such license shall be as specified on the fee schedule adopted pursuant to section 5.06.050.

5.28.030 Distributor's fees.

The license fee for each distributor shall be as specified on the fee schedule. All distributors license fees shall be payable annually in advance, provided, that where application is made after the expiration of any portion of any license year, a license may be issued for the remainder thereof upon payment of a proportionate part of the annual fee.

5.28.040 License—Issuance conditions.

No license shall be issued except to a person of good character, approved by the city. Upon approval of the applicant and the payment of the license fee, the license official shall issue a stamp bearing a notation: "City of Cottonwood Heights for the Twelve Months Ending _____, _____." One license shall be issued for each device licensed, and it shall be placed in a conspicuous place and so affixed that it cannot be transferred from one machine to another.

5.28.050 Devices to be kept in plain view.

All such devices shall at all times be kept in plain view of any person or persons who may frequent or be in any place of business where such devices are kept or used.

5.28.060 Inspection of premises and devices.

The police department shall inspect or cause the inspection of any place or building in which any such device or devices are operated or set up for operation, and shall periodically inspect, investigate and test such devices.

5.28.070 Gambling devices not authorized.

Nothing in this chapter shall be construed to authorize, permit or license any gambling device of any nature whatsoever.

5.28.080 Billiard, pool and bagatelle halls license—Required.

It is unlawful to operate, maintain or conduct a billiard, pool or bagatelle hall open to the public without having first obtained a license therefor as is required in this chapter. All applications for such licenses shall state thereon the intended location of the place of business and the number of tables to be used therein.

5.28.090 License—Fees.

The annual license fee for billiard, pool and bagatelle tables shall be as specified on the fee schedule adopted pursuant to section 5.06.050.

5.28.100 Hours of operation.

No billiard, pool or bagatelle hall shall operate between the hours of 2:00 a.m. and 6:00 a.m. If alcoholic beverages are sold on the premises, the hours of operation shall be further limited (but not extended) to the times specified in this code.

5.28.110 Visibility of the interior.

A clear, unobstructed view from the entrance of the entire interior of the billiard, pool or bagatelle hall, excluding the restroom, shall be maintained by the licensee at all times, nor

shall the licensee erect or maintain any enclosed booths, blinds or stalls within the interior of the licensed premises.

5.28.120 Operation—Restrictions concerning minors.

In billiard, pool and bagatelle halls serving minors, no alcoholic beverages or cigarettes shall be sold, dispensed, or consumed on or about the premises, which includes the parking lot. Further, it is unlawful for licensees of billiard, pool or bagatelle halls to operate the same in contravention of the curfew provisions outlined in this code.

5.28.130 Bowling alleys license—Required.

It is unlawful to operate or maintain a bowling alley open to the public without having first secured a license therefor as is required in this chapter. Applications for such licenses shall be made to the license official and shall be in writing and state thereon the intended location of the place of business and the number of alleys to be used.

5.28.140 License—Fee.

The annual license fee for a bowling alley shall be as specified in the fee schedule adopted pursuant to section 5.06.050.

5.28.150 Separation of bowling and lounge areas.

It is unlawful to carry any mixer, setup, alcoholic beverage or beer into the area where bowling is taking place. The above-mentioned beverages shall be strictly confined to the lounge area of the bowling alley.

5.28.160 Card and game rooms—Individual license requirements.

It is unlawful to keep, maintain or operate in the city any room where there is played any bingo, backgammon, cards, checkers, or other games of similar nature, or any game played with beans, buttons, dice or similar devices, or to keep, maintain or operate in the city any table on which such games are played, where a charge is made for the use of the room, use of the tables, or for the privilege of playing on such tables or in such room, without first obtaining a license.

5.28.170 Club license requirements.

It is unlawful for any club, group or association within the city, whether incorporated or not, to maintain a regular club or meeting room, or any table within such room, for the purpose of providing members, guests or other persons with a place to play any of the games set forth in the preceding section, without first obtaining a license therefor.

5.28.180 License—Application—Contents.

Applications shall be made to the license official and shall include a sworn statement by the applicant showing the street and house number of the place where it is proposed to maintain such room or table, the name of the place of business and of any club, association or corporation operating the premises, the number of tables used or intended to be used for playing games, and the names and addresses of all officers of such organizations responsible for the operation of the rooms or tables.

5.28.190 License—Application—Investigation.

The license official shall refer all applicants and sworn statements of applicants to the police department for an investigation and report. The police department shall report to the manager, within five days of the receipt of such information, the general reputation and character of the person making application, of the place sought to be licensed, and of its patrons. The police department shall further indicate the nature and kind of business con-

ducted at such place or at any other place by the applicant, and shall note whether gambling of any description has been carried on or indulged in at the place, whether known gamblers operate, supervise or play any game, or appear to be employed in or about the card and game room, and whether the place is or has been previously conducted in a lawful, orderly manner. The police department shall make its recommendations as to the issuance or denial of the application.

5.28.200 License—Fee.

The annual license fee for conducting card and game rooms or tables for the playing of cards shall be as specified on the fee schedule adopted pursuant to section 5.06.050.

5.28.210 Premises—Periodic inspections.

The police department shall, after license has been issued, make periodic inspections of the licensed premises in order to insure strict compliance with the provisions of this chapter and particularly with such as govern the issuance of a license in the first instance. Violations shall be promptly reported to the manager, which shall take such action with regard to revocation as it deems necessary.

5.28.220 License—Revocation.

The license of any person for the operation of card and game tables may be revoked by the manager at any time upon notice and hearing for the violation of any city ordinance or state law, or for any other good and sufficient reason.

5.28.230 Hours of operation.

It is unlawful for any licensee or agent thereof to permit the use of card or game rooms for the playing of games enumerated in this chapter between the hours of 1:00 a.m. and 7:00 a.m. of the same day.

5.28.240 Unobstructed view of tables.

It is unlawful for any person to operate a card room where the view of the tables from the entrance is blocked or obstructed by partitions or dividers of any kind.

5.28.250 Locked doors and alarm devices prohibited.

A. It is unlawful for any person licensed under the provisions of this chapter to permit any game to be played behind locked, barred or barricaded doors, or in such a place as is not readily accessible to law enforcement officers.

B. No person shall keep upon such premises any lookout, signal, buzzer, alarm or other device of any kind capable of use for the purpose of warning occupants of the presence of law enforcement officers.

C. It is unlawful for any person to play any game behind a locked, barred or barricaded door, or under any conditions herein above specified in this chapter.

5.28.260 Alcoholic beverages prohibited.

It is unlawful for any person to sell, dispense or allow to be consumed alcoholic beverages on the premises of any card room.

5.28.270 Playing for money prohibited.

It is unlawful to play cards and games for money or anything of value, or to engage in any kind of gaming or gambling.

5.28.280 Persons under 21 prohibited.

It is unlawful for any person or the agent, manager or representative of such licensee, licensed under the provisions of this chapter, to permit or allow persons under the age of 21 years to visit, frequent or remain in any room where the games enumerated herein are being played or operated.

5.28.290 Known gamblers prohibited.

It is unlawful for any person licensed un-

der the provisions of this chapter, or the agent, manager or representative of such licensee, knowingly to employ any known gambler, to conduct any of the games enumerated in this chapter, or to work in or about licensed premises.

5.28.300 Amusement hall defined.

"Amusement hall" means and is defined as an arcade, building or game room, wherein automatic amusement devices and games are available to the public for a fee.

5.28.310 License—Required.

It is unlawful to conduct or operate any amusement hall or game room that is open to the public, without first having acquired a license therefor. The license fee for an amusement hall shall be as specified on the fee schedule adopted pursuant to section 5.06.050.

5.28.320 Hours of operation.

No amusement hall catering to minors shall be operated in a manner contrary to the curfew provisions of this code.

5.28.330 Liquor, beer and tobacco restrictions.

There shall be no liquor, beer or tobacco sold, used or allowed to be consumed on the premises or in the parking lot of any amusement hall catering to minors.

Chapter 5.30

AUCTIONS

Sections:

5.30.010 Definitions.
5.30.020 Compliance with chapter requirements.
5.30.030 Applicability—Exemptions.
5.30.040 Auctioneer's license—Required.
5.30.050 Auctioneer's license—Application.
5.30.060 Inventory of sale articles.
5.30.070 Auctioneer's license—Issuance conditions.
5.30.080 Auctioneer's license—Fee.
5.30.090 Auctioneer's license—Bond.
5.30.100 Auctioneer's license—Not transferable.
5.30.110 Auctioneer's license—Denial or revocation conditions.
5.30.120 Denial or revocation—Notice of hearing.
5.30.130 Auction house license—Required.
5.30.140 Auction house license—Fee.
5.30.150 Transient auction house license—Required when—Term.
5.30.160 Transient auction house license—Fee.
5.30.170 Auction house licenses—Bond requirements.
5.30.180 Conformity with other laws.
5.30.190 Sales to be on successive days.
5.30.200 Licensee's continuous attendance required.
5.30.210 Merchandise—To be labeled.
5.30.220 Merchandise—To be in state for 15 days.
5.30.230 Truthful representation of merchandise.
5.30.240 Reserved right of seller to bid.
5.30.250 Seller bidding at sale without reserve prohibited.
5.30.260 Receipts for merchandise—Commissions.
5.30.270 Recordkeeping requirements—Generally.
5.30.280 Recordkeeping requirements—Valuable articles.
5.30.290 Purchaser's right to return merchandise for full refund.
5.30.300 Valuable articles defined—When sale of valuable articles prohibited.
5.30.310 Unlawful activities designated.
5.30.320 By-bidders prohibited.
5.30.330 False representations prohibited.

5.30.010 Definitions.

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

A. "Auctioneer" means any person who conducts a public, competitive sale of property by outcry to the highest bidder.

B. "Auction house" means a place of business where auctions are conducted and personal property sold at auction.

C. "Transient auction house" means any place, whether indoors or outdoors, located within the city, where any goods, wares, merchandise or articles of value are offered for sale at auction, and which is neither the permanent place of business for auction sales nor a permanent business that has an auction sale to dispose of its inventory, furnishings and business equipment as it goes out of business.

5.30.020 Compliance with chapter requirements.

No personal property (goods, wares or merchandise) shall be sold at auction in the city, except in compliance with this chapter.

5.30.030 Applicability—Exemptions.

The provisions of this section shall not be applicable to auction sales conducted by trustees or referees in bankruptcy, executors, administrators, receivers or other public officers

acting under judicial process, nor to the sale of real property at auction, nor shall it apply to any auction held for charitable or benevolent purposes or for any church, fair, festival or bazaar, nor to an auction wherein the general public is not invited nor permitted to participate as bidders, and where the bidding is restricted to wholesalers or retailers purchasing for resale.

5.30.040 Auctioneer's license—Required.

It is unlawful to sell or cause to permit to be sold at auction any personal property (goods, wares or merchandise) in the city unless such sale is conducted by an individual who has applied for and obtained an auctioneer's license from the city.

5.30.050 Auctioneer's license—Application.

The form on which application shall be made for an auctioneer's license shall require the following information:

A. Name of the applicant;

B. Residence and business address of the applicant;

C. The length of time for which an auctioneer's license is desired;

D. A statement as to whether or not the applicant holds, or has held, an auctioneer's license from any state, municipality, governing body or licensing authority; a list of such licenses and a statement of the time, place, and by whom issued; a statement as to whether any state, municipality, governing body or licensing authority has ever refused to issue or renew an auctioneer's license to the applicant, together with a full and accurate statement as to the reasons for any such refusal; and a statement as to whether any state, municipality, governing body or licensing authority has ever revoked an auctioneer's license held by the applicant, together with a full and accurate statement as to the reasons for any such revocation;

E. A statement as to whether or not the applicant has ever been convicted of any crime involving moral turpitude and the nature of the offense, and the punishment or penalty assessed therefor;

F. A photograph of the applicant taken within 60 days immediately prior to the date of the filing of the application, which picture shall be two inches by two inches, showing the head and shoulders of the applicant in a clear and distinguishing manner; and

G. The fingerprints of the applicant and the names of at least two reliable property owners of the city, who will certify as to the applicant's good moral character and business responsibility, or, in lieu of the names of references, any other available evidence as to the good moral character and business responsibility of the applicant as will enable an investigator to properly evaluate his moral character and business responsibility. The city license officer may waive this requirement with respect to an application for renewal of an auctioneer's license by an individual holding an unexpired auctioneer's license issued under this section who has in a previous application under this chapter complied with this requirement.

5.30.060 Inventory of sale articles.

A. At least 15 days prior to every auction, a true and correct inventory of items to be sold shall be filed with the city license official. Such inventory shall:

1. List the articles proposed to be sold at sale by auction;

2. Give any identifying numbers or marks which may be upon the articles to be sold;

3. Indicate opposite the description of each article whether the same is new or used; and

4. List each of the articles described in the inventory with a number; provided, however, that no article need be listed in the inventory that has a retail value of less than $5.

B. Upon the license official's receipt of the inventory, he shall immediately forward it to the police department for investigation and/or inspection of inventory to establish, insofar as possible, that the property thereon listed is not contraband or otherwise illegally for sale. After the investigation, the police department shall issue a written report to the license official within ten days after receipt of the inventory, and no auction may be held until the report is received by the official, the auction is approved by the manager, and the appropriate license issued by the city.

C. It is unlawful to sell at auction any item not listed on the inventory as set forth above.

5.30.070 Auctioneer's license—Issuance conditions.

Before issuing an auctioneer's license, the license official shall refer the application to the police department, who shall cause to be made such investigation of the applicant's moral character and business responsibility as he deems necessary for the protection of the public good, except that the license official may waive this requirement with respect to an application for renewal of an auctioneer's license by any individual holding an unexpired auctioneer's license issued under this chapter if an investigation of such applicant's moral character and business responsibility has been made under this section in connection with a prior application for an auctioneer's license under this chapter. The police department shall cause the investigation herein provided for to be made within a reasonable time, and shall certify to the license official whether or not the moral character and business responsibility of the applicant are satisfactory.

5.30.080 Auctioneer's license—Fee.

The fee for an auctioneer's license shall be as specified on the fee schedule adopted pursuant to section 5.06.050.

5.30.090 Auctioneer's license—Bond.

A. Every applicant for an auctioneer's license shall file with the city a cash bond or irrevocable letter of credit in the amount $5,000, in a form acceptable to the city attorney, conditioned that the applicant, if issued a license hereunder, will comply fully with all city ordinances and other applicable laws, rules and regulations, will render true and strict accounts of all his sales to any person or persons employing him to make the same, will not practice any fraud or deceit, and will pay all damages that may be sustained by any person by reason of any fraud, deceit, negligence or other wrongful act on the part of the licensee, his agents or employees in the conduct of any auction or in the exercise of the calling of auctioneer.

B. A liability insurance policy that conforms to the above requirements and is issued by an insurance company authorized to do business in Utah may be permitted by the city attorney, in his discretion, in lieu of a bond.

C. An auctioneer employed by one holding an auction house license or a transient auction house license, in lieu of filing a bond as set forth in section 5.30.090A or certificate of insurance, may file a notarized affidavit from the license holder that affirms that the applicant is an employee, that the license holder is responsible for all actions of his employee, and that the employee is covered by a valid bond as above required.

D. It is unlawful for any auctioneer who files a certificate of employment with an auction house licensee or transient auction house licensee to conduct an auction except under the direct supervision of such licensee.

5.30.100 Auctioneer's license—Not transferable.

Neither the license nor the permit granted under the provisions of this section shall be transferable, nor shall the same be loaned or

used by any other person.

5.30.110 Auctioneer's license—Denial or revocation conditions.

An auctioneer's license may be revoked by the manager upon recommendation of the city's license official. An application for issuance or renewal of such license may be refused by the manager if, after notice and hearing, it determines that:

A. The applicant or license holder is not an individual of good moral character and business responsibility; or

B. The application of the applicant or license holder contains any false, fraudulent or misleading material statements; or

C. The applicant or license holder has made any false, fraudulent or misleading material statement in the course of conducting an auction sale of, or in offering for sale at auction, any real or personal property (goods, wares or merchandise) in the city; or

D. The applicant or license holder has perpetrated a fraud upon any person, whether or not such fraud was perpetrated in the conduct of any auction in the city; or

E. The applicant or license holder has violated any of the statutes of the state relating to auctions or auctioneers; or

F. The applicant or license holder has been convicted of any crime or misdemeanor involving moral turpitude; or

G. The applicant or license holder has conducted an auction sale, or offered for sale at auction, any real or personal property (goods, wares or merchandise) in the city in an unlawful manner or in such a manner as to constitute a breach of the peace or a menace to the health, safety or general welfare of the public.

5.30.120 Denial or revocation—Notice of hearing.

Notice of the hearing provided for in section 5.30.110 shall be given in writing to the applicant or license holder, as the case may be. Such notice shall be mailed, postage prepaid, to the applicant or license holder, as the case may be, at his last known address at least five days prior to the date set for hearing. The applicant or license holder shall have the right to be represented at such hearing by counsel.

5.30.130 Auction house license—Required.

It is unlawful for any person to engage in the business of, or keep, conduct or operate an auction house in the city, without first obtaining a license to do so.

5.30.140 Auction house license—Fee.

The fee for an auction house license shall be as specified on the fee schedule.

5.30.150 Transient auction house license—Required when—Term.

It is unlawful for any person to engage in business as a transient auction house without applying for and obtaining a transient auction house license from the license official. No such licensee shall be relieved from the provisions of this chapter by reason of temporary association with any licensed dealer, trader, merchant or auctioneer, or by reason of conducting such temporary or transient business in connection with or as a part of or in the name of any other licensed dealer, trader or merchant auctioneer.

5.30.160 Transient auction house license—Fee.

The license fee for engaging in business as a transient auction house shall be as specified on the fee schedule adopted pursuant to section 5.06.050.

5.30.170 Auction house licenses—Bond requirements.

The applicant for a license for an auction house or a transient auction house shall file

with the city a cash bond or an irrevocable letter of credit acceptable to and approved by the city attorney in the sum of $10,000, which shall indemnify and run to the city, and any person injured or damaged through dealing with the licensee, or their employees or agents, and be in full force and effect for the year in which they obtain a license. It shall be conditioned on the fact that if the applicant is issued such license, the licensee will fully comply with all provisions of the ordinances of the city and the statutes of the state regulating and concerning auctions and auctioneers, will render true and strict accounts of all auction sales to any person or persons employing such auctioneer to make the same, will not practice any fraud, deceit, or make any material misrepresentations of fact with reference to property from any auction sale conducted under the license, and will pay all damages which may be sustained by any person by reason of any fraud, deceit, negligence or wrongful act on the part of the licensee, his agents or employees, and the conduct of the auctioneer in the exercise of the call of auctioneer.

5.30.180 Conformity with other laws.

Nothing in this section shall be deemed to exempt any auction house or auctioneer, or the seller of any goods sold at auction, from any license, tax or other ordinance of the city, nor from any of the laws of the state to which any of them may be subject.

5.30.190 Sales to be on successive days.

All auction sales shall be held on successive days, Sundays and legal holidays excepted.

5.30.200 Licensee's continuous attendance required.

The licensee or, if a corporation or other business entity, one of the officers of the licensee, shall remain in continuous attendance at any auction conducted by the licensee.

5.30.210 Merchandise—To be labeled.

A. Before any sale is made at auction, the licensee must attach to each article to be sold that has a retail value of $5 or more a card with the number of the article endorsed thereon, so that the number corresponds to the article as it is described in the inventory on file with the license official.

B. No article that has a retail value of $5 or more shall be sold at auction other than the merchandise described and set forth in the inventory on file with the license official.

5.30.220 Merchandise—To be in state for 15 days.

It is unlawful for anyone to sell or offer for sale at auction any merchandise unless the merchandise shall have been within the state at least 15 days immediately prior to the sale or offer for sale. However, livestock shall only be required to be within the state for at least two days prior to said auction.

5.30.230 Truthful representation of merchandise.

All sales and all persons participating in sales must truly and correctly represent at all times to the public attending such auction the facts in respect to quality of the sale merchandise.

5.30.240 Reserved right of seller to bid.

The right to bid may be reserved expressly by, or on behalf of the seller. Notice of such reservation shall be posted, and shall remain posted throughout the auction sale in a prominent and conspicuous place where the sale is being conducted, in letters large enough to be reasonably visible to any person with normal vision who may attend the sale, reading substantially as follows: Seller reserves the right to bid on any article at any time.

5.30.250 Seller bidding at sale without reserve prohibited.

Where notice has not been given that a sale by auction is subject to a right to bid on behalf of the seller, it shall not be lawful for the seller to bid himself, or to employ or induce any person to bid at such sale or on his behalf, or for the auctioneer to employ or induce any person to bid at such sale on behalf of the seller or knowingly to take any bid from the seller or any person employed by him. Any sale contravening this rule may be treated as fraudulent by the buyer.

5.30.260 Receipts for merchandise—Commissions.

It shall be the duty of all licensed auctioneers to receive all articles that may be offered for sale at auction and give receipts therefor. At the close of any sale, which must be made as the owner directs, the auctioneer shall deliver a fair account of such sale and pay the amount received for such articles to the person entitled thereto, deducting therefrom a commission not to exceed ten percent on the amount of the sale.

5.30.270 Recordkeeping requirements—Generally.

In every case where an article is sold for $5 or more, the licensee shall keep a complete record of all such sales made at an auction, showing the name and address of each purchaser, a description of each such article sold, including the number thereof, corresponding with the numbers shown upon the inventory on file with the license official, and the date of each sale. The record shall be open at all times to inspection by the license official.

5.30.280 Recordkeeping requirements—Valuable articles.

Any auction house licensee providing auction house facilities for auctioneers of valuable articles, as that term is defined in section 5.30.300 shall, within a period of ten days following the final day of auction of such valuable articles, provide the license official with complete records of all sales of valuable articles, including:

A. The names and addresses of all purchasers of all valuable articles at such auction, and the date upon which such purchase was made;

B. A description of the valuable article purchased, and the purchase price paid for such article;

C. The name and address of the auctioneer selling such article, and the name and address of the responsible person or entity on whose behalf the auctioneer made such sale; and

D. The name and address of the auction house licensee.

5.30.290 Purchaser's right to return merchandise for full refund.

A. Purchasers at auctions of valuable articles, as that term is defined in section 5.30.300, may return such articles for a period of 90 days to the auction house licensee responsible, and receive from the licensee full refund upon tender of the merchandise with proof of purchase. Failure of the auction house licensee to provide a refund within a period of five days after presentation of the merchandise and demand for refund shall result in loss of the auction house license and forfeiture of the posted bond to the extent necessary to satisfy the demand of claimants under this section. To the extent that an auction house licensee fails to meet such claims, or the amount of the posted bond required under section 5.30.170 is insufficient to meet the claims of purchasers returning merchandise under the provisions of this section, then the auction house licensee shall be liable to such purchasers directly.

B. All auction houses shall post a notice in a prominent, conspicuous place wherein any auction sales are being conducted, in letters

large enough to be visible to any person with normal vision who may attend such sale, reading substantially as follows: Purchasers of merchandise acquired at this auction may, for a period of 90 days from the date of purchase, return such merchandise to (the auction house licensee) and receive the full refund of any amounts paid for such merchandise.

5.30.300 Valuable articles defined—When sale of valuable articles prohibited.

It is unlawful to offer for sale at auction or sell at auction any valuable article, defined as gold, silver-plated ware, clocks, watches, oriental rugs or rugs purported to be from the middle east or eastern part of the world, diamonds or other precious or semiprecious stones or any imitation thereof, glassware, china, linens or jewelry, or any article purporting to be or represented as any of the above articles, between the hours of 6:00 p.m. and 8:00 a.m. of the following day.

5.30.310 Unlawful activities designated.

All auctioneers are forbidden to conduct their sales in such manner as to cause people to gather in crowds on the sidewalks so as to obstruct the same; nor shall they use immoral or indecent language in crying their sales, or make or cause to be made noisy acclamations such as ringing of bells, blowing of whistles, or otherwise, though not enumerated here, through the streets in advertising their sales; and no bellman or crier, drum or fife or other musical instrument or noise-making means of attracting the attention of passersby, except the customary auctioneer's flags, shall be employed or suffered to be used at or near any place of sale or at or near any auction room, or near any auction whatsoever.

5.30.320 By-bidders prohibited.

It is unlawful for any person to act at any sale by auction as a by-bidder or booster, to buy in behalf of the auctioneer or owner, or to increase the price of the article to be sold, or to make any false bid.

5.30.330 False representations prohibited.

It is unlawful for any auctioneer, when selling or offering for sale at public auction any goods, wares or merchandise under the provisions of this chapter, to describe the goods, wares or merchandise in any fraudulent, misleading, untruthful or unwarranted manner tending to mislead bidders. It shall be unlawful for any auctioneer or any person associated with him to substitute an article sold for another.

Chapter 5.32

AUTO WRECKERS

Sections:

5.32.010 Automobile wrecking establishment defined.
5.32.020 License requirements and fee.
5.32.030 Recordkeeping requirements.
5.32.040 Purchases from persons under 18.

5.32.010 Automobile wrecking establishment defined.

"Automobile wrecking establishment" means any establishment, building or other place where the business is carried on of wrecking old, used or secondhand automobiles or other motor vehicles, and adding or employing the accessories or parts thereof in equipping, repairing or rebuilding motor vehicles, or storing, selling or otherwise disposing of such accessories or parts.

5.32.020 License requirements and fee.

A. No automobile wrecking establishment license shall be issued to any person who is not of good moral character. Application must be made in writing to the license official under oath, and must show compliance with the provisions of this section. The annual license to operate an automobile wrecking establishment shall be as specified on the fee schedule adopted pursuant to section 5.06.050.

B. Prior to issuing a business license to an automobile wrecking establishment, the applicant must obtain a bond or other acceptable surety in the amount of $50,000 for any one accident and maintain the same throughout the term of the business license.

5.32.030 Recordkeeping requirements.

A. Each licensee under this section shall keep in such form as the city may prescribe, and written in ink or indelible pencil, a daily record in the English language of articles purchased, including an adequate description of the name and residence of the person from whom the article was purchased and the name of the employer of such person, if any, also the day and hour of such purchase and the price paid. The records shall at all reasonable times be open to the inspection of any law enforcement officer, commissioner or other person duly authorized in writing for such purpose by the police department. No entry shall be changed, erased, obliterated or defaced.

B. It shall be the duty of each licensee under this section to deliver or cause to be delivered to the police department, at least once a week, a copy of the records required to be kept as provided in this section, and such other information as the police department may require of the secondhand motor vehicles, parts and accessories acquired, wrecked, or left in the possession of the licensee.

5.32.040 Purchases from persons under 18.

A licensee under this section shall not purchase or receive from minors under the age of 18 years any article whatsoever without the written consent of a parent or guardian.

Chapter 5.36

COMMERCIAL VEHICLE LICENSES

Sections:

5.36.010 Permit—Required.
5.36.020 Permit—Fees.
5.36.030 Permit —Sticker attached to vehicles.
5.36.040 Permit—Exemption.
5.36.050 Unlawful operation—Penalty.

5.36.010 Permit—Required.

A. It is unlawful for the owner or operator of any commercial vehicle used for business to be driven or moved upon any street in the city without first paying the fees herein provided and obtaining a permit therefor.

B. The annual fee for each vehicle shall be due and payable each year on or before the first day of the month in which the business license is issued.

5.36.020 Permit—Fees.

The annual fee for commercial vehicles, except for taxicabs and ambulances, shall be as specified on the fee schedule adopted pursuant to section 5.06.050.

5.36.030 Permit—Sticker attached to vehicles.

Every vehicle requiring a permit under this section shall have a sticker provided by the city affixed to the front windshield so that it may be plainly seen. The sticker is not transferable to any other vehicle.

5.36.040 Permit—Exemption.

The permit fee required by this section is not required for vehicles which:

A. Merely pass through the city.

B. Are used exclusively in interstate commerce.

5.36.050 Unlawful operation—Penalty.

Any person operating a commercial vehicle on city streets is required under this section to obtain a permit and pay the proper permit fee. Any person failing to obtain the requisite permit and to pay the proper fee may be assessed a penalty as provided by this title. Nothing contained herein shall be deemed to remove or affect any other penalties otherwise imposed by the provisions of this title.

Chapter 5.38

DANCEHALLS—PUBLIC, TEENAGE, OR CLUBS

Sections:

5.38.010 Definitions.
5.38.020 License—Required—Exemptions.
5.38.030 License—Application—Issuance conditions.
5.38.040 License—Application—Investigation.
5.38.050 License—Fees—Exempt activities.
5.38.060 Hours of operation.
5.38.070 Exit and lighting requirements.
5.38.080 Unlawful conduct.
5.38.090 Teenage dancehalls—Definitions.
5.38.100 License—Required.
5.38.110 License—Exemptions.
5.38.120 License—Issuance conditions.
5.38.130 License—Fee.
5.38.140 Hours of operation.
5.38.150 Supervision during operation.
5.38.160 Admittance—Age restrictions.
5.38.170 Proof of age to be shown.
5.38.180 Pass-out and return checks prohibited.
5.38.190 Lighting of premises and parking area.
5.38.200 Unlawful activities designated.
5.38.210 Alcoholic beverages and tobacco prohibited.
5.38.220 Police department—Access for inspection.

5.38.010 Definitions.

As used in this chapter:

A. "Public dance" means any dance to which the public generally may gain admission, with or without the payment of a fee, but shall not include any dance conducted on or in any public park, street or public grounds by permission of the manager and under the supervision of the city.

B. "Public dancehall" means any room, place or space in which a public dance is held or in which classes in dancing are held and instruction in dancing is given for hire.

5.38.020 License—Required—Exemptions.

It is unlawful to operate a public dancehall or conduct a public dance in the city without having first obtained a license therefor as required in this chapter; provided, however, that this chapter shall not apply to churches or charitable organizations where the returns or proceeds are used entirely for religious or charitable purposes.

5.38.030 License—Application—Issuance conditions.

A. Application for such licenses shall specify the location of the proposed dances and the person or organization sponsoring the same.

B. No license shall be issued to a person not of good moral character, or to a corporation or other organization which is not represented by a person of good moral character.

5.38.040 License—Application—Investigation.

It shall be the duty of the police department to make or cause to be made an investigation into the character of each applicant for license and report the results of such investigation to the manager.

5.38.050 License—Fees—Exempt activities.

The annual license fee for a public dancehall shall be as specified on the fee schedule adopted pursuant to section 5.06.050, provided that any bar, cabaret or other business licensed elsewhere under these ordinances where dining is permitted shall be deemed ex-

empt from the licensing requirements of this section. Except for bars, cabarets or other business licenses deemed exempt hereunder, the fee imposed hereunder is in addition to any other license fees.

5.38.060 Hours of operation.

It is unlawful for any person to conduct a public dance or, having charge or control thereof, to allow or permit any such dance or dancing to be held between the hours of 1:00 a.m. and 7:00 a.m., MST, of the same day, or between the hours of 2:00 a.m. and 7:00 a.m., MST, of the same day when daylight savings time is in effect by law in the city; except that on New Year's Day, dancing shall not be allowed or permitted between the hours of 3:00 a.m. and 7:00 a.m., MST, of the same day.

5.38.070 Exit and lighting requirements.

It is unlawful to conduct a public dance in any hall or place which is not equipped with at least a minimum of two exits of four feet or more in width, and any such hall or place shall maintain throughout such premises and during business hours a constant minimum of one candlepower light, measured at a level of five feet above the floor.

5.38.080 Unlawful conduct.

It shall be grounds for license revocation to indulge in or permit any unlawful conduct at any public dance, or in any public dancehall.

5.38.090 Teenage dancehalls—Definitions.

As used in this chapter:

A. An "establishment" will be regarded to be designed or intended to attract or appeal to a teenage clientele when its name and decor, the type of music provided, and the form and content of its advertising, together with any other pertinent factors. indicate such attraction or appeal is the intent or the actual result thereof.

B. A public teenage "dancehall" or "club" is any room, house, building, structure or place where dancing is permitted and public dancing is held, or in which classes in dancing are held and instruction is given for hire and which is designed or intended to attract or appeal to a teenage clientele, and to which admittance may be gained by teenage persons, with or without payment or admission.

C. "Teenage person" means persons between the ages of 15 and 19, inclusive.

5.38.100 License—Required.

It is unlawful to operate a public teenage dancehall or club in the city unless such hall or club is duly licensed as provided in this section. Any establishment seeking to obtain or maintain a license under the provisions of this section shall conform with all standards hereinafter enumerated.

5.38.110 License—Exemptions.

The provisions of this chapter shall not apply to dances, dancehalls or clubs conducted or sponsored by private or public schools, or by churches, for students or members or invited guests thereof, even though an admission fee is charged. All dances conducted in private homes on a private basis shall likewise be exempt from the provisions of this chapter.

5.38.120 License—Issuance conditions.

The police department shall examine and investigate all applicants and the premises to be licensed under this chapter. Following such initial examination, the recommendations of the police department shall be made in writing to the license official.

5.38.130 License—Fee.

The annual fee for a teenage dancehall or club shall be as specified in the fee schedule adopted pursuant to section 5.06.050.

5.38.140 Hours of operation.

No establishment licensed under the provisions of this chapter shall be open later than 11:30 p.m., nor later than 10:00 p.m. on Sunday through Thursday during the scheduled school year.

5.38.150 Supervision during operation.

All establishments required to be licensed under this chapter must be maintained under the direct control and supervision of responsible adults furnished by and at the expense of the management, such supervision to include not only the dancing area but all anterooms and parking lots of the establishment. There shall be at least one adult supervisor for every 50 persons or fractional part thereof in attendance.

5.38.160 Admittance—Age restrictions.

Admittance to dances held in the establishments licensed hereunder must be limited to those teenage persons, exclusive of supervisory personnel, between 15 and 19 years of age, inclusive.

5.38.170 Proof of age to be shown.

The age of any person seeking admittance to a public teenage dancehall or club shall be established by a showing of either a valid high school activity card or a driver's license, indicating the age of the owner to be within the provisions of section 5.38.160.

5.38.180 Pass-out and return checks prohibited.

No pass-out or return checks shall be issued for use by persons who leave the dance premises or any rooms thereof, and all persons leaving the dance premises or any rooms thereof must be required to pay the regular admission fee before being permitted to reenter the dance premises.

5.38.190 Lighting of premises and parking area.

All persons licensed pursuant to this section shall maintain throughout the licensed premises and during all hours of operation, a constant minimum of one candlepower of light, measured at a level of five feet above the floor, and shall, in addition, provide for the adequate lighting of any parking area adjacent to the licensed premises.

5.38.200 Unlawful activities designated.

It is unlawful for any licensee under the provisions of this chapter to allow or permit on the licensed premises any lewd dress or act, or any conduct of a gross, violent or vulgar character.

5.38.210 Alcoholic beverages and tobacco prohibited.

There shall be no liquor, beer or tobacco sold, used or allowed to be consumed on the licensed premises or in its parking lot during operating hours.

5.38.220 Police department—Access for inspection.

The police department shall be permitted reasonable access to all premises licensed or applying for a license under this chapter, shall make periodic inspections of the premises after the licensing thereof, and shall report its findings to the license official.

Chapter 5.40

EMPLOYMENT OFFICES

Sections:

5.40.010 Employment agent defined—License required.
5.40.020 Exemptions.
5.40.030 License—Fee.
5.40.040 License—Application—State license required.
5.40.050 License—Bond.
5.40.060 License—Certificate to be displayed.
5.40.070 Regulations to be posted.
5.40.080 Employer's register to be kept.
5.40.090 Labor applicants' register to be kept.
5.40.100 Order for work—Required—Contents.
5.40.110 Payments—Before assistance is furnished prohibited.
5.40.120 Payments—When to be returned to applicant.
5.40.130 Payments—Limitations generally.
5.40.140 Payments—Dividing with employers prohibited.
5.40.150 Sending workers to certain places prohibited.
5.40.160 Claims and suits against employment agents.
5.40.170 License—Revocation conditions.

5.40.010 Employment agent defined—License required.

A. It is unlawful to open, establish or operate within the city any employment office for the purpose of procuring or obtaining, for money or other valuable consideration, either directly or indirectly, any work, employment or occupation for persons seeking the same, or otherwise to engage in the business, or in any way to act as a broker or go-between for employers and persons seeking work, without first having obtained a license to do so.

B. Any person performing any of the foregoing enumerated services shall be deemed to be an "employment agent" within the meaning hereof.

5.40.020 Exemptions.

Nothing in this section shall be construed to require any religious or charitable association that may assist in procuring employment for persons seeking the same, or the State Labor Commission, to obtain a license to do so.

5.40.030 License—Fee.

All persons required to have a license under this chapter shall pay to the city an annual license fee as specified in the fee schedule adopted pursuant to section 5.06.050.

5.40.040 License—Application—State license required.

Any person applying for a license under the provisions hereof shall make application to and pay the fee to the license official, and shall also file with the application a duplicate copy of the license issued to such person by the State Labor Commission. No license shall be issued by the city until the state license has been granted and a copy of the same filed with the license official.

5.40.050 License—Bond.

Each applicant for license under this chapter shall file with the city a cash bond or irrevocable letter of credit in the sum of $1,000, to be approved by the city attorney. Each such bond shall be a cash bond or a surety bond acceptable to the city; shall be made payable to the city; shall be conditioned that the person applying for the license will comply with all laws and ordinances regulating employment agencies and all lawful requirements made by the State Labor Commission; and shall pay all damages occasioned to any person by reason of any misstatement, misrepresentation, fraud

or deceit of the licensed person, his agent or employee, or that may result from any other violation of law or ordinance in carrying on the business licensed hereunder.

5.40.060 License—Certificate to be displayed.

It shall be the duty of each person licensed under these provisions to keep his city license publicly exposed to view in a conspicuous place in his office or place of business.

5.40.070 Regulations to be posted.

The keeper of each employment office shall cause two copies of these provisions, printed in type of sufficient size to be legible and easily read, to be conspicuously posted in each room used or occupied for the purposes of such employment office.

5.40.080 Employer's register to be kept.

Each employment agent duly licensed as provided herein shall enter upon a register to be kept for that purpose, and to be known as an "employer's register," every order received from any person or entity desiring the service of any persons seeking work or employment, the name and the address of the prospective employer from whom such order was received, the number of persons wanted, nature of the work or employment, the town or city, street and number, if any, where the work or employment is to be furnished, and the wages to be paid.

5.40.090 Labor applicants' register to be kept.

A. Each employment agent shall keep a register, to be known as "labor applicants' register," which shall show:

1. The name of each person to whom information or assistance is furnished, as is described in section 5.40.100 and the amount of commission received in each case therefor;
2. The name of each person who, having received and paid for, as herein contemplated, information or assistance such as is described in section 5.40.100 fails to secure the employment regarding which such information or assistance is furnished, together with the reason why employment was not secured by that person; and
3. The name of each person to whom return is made in accordance with these provisions, together with the amount of money or the value of consideration returned.

B. The registers required by these provisions shall be open at all reasonable hours to the inspection of any member of the police department or agent of the State Labor Commission.

5.40.100 Order for work—Required—Contents.

A. It is unlawful for any employment agent, by himself, agent or employee, to furnish any workman to any employer of labor without having a *bona fide* order for the same from the employer, and without having secured from the employer the following information:

1. The name of the prospective employer;
2. The place of employment;
3. The kind of labor to be performed;
4. The wages to be paid;
5. The length of time of employment, if definite, or if not definite, so stated;
6. The date of paydays, whether weekly, semimonthly or monthly;
7. The eating and sleeping accommodations and cost thereof, whether such accommodations are conducted by the employer or by others under contract, or other arrangements;
8. The cost of transportation to the place of employment, and whether or not the same is advanced by the employer, definitely stating the terms and conditions under which the same are to be repaid;
9. Where and to whom the employee is to

report;

10. Any information that will give the employee a full and comprehensive knowledge of the conditions under which he will be expected to work; and

11. Whether or not a strike or lockout is in progress among the employees of the employer.

B. The above information shall be set out in detail on a ticket, the form of which may be prescribed by the State Labor Commission, and which ticket, when issued to workmen or prospective employees, shall be signed by the employment agent issuing the same and by the prospective employee receiving the same.

C. One copy of such ticket shall be retained by the prospective employee and one delivered by him to the employer, and a full copy of the same shall be retained by the employment agent.

D. The ticket shall also show the amount of commission or fee paid by the employee.

5.40.110 Payments—Before assistance is furnished prohibited.

It is unlawful for any employment agent to receive, directly or indirectly, any money or other valuable consideration from any person seeking employment for any information or assistance furnished or to be furnished by the agent to such person enabling or tending to enable the person to secure employment, prior to the time the information or assistance is actually furnished.

5.40.120 Payments—When to be returned to applicant.

It is unlawful for any employment agent to retain, directly or indirectly, any money or any other valuable consideration received for any information or assistance described in section 5.40.100 if the person for whom the information or assistance is furnished fails, through no neglect or delay of his own, to secure the employment regarding which the information or assistance is furnished; the money or consideration shall be forthwith returned by the agent to the payer upon demand therefor by the payer or his agent.

5.40.130 Payments—Limitations generally.

It is unlawful for any employment agent to receive as commission, directly or indirectly, for any information or assistance described in section 5.40.100 any money or other consideration that is in excess of twenty-five percent of the amount actually earned in the employment during the first 30 days if such employment was ended during a 30-day period.

5.40.140 Payments—Dividing with employers prohibited.

It is unlawful for any employment agent sending out help to contractors or other employers of labor to divide the fees collected from any workman, or to pay any part of the fee to the employer to whom such labor is sent, or any foreman or other person in the employ of such employer.

5.40.150 Sending workers to certain places prohibited.

It is unlawful for any employment agent, by himself, agent or employee, knowingly to send any help to any house of assignation or to any other house or place kept for immoral purposes.

5.40.160 Claims and suits against employment agents.

All claims or suits brought in any court against any employment agent may be brought in the name of the party injured upon bond deposited with the city by the employment agent, as provided herein.

5.40.170 License—Revocation conditions.

The manager may revoke any license upon proof of violation of any provisions of this section, or for any other good and sufficient

cause including, but not limited to, a recommendation by the State Labor Commission that the license should be revoked, after notice to the licensee and opportunity to be heard before the manager.

Chapter 5.42

EXCAVATION OPERATIONS

Sections:

5.42.010 Excavation defined.
5.42.020 Operations—Distance from residential zones.
5.42.030 Operation—Reduction in distance permitted when.
5.42.040 Exemptions—Commercial disposal of materials.
5.42.050 Exemptions—Topographical or other conditions.
5.42.060 Exemptions—Removal of less than 1,000 cubic yards.
5.42.070 Exemptions—Removal of sod.
5.42.080 Exemptions—Removal of topsoil.
5.42.090 Hours of operation—Designated.
5.42.100 Hours of operation—Modifications.
5.42.110 Restrictions, limitations and controls generally.
5.42.120 Removal of temporary structures and materials.
5.42.130 Excavation and backfilling.
5.42.140 Rehabilitation requirements.
5.42.150 Enforcement—Development services director authority.
5.42.160 Inspection and stop work orders.
5.42.170 Existing operations—Compliance required.
5.42.180 Violation—Penalty—Violation of stop work orders.

5.42.010 Excavation defined.

For the purpose of this part, "excavation" means the removal of clay, soil, granite, flagstone, slate, shale, limestone, sandstone, sand or gravel from the earth by excavating, stripping, leveling or any other process, together with all other types of mining operations where material is removed from the earth.

5.42.020 Operations—Distance from residential zones.

Subject to any modifications permitted in this chapter, no part of an excavation operation or access road, parking area, office building or crushing, screening, washing, mixing or other type of processing operation, shall be permitted closer than 200 feet to a residential zone boundary or a subdivision, or within 50 feet of a public highway right-of-way, except for accessory access roads.

5.42.030 Operation—Reduction in distance permitted when.

Relating to existing operations, the manager shall, consistent with the intent of these regulations and where the character of the terrain, of ownership of land, of surrounding development, or other special conditions would justify such modification, permit a reduction in the required yard as specified in section 5.42.050 below so as not to impose unreasonable requirements; however, in no case shall the required distances for any excavation or accessory structure be less than 50 feet from a residential zone.

5.42.040 Exemptions—Commercial disposal of materials.

The provisions of this section shall not apply to any operation that is incident to the legitimate use of the premises. However, when such operation involves the commercial disposal of the material removed, such operation shall be limited to a maximum period of six months.

5.42.050 Exemptions—Topographical or other conditions.

In cases where unusual topographical or other exceptional conditions exist, variations and exemptions from this title may be made by the manager after recommendation by the planning commission.

5.42.060 Exemptions—Removal of less than 1,000 cubic yards.

Excavation over a six-month period of less than 1,000 cubic yards from a single parcel of land, as recorded in the office of the county recorder, is not subject to the requirements of this title.

5.42.070 Exemptions—Removal of sod.

The provisions of this section shall not apply to the removal of sod.

5.42.080 Exemptions—Removal of topsoil.

The provisions of this section shall not apply to the removal of topsoil, providing the operation is not closer than ten feet to any property line or to a depth in excess of 18 inches, or such as to adversely affect the drainage of the area.

5.42.090 Hours of operation—Designated.

Excavation operations shall not begin before 7:00 a.m. and shall not continue after the hour of 6:00 p.m., and no operation shall take place on Sunday or legal holidays. During periods of national or unusual emergency, time and hours of operation may be altered at the discretion of the manager.

5.42.100 Hours of operation—Modifications.

The manager may, consistent with the intent of these regulations, modify the provisions relative to permitted hours of operation of an excavation operation after notice to interested parties and the holding of a hearing on the matter.

5.42.110 Restrictions, limitations and controls generally.

All excavation operations conducted or carried on in the city are subject to the limitations, restrictions and controls specified below:

A. All equipment and machinery used on the site of an excavation operation shall be constructed, maintained and operated in such a manner as to reduce dust, noise, vibration, smoke, welding lights, and odor to a minimum. Access and haulage roads on the site shall be maintained in a dust-free condition by surfacing or other treatment.

B. Fencing or other suitable barriers shall be created and maintained on the excavation site where such fencing is practicable and necessary because of dangerous conditions created by the excavation.

C. The manufacture of concrete building blocks or other similar blocks, the production or manufacture of lime products, the production of ready-mixed concrete, the production of asphalt mixes, and any similar production or manufacturing processes that might be related to the excavation operation shall not be permitted except as otherwise provided in the zoning ordinance.

D. The washing of sand and gravel shall be done so as to prevent the discharge of wastewater directly into adjacent natural watercourses, or onto any public or private roads or any private property without the consent of the owner.

5.42.120 Removal of temporary structures and materials.

Within one year after the cessation of the operation, all temporary structures (except fences), equipment, rock piles, rubble heaps or other debris shall be removed or backfilled into the excavation so as to leave the premises in a neat and orderly condition.

5.42.130 Excavation and backfilling.

A. Where backfilling is required, the excavation shall be graded or backfilled with nontoxic, nonflammable, noncombustible solids. The materials used or the method of fill shall not be such as to create a health hazard, nor shall they be objectionable because of odor or unsightliness.

B. Stagnant water shall not be allowed to collect and remain on the graded or backfilled area.

C. The peaks and depressions of the excavation area shall be reduced to a surface which will result in level or gently sloping topography in substantial conformity to the land area immediately surrounding, and which will minimize erosion due to rainfall.

D. In any rehabilitation procedure that takes place in sand and gravel pits or on other sites where material is of loose or friable nature, no slope shall be left that exceeds 30 degrees or the normal angle of repose of the material involved, whichever is less.

5.42.140 Rehabilitation requirements.

A. In order to ensure that the area of excavation operation shall be rehabilitated, the owner or operator shall, prior to the commencement of excavation, submit to the city four copies of a plan for such rehabilitation that shall provide, among other things, acceptable bonding. The plan for rehabilitation shall be in the form of the following:

1. A description of all phases of the contemplated operation and the specific mention of the type of machinery and equipment that will or might be necessary to the performance of the operation. When the excavation operation shall include the washing of sand and gravel, the estimated daily quantity of water required, its source and disposition, shall be made a part of the description;

2. A legal description of the proposed site, with a map showing its location with indications of private access roads, existing or proposed, and of public highways adjacent to the site which will be affected by the operation;

3. A topographic map of the area at a minimum contour interval of five feet, extending beyond the site to the nearest public street or highway or to a minimum distance of 300 feet on all sides; and

4. A physical rehabilitation plan showing the proposed contours after rehabilitation and other special features of rehabilitation, and the method by which such rehabilitation is to be accomplished. When the excavation site is greater than ten acres, such plans shall, in addition to the foregoing, show each ten-acre section or portion thereof exceeding the first ten-acre section. Upon completion of excavation of the first ten-acre section, the owner or operator shall commence rehabilitation of the first ten-acre section. Rehabilitation of the first ten-acre section must be completed before excavation may begin on the third ten-acre section or portion thereof. Upon completion of excavation of any subsequent ten-acre section, rehabilitation of such section shall be commenced and completed in the same manner and sequence as rehabilitation of the first ten-acre section; that is, rehabilitation of the second ten-acre section shall be commenced upon completion of excavation of such section and shall be completed before excavation may begin on the fourth ten-acre section, and so forth.

B. At any stage during the rehabilitation, the plan may be modified by the submission and subsequent approval of an amended rehabilitation plan such as that required in the original application.

C. The rehabilitation plan and all data and information pertaining thereto shall be referred to the planning commission within 15 days after its receipt for report and recommendation. If approved, the planning commission shall, express its written approval, with whatever conditions are attached, by returning one copy of the rehabilitation plan signed by the chairman of the planning commission. If the plan is disapproved, the planning commission shall, in the same manner and within three days, indicate its disapproval in writing, and the reasons therefor.

5.42.150 Enforcement—Development services director authority.

The license official is hereby designated and authorized as the officer charged with the enforcement of these provisions.

5.42.160 Inspection and stop work orders.

It shall be the duty of the license official to inspect or cause to be inspected at regular intervals, as often as necessary, all excavations. Where it is determined by the license official that any excavation project is not proceeding in compliance with the provisions of these provisions, the license official may order, or cause to be ordered, the work on the project stopped by notice in writing served on any persons engaged in working or causing such work to be done on the project, and all persons shall forthwith stop such work until the project is brought into compliance with these provisions and the license official. In addition, the license official may also pursue appropriate legal action in the courts. Failure to implement administrative or legal action shall not legalize any violation of these provisions.

5.42.170 Existing operations—Compliance required.

Within 90 days after the adoption of the ordinance codified in these provisions, existing operations shall comply with all the provisions hereof.

5.42.180 Violation—Penalty—Violation of stop work orders.

Any person violating any provision of this chapter shall be deemed guilty of a misdemeanor. Any person violating the terms of a stop work order issued pursuant to these provisions shall be deemed to be guilty of a separate offense for each and every day during which such violation is committed, continued or permitted by such person.

Chapter 5.44

EXPRESSMEN AND DRAYMEN

Sections:

5.44.010 License—Required.
5.44.020 License—Fee.
5.44.030 Vehicle identification.
5.44.040 Receiving or concealing stolen goods.

5.44.010 License—Required.

It is unlawful to conduct the business of drayman, carter, trucker or expressman in the city without first having obtained a license therefor.

5.44.020 License—Fee.

In addition to the general business license fee, expressmen and draymen shall pay those annual fees required on the fee schedule adopted pursuant to section 5.06.050.

5.44.030 Vehicle identification.

Every vehicle used for such business shall have printed thereon, in a place easily visible from the side of the vehicle, the name and address of the owner in letters legible to one of normal eyesight at a distance of 25 feet.

5.44.040 Receiving or concealing stolen goods.

It is unlawful for any drayman, expressman, carter or trucker to receive, move or conceal any goods or articles that he knows or has reason to suspect may be stolen.

Chapter 5.46

EXTERMINATORS, FUMIGATORS, AND PEST CONTROL

Sections:

5.46.010 Definitions.
5.46.020 License—Required.
5.46.030 License—Application—Contents.
5.46.040 License—Application—Investigation.
5.46.050 License—Fee.
5.46.060 Employees—Qualifications and testing.
5.46.070 Employees—Written examination.
5.46.080 Operation—Rules and regulations.
5.46.090 Fumigation limitations—Exceptions.
5.46.100 Authority to refuse permits.

5.46.010 Definitions.

For the purposes of this section, "exterminator," "fumigator," or "pest control operator" means any person who uses any toxic, noxious, poisonous or dangerous substance, gaseous, liquid or otherwise, specified by rules and regulations adopted by the health department as liable to affect human beings by causing severe sickness or death, and used for the extermination of household insects, vermin or rodents.

5.46.020 License—Required.

It is unlawful to engage in the business of a fumigator, exterminator or structural pest control operator in the city without first obtaining a license to do so.

5.46.030 License—Application—Contents.

Every person desiring a license to engage in the business of a fumigator, exterminator or structural pest control operator shall make application to the license official and shall with his application file a sworn statement showing the experience and training tending to qualify the applicant for the business of fumigating, exterminating, or pest control operator.

5.46.040 License—Application—Investigation.

The application for such license, together with the statement of the applicant, shall be investigated within five business days after receiving such application. The city's license official then shall make report to the manager as to the fitness of the applicant to act as a fumigator, exterminator or pest control operator, and as to his knowledge and experience with poisonous or noxious gases, chemicals, compounds or products used for fumigating or exterminating purposes, and shall also report his knowledge and familiarity with the rules and regulations prescribed by the health department governing the use for fumigating or exterminating purposes. The license official shall make his recommendations as to the granting or denying of the said application. Upon receipt of the report, the manager shall act upon the application as it shall deem fair, just and proper, in regard to the granting or denying of the same.

5.46.050 License—Fee.

The annual license fee for engaging in the business of a fumigator, exterminator or pest control operator shall be as specified on the fee schedule adopted pursuant to section 5.06.050.

5.46.060 Employees—Qualifications and testing.

Each and every employee of the licensee must be qualified to use dangerous substances and must prove to the license official that he has training and experience necessary to do the same and will comply with all health de-

partment rules and regulations regulating the same and obtain all necessary permits.

5.46.070 Employees—Written examination.

No person shall be engaged by a licensee to work at the occupation of an exterminator, fumigator or pest control operator employing the use of hydro-cyanic acid gas and other dangerous gasses or chemicals, compounds or products used for exterminating purposes without first filing an application and statement of experience and qualifications with, and receiving approval of, the health department, and pass an appropriate examination concerning his qualifications to operate under this chapter.

5.46.080 Operation—Rules and regulations.

In every building to be fumigated, the following rules and regulations shall apply:

A. Notify the occupant or occupants 24 hours in advance of the fumigation and see that all occupants of the building or portion thereof to be fumigated are vacated, except as set forth hereafter;

B. All tenants or persons residing on either side and above or below in multiple-housing units shall be vacated, except that if such building is old or dilapidated or has been remodeled into apartments, it must be entirely vacated;

C. All openings, vents, doors, windows, cracks, breaks, openings around utility pipes, chimney openings and fireplaces must be sealed airtight before the commencement of the operation;

D. All windows must be securely fastened from the inside and all doors must be locked and all keys placed in the possession of the operator;

E. All liquids and fatty foods in unsealed containers must be removed from the premises;

F. When a permit to fumigate is issued, the health department and the fire department must be advised of the date of the fumigation, supplying the hour and the day, the place, and duration of the fumigation;

G. When fumigated gases are chemically generated, the container in which the gas is generated must be either wooden or earthen;

H. Prior to leaving the premises upon injecting it with gas, a warning card approved by the license official must be securely attached to all entrance ways and doors, and must bear the following message in red on white cards:

1. "DANGER" (in letters not less than two inches in size).

2. "FUMIGATED WITH _____, A DEADLY POISON GAS."

3. Display prominently the skull and crossbones.

4. All persons are warned to keep away.

5. Name and address and telephone number of operator.

I. After the fumigation has run its course, the operator must open all windows, doors and vents, and must, in addition, manipulate bedding, mattresses, draperies and clothing in congested spaces, to eliminate gas and gas pockets;

J. Tenants shall not reoccupy fumigated premises until 24 hours after the premises are opened for airing; and

K. Residue from chemical general gas must be disposed of in compliance with all applicable federal, state and city laws, rules, regulations and ordinances.

5.46.090 Fumigation limitations—Exceptions.

It is the general policy of the city to strictly limit fumigation, and to deny permits therefor except in the following instances:

A. Industrial plants that are isolated so as not to jeopardize adjacent properties; and

B. Where the problem of control has not responded to other methods, and then only

when considered safe by the city.

5.46.100 Authority to refuse permits.

The license official is empowered to refuse to issue any permit and to forbid fumigation of any building, house, structure or vehicle when in his opinion the fumigation is not necessary.

Chapter 5.47
FINANCIAL INSTITUTIONS

Sections:

5.47.010 Financial institutions defined
5.47.020 License—Required
5.47.030 License—Fee
5.47.040 Compliance with statutes and regulations

5.47.010 Financial institutions defined.

"Financial Institution" means any bank, credit union, savings and loan association, savings bank, industrial loan corporation or other institution that holds or receives deposits, savings, or share accounts, or issues depository accounts that are subject to withdrawal by check, draft, electronic means or otherwise.

5.47.020 License—Required.

It is unlawful for any person to operate or be engaged in the operation of a financial institution in the city without first obtaining a license as required in this chapter.

5.47.030 License—Fee.

The annual license fee for a financial institution shall be as specified on the fee schedule adopted pursuant to section 5.06.050.

5.47.040 Compliance with statutes and regulations.

Financial institutions shall comply with all other applicable state and federal statutes, rules and regulations.

Chapter 5.48

FIRE AND DAMAGED GOODS SALES

Sections:

5.48.010 Fire and damaged goods defined.
5.48.020 Permit—Required.
5.48.030 Permit—Application.
5.48.040 Permit—Fee.
5.48.050 Permit—Issuance conditions—Duration.
5.48.060 Permit—Renewal.
5.48.070 Recordkeeping requirements.
5.48.080 Advertising restrictions.
5.48.090 Adding to original inventory prohibited.
5.48.100 Unlawful sales—Each sale a separate offense.

5.48.010 Fire and damaged goods defined.

As used in this chapter, "fire and damaged goods" means and applies to goods, wares and merchandise being offered for sale as a result of fire, smoke, water, wind, earthquakes, acts of God, or other incidents of similar nature, but does not apply to goods, wares and merchandise damaged in transit or by handling, dropping, nicking, scratching or other similar damage occurring within or incident to the regular conduct of business.

5.48.020 Permit—Required.

Fire and damaged goods shall be sold only in strict compliance with the terms of a permit to be issued by the license official.

5.48.030 Permit—Application.

Applications shall contain such information as the license official shall from time to time require, including the following:

A. A complete inventory of all goods, wares and merchandise existing at the place of business immediately after the occurrence of the reason or cause of damage;

B. The items of such inventory that will be the subject of the sale; and

C. An affidavit of the correctness of the inventory and the cause of the damage.

5.48.040 Permit—Fee.

The fee for the permit or any renewal required by section 5.48.020 shall be as specified on the fee schedule adopted pursuant to section 5.06.050.

5.48.050 Permit—Issuance conditions—Duration.

Upon the filing of the inventory and affidavit referred to in section 5.48.030 the license official shall issue a permit to conduct a fire and damaged goods sale that shall be effective for a 30-day period following its issuance.

5.48.060 Permit—Renewal.

A permit shall be renewed for an additional 30-day period, provided a sworn affidavit and inventory list showing the unsold goods, wares or merchandise is furnished to the license official and the official is satisfied that such items were part of and included in the original inventory. In no event shall a permit be renewed more than two times.

5.48.070 Recordkeeping requirements.

The permittee shall keep complete and suitable records and books of all sale items that shall be available at all times to inspection by the license official. The inventory list shall be revised at the close of business each day by the permittee so that the items disposed of during that day shall be clearly marked. The records and inventory referred to in this chapter shall be submitted to the license official upon request.

5.48.080 Advertising restrictions.

It is unlawful for any person to advertise a fire and damaged goods sale in other than a concise and clear manner, so as not to deceive

the public. All advertising shall state that such sale is not a termination of the entire business, but is a special sale.

5.48.090 Adding to original inventory prohibited.

No permittee shall add, cause to, or permit to be added to the fire and damaged goods, any items not described in the original inventory.

5.48.100 Unlawful sales—Each sale a separate offense.

Each sale of fire and damaged goods made without a permit, or of items not included in the original inventory and designated therein as the subject of such sale, shall constitute a separate offense under this chapter.

Chapter 5.50

FIREWORKS SALES

Sections:

5.50.010 Definitions.
5.50.020 Dates when sale and use of fireworks are permitted.
5.50.030 Sales—License required.
5.50.040 License—Application.
5.50.050 License—Fees.
5.50.060 Sales—Rules and regulations.
5.50.070 Temporary stands.
5.50.080 Indoor fireworks sales restrictions.
5.50.090 Discharge restrictions.
5.50.100 Emergency authority of manager to prohibit discharge of fireworks.

5.50.010 Definitions.

The following definitions shall have, for the purpose of this chapter, the following definitions:

A. "Indoor sales" means sales conducted inside permanent structures.

B. "Permanent structure" means a nonmovable building, securely attached to a foundation, housing a business licensed to sell merchandise generally, in addition to the sale of fireworks.

C. "Person" means an individual, company, partnership, corporation or other business entity.

D. "Temporary stand" means a nonpermanent structure used for the sale of fireworks.

5.50.020 Dates when sale and use of fireworks are permitted.

A. Fireworks, as defined by and authorized pursuant to the Utah Fireworks Act, UTAH CODE ANN., § 11-3-1, *et seq.*, may be sold within the city on or between June 20 and July 25 of each year; on or between December 20 and January 2 of each year; and 15 days before and on the Chinese New Year.

B. Fireworks may be discharged three days prior to, on the day of, and three days following July 4, July 24, January 1 and the Chinese New Year of each year.

5.50.030 Sales—License required.

Except as provided in this chapter, no person shall offer for sale or sell at retail any fireworks without first having applied for and received a license from the city to do so for each location at which the fireworks are sold or offered for sale.

5.50.040 License—Application.

Applications for a license to sell fireworks shall:

A. Be made in writing, accompanied by the appropriate license fee;

B. Set forth the proposed location of the fireworks sales;

C. For fireworks sales, include for delivery to the license official insurance certificates evidencing public liability insurance coverage in the amount of $200,000/$400,000, and property damage insurance coverage in the amount of $200,000. Such certificates shall designate the city as an additional insured;

D. For fireworks sales, include for delivery to the license official certificates evidencing products liability insurance in an amount not less than $1,000,000 per occurrence;

E. Include a statement that the applicant agrees to comply strictly with the terms of this chapter, the laws of the state, the city and this license as granted; and

F. Include evidence of a current sales tax permit issued by the state of Utah.

5.50.050 License—Fees.

The annual fee for a license to sell fire-

works shall be as specified on the fee schedule adopted pursuant to section 5.06.050.

5.50.060 Sales—Rules and regulations.

The following shall be general requirements which must be followed by all persons selling fireworks within the city:

A. All weeds and combustible materials shall be cleared from any fireworks sales location, including a distance of at least 25 feet surrounding the sales location;

B. A sign bearing the message "Discharge of Fireworks Prohibited Within 100 Feet of this Location" in letters at least three inches tall, shall be conspicuously displayed at each fireworks sales location;

C. There shall be at least one supervisor, no younger than 18 years of age, on duty at all times when the sale of fireworks is in progress. Such supervisor shall remain near the sales location at all times unless suitable locking devices are provided to prevent the unauthorized access to the merchandise by others, or unless the merchandise is removed;

D. Any fireworks shall be effectively kept away from any kind of self-service by the public unless the fireworks are prepackaged and kept in the original package;

E. The license authorizing the sale of fireworks and a copy of the sales tax permit used by the licensee shall be available for inspection by public safety personnel;

F. Fireworks shall not be sold to any person under the age of 16 years, unless such person is accompanied by an adult;

G. The storage of fireworks for sale shall not be located in residential areas;

H. Smoking shall not be permitted within 50 feet of any fireworks, either on display for retail sale or being stored. "Smoking Prohibited Within 50 Feet" (or similar wording) signs shall be conspicuously posted at all fireworks sales and storage locations;

I. A sign indicating the legal dates for the discharge of fireworks shall be posted at all fireworks sales locations in such a position as to be clearly visible to the general public;

J. All fireworks retail sales locations shall be equipped with at least a portable fire extinguisher having a combined rating of no less than a 2A:10BC, approved by a recognized testing laboratory; and

K. No amount of retail storage or retail sales of fireworks shall, by its presence, create a distinct hazard to any person or property.

5.50.070 Temporary stands.

Retail sales of fireworks shall be permitted from a temporary stand. Sales from such temporary stands shall be subject to the following regulations.

A. All fireworks stands shall be located in C-2, C-3 or M1 zones, or any other zones that future changes made by zoning ordinances provide, no closer than 25 feet from any other fireworks stand or any unit used for the storage or dispensing of any flammable substance;

B. Fireworks stands need not comply with the provisions of the city's building code, but all such stands shall be erected in a manner that will reasonably assure the safety of occupants and patrons;

C. Each fireworks stand up to 24 feet in length must have at least two exits. Each fireworks stand in excess of 24 feet in length must have at least three exits. All exits shall be spaced at approximately equal distances apart. Exit locking devices, if any, shall be easily released from the inside without special knowledge, key or effort;

D. Each fireworks stand shall maintain a two and one-half gallon 2A rated water-pressure type fire extinguisher or an ABC minimum 2A:10BC rated fire extinguisher near each exit, and such extinguishers shall be kept in good working order and shall be easily accessible for use;

E. Two signs, each sign bearing the message "No Smoking Within 50 Feet of This

Stand" in letters at least three inches tall, shall be displayed on each and every side of a fireworks stand;

F. Fireworks stands shall be removed within seven days after retail sales shall cease and the licensee shall clean the site upon which the temporary stand was formerly located;

G. Prior to the issuance of a license for a temporary stand, each applicant shall file with the license official a cash bond or irrevocable letter of credit in the amount of $350 in a form acceptable to the city attorney for each temporary stand to be operated by the applicant. Such cash bond or irrevocable letter of credit shall assure compliance with the provisions of this section, including but not limited to the removal of the stand and the cleaning of the site upon which it was located, in accordance with the requirements of this chapter. Such bond or irrevocable letter of credit may also be forfeited for services provided by the city where damage has resulted. In the event the licensee does not comply with the provisions of this chapter, remove the stand or clean the site as required, the city may do so or cause the same to be done, and the reasonable cost thereof shall be charged against the licensee and the cash bond or letter of credit;

H. Each temporary stand shall have a minimum three-foot-wide, unobstructed aisle running the length of the stand, inside and behind the sales counter;

I. Any pass-through openings for the sales of fireworks in temporary stands shall be arranged to permit the customer to view the merchandise for sale, but shall prevent the touching or handling of non-prepackaged fireworks by the customer;

J. In the event that the temporary stand is used for the overnight storage of fireworks, it shall be equipped with suitable locking devices to prevent unauthorized entry; and

K. No person shall sleep in a temporary fireworks stand.

5.50.080 Indoor fireworks sales restrictions.

The following requirements shall be specifically applied to any indoor fireworks sales locations:

A. In all retail sales locations in permanent structures where fireworks are sold, the area where fireworks are displayed or stored shall be at least 50 feet from any flammable liquid or gas, or from any other highly combustible material. Fireworks shall not be stored, including stock for sale, near any exit doorways, stairways, or in any location that would impede egress;

B. Fireworks shall be stored, handled, displayed and sold only as units in their original packaging; and

C. Fireworks inside buildings shall be displayed with regard to the following restrictions:

1. Up to 250 pounds of fireworks: Display of fireworks is unrestricted;

2. From 251 pounds to 500 pounds of fireworks: Display of fireworks must be within constant visual supervision of sales personnel; and

3. In excess of 500 pounds of fireworks: Display of fireworks must be constantly attended by a salesperson.

5.50.090 Discharge restrictions.

It is unlawful for any person to:

A. Discharge a firework within 100 feet of any fireworks sales location;

B. Ignite, explode, project or otherwise fire or use, or permit the ignition, explosion or projection of any fireworks upon or over or onto the property of another; and

C. Ignite, explode or otherwise make use of any fireworks within twenty feet of any residence, dwelling or other structure.

5.50.100 Emergency authority of manager to prohibit discharge of fire-

works.

A. The manager is authorized to issue temporary (not to exceed 60 days) regulations and restrictions pertaining to the discharge of fireworks in order to preserve the health, safety and welfare of persons and property in the city. Any such regulations or restrictions must be based on drought or other climatic conditions which may create an unreasonable risk of damage, loss or injury to persons or property.

B. Any person who is guilty of discharging a firework contrary to any order issued pursuant to this section shall be guilty of a class C misdemeanor.

Chapter 5.52

FLAMMABLE AND COMBUSTIBLE MATERIAL HANDLERS

Sections:

5.52.010 Flammable combustible material handler defined.
5.52.020 License—Required.
5.52.030 License—Fee.
5.52.040 Compliance with laws.

5.52.010 Flammable combustible material handler defined.

"Flammable combustible material handler" means any person carrying on the business of buying, selling, manufacturing or transporting oil, gasoline, naphtha, liquefied petroleum gases, oxygen, or other combustible materials, motor fuels or lubricants, in quantities of ten gallons or more.

5.52.020 License—Required.

It is unlawful to manufacture, deal in, sell, transport or handle flammable, combustible materials without first obtaining a license.

5.52.030 License—Fee.

The annual license fee for a handler of combustible materials license shall be as specified on the fee schedule adopted pursuant to section 5.06.050.

5.52.040 Compliance with laws.

Flammable combustible material handlers must comply with all applicable provisions of the state fire code, and all other applicable laws, rules and regulations regulating the handling, manufacture and sale of flammable combustible materials.

Chapter 5.53

FOOD OR GROCERY STORE

Sections:

5.53.010 Food or grocery store defined.
5.53.020 License—Required.
5.53.030 License—Fee.
5.53.040 Application—Referral to health department.
5.53.050 License—Revocation conditions.
5.53.060 Compliance with health ordinances required.

5.53.010 Food or grocery store defined.

"Food or grocery store" means any place where food or drink is sold at retail for human consumption.

5.53.020 License—Required.

It is unlawful to operate or to be engaged in the operation of a food or grocery store without first obtaining a license.

5.53.030 License—Fee.

The annual license fee for a food or grocery store shall be as specified on the fee schedule adopted pursuant to section 5.06.050.

5.53.040 Application—Referral to health department.

All applications for a license under this chapter shall be referred to the health department for investigation and recommendations in accordance with health ordinances of the city.

5.53.050 License—Revocation conditions.

The license granted under this chapter may be revoked by the manager at any time upon notice and hearing for any violation of any ordinances of the city or laws of the state of Utah.

5.53.060 Compliance with health ordinances required.

It is unlawful for any person to operate or be engaged in the operations of a food or grocery store in the city without complying strictly with the health ordinances of the city.

Chapter 5.54

HOME OCCUPATIONS

Sections:

5.54.010 Home occupations defined.

5.54.010 Home occupations defined.

A. "Home occupation" means any use conducted entirely within a dwelling and carried on by one person residing in the dwelling unit, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character of the dwelling or property for residential purposes, and in connection with which there can be a display of stock in trade. The storage of stock in trade shall be a maximum of 250 cubic feet. "Stock in trade" being any item offered for sale which was not produced on the premises.

B. The home occupation shall not involve the use of any accessory building or yard space or activity outside the main building. Parking for a home occupation shall be limited to the following: two available parking spaces on the subject property where automobiles are customarily parked.

C. In the event of any conflict or inconsistency between this chapter and title 19 of this code, the terms and provisions of title 19 shall control.

Chapter 5.56

HOUSE MOVERS

Sections:

5.56.010 License—Required.
5.56.020 License—Fees.
5.56.030 License—Bond requirements.
5.56.040 Compliance with regulations.

5.56.010 License—Required.

It is unlawful to engage in the business of house moving, raising or shoring without first having obtained a license therefor. Applications for such license shall be made in writing to the license official.

5.56.020 License—Fees.

The annual fee for a house mover's license shall be as specified in the fee schedule adopted pursuant to section 5.06.050.

5.56.030 License—Bond requirements.

Every licensee under the provisions of this section shall file with the city a cash bond or irrevocable letter of credit in the amount of $1,000, in a form acceptable to the city attorney conditioned that the applicant, if issued a license hereunder, will comply fully with all city ordinances and other applicable laws, rules and regulations.

5.56.040 Compliance with regulations.

Persons licensed under this section must comply with the applicable ordinance provisions for moving, raising or shoring buildings, and acquire any necessary wide-load moving or building permits.

Chapter 5.58

LAUNDRIES, DRY CLEANERS, AND AUTOMATIC DRY-CLEANING MACHINES

Sections:

5.58.010 License—Required.
5.58.020 License—Fees.
5.58.030 Sanitation of premises—Employee health.
5.58.040 Inspection for compliance.
5.58.050 Dry cleaning defined.
5.58.060 Dry cleaning business—License required.
5.58.070 Dry cleaning business—License fee.
5.58.080 Collectors—License requirements.
5.58.090 Changes in solvents—Permission required.
5.58.100 Fire extinguishing equipment required.
5.58.110 Automatic dry-cleaning machine defined.
5.58.120 Compliance with regulations.
5.58.130 Permit and license requirements.
5.58.140 Installation specifications.
5.58.150 Operation regulations.
5.58.160 Inspection and enforcement.

5.58.010 License—Required.

It is unlawful to operate or conduct a laundry in the city, where service or self-service facilities are available to the general public for washing or drying clothes, draperies or other materials, without first obtaining a license.

5.58.020 License—Fees.

The annual fee for a laundry license shall be as specified on the fee schedule adopted pursuant to section 5.06.050. In addition to this general business license fee, the licensee shall pay those fees required in section 5.36.020 for any vehicle used to collect or deliver clothes, draperies or other materials to and from such businesses.

5.58.030 Sanitation of premises—Employee health.

A. Premises used for laundries must be kept in a clean and sanitary condition. No refuse of any kind shall be permitted to accumulate, and premises must be kept free from rats, mice and vermin.

B. It is unlawful to employ any person afflicted with a venereal or any contagious disease in a laundry.

5.58.040 Inspection for compliance.

The license official or his designee shall inspect or cause to be inspected every establishment licensed under these provisions at least once every six months. Any violation under the terms of these provisions which are discovered shall be reported to the manager.

5.58.050 Dry cleaning defined.

"Dry cleaning" means the process of removing dirt, grease, paint and other stains from wearing apparel, textiles, fabrics, rugs, etc., by the use of nonaqueous liquid solvents, flammable or nonflammable, and it shall include the process of dyeing clothes or other fabrics or textiles in a solution of dye colors and nonaqueous liquid solvents.

5.58.060 Dry cleaning business—License required.

It is unlawful to engage in the business of dry cleaning in the city without a license.

5.58.070 Dry cleaning business—License fee.

The dry cleaning licensee shall pay those fees specified in the fee schedule adopted pursuant to 5.06.050.

5.58.080 Collectors—License requirements.

It is unlawful to manage, conduct or carry on the business of collecting any garment, fabric, substance or article for delivery to a plant, factory or establishment without first obtaining a license so to do. The license fee shall be as specified on the fee schedule adopted pursuant to 5.06.050.

5.58.090 Changes in solvents—Permission required.

No change shall be made in the solvent that results in or produces a solvent in a more hazardous class, unless permission for such change shall first have been obtained from the fire department.

5.58.100 Fire extinguishing equipment required.

Adequate first-aid fire appliances of a type suitable for fighting fires involving flammable liquids shall be provided at each entrance to every room or area where flammable liquids are stored or used.

5.58.110 Automatic dry-cleaning machine defined.

"Automatic dry-cleaning machine" means and includes any device or apparatus for the cleaning of clothes or fabrics, designed to be used by the general public, which apparatus or device makes use of or contains perchlorethylene or any other chemical solvent or substance that may cause harm to human beings by reason of inhalation or contact.

5.58.120 Compliance with regulations.

It is unlawful to install, operate or maintain any automatic dry-cleaning machine except in compliance with the provisions of this section, or to operate the same in violation of any laws, rules or regulations of the health department, the city and the fire department relating thereto.

5.58.130 Permit and license requirements.

A. It is unlawful to install any automatic dry-cleaning machine without first having secured a permit from the fire department to use hazardous flammable materials. Applications for such permit shall contain full information as to the mechanical equipment of such machines, and provisions for ventilation for both the machine and the room in which the machine will be located.

B. It is also unlawful to engage in the business of maintaining any such machine for use by the public upon payment of a fee, without having first secured a license therefor and without having paid the business license fee required on the fee schedule adopted pursuant to section 5.06.050.

5.58.140 Installation specifications.

A. Each machine shall be completely enclosed by a cabinet and shall be vented with intake at the top and the outlet at or near the bottom. Groups of machines may be entirely enclosed or supported on all sides by an enclosure topped with a hood vent provided for each individual machine.

B. The exhaust system must maintain a minimum flow of one hundred cubic feet per minute face velocity through the loading door whenever the door is open.

C. The machines must be so constructed as to prevent the loading door from being opened during the normal cycle of operation. Each machine shall be equipped with a transparent door or port to allow visual examination of the status of the cleaning cycle.

D. Any connection of such machine with the water supply system must be equipped with an air gap or vacuum breaker in the line upstream from the condenser, with no control valves downstream from such gap or breaker. Wastewater shall be discharged through an air gap.

E. The room in which the machine is in-

stalled shall be ventilated so that there shall be a minimum flow of air per machine from the area to which the public is admitted of at least:

1. 500 cubic feet per minute in a room where there are no more than three machines installed;

2. 400 cubic feet per minute where there are no more than eight machines installed;

3. 375 cubic feet per minute where there are no more than 16 machines installed; and

4. 360 cubic feet per minute where there are more than 17 machines installed.

For this purpose, each cleaning cell shall be considered as one machine.

F. Each machine must be so designed, constructed and maintained so as to prevent the leakage of liquids, gas or vapors.

5.58.150 Operation regulations.

A. No such automatic cleaning machine shall be operated unless all the equipment described in the foregoing section is properly installed and in good working condition.

B. No establishment for which a license is required under this section shall be open for business, and it is unlawful to admit public or customers into the room where such machines are located, unless there is on duty in the establishment at all times a competent person in charge of the establishment, and in charge of the operation of the machines. There shall be warning signs posted in places of easy observation warning of the dangers in the event leakage of liquids, gas or vapors occurs.

C. It is unlawful to permit any residue containing solvent to flow into the sewer system of the city; tightly covered metal containers may be used for temporary storage of such waste outside the building. Such containers shall bear labels indicating the contents and dangers involved in handling and shall be locked if in an unenclosed space.

D. At least one legible sign shall be maintained in a place available to customers giving the name, address and phone number of the owner of the establishment, and of the service department or agency responsible for the proper maintenance of such machine.

E. Each licensee shall comply with all applicable federal, state and city laws, rules, regulations and ordinances regarding handling, storage and disposal of hazardous waste.

5.58.160 Inspection and enforcement.

It shall be the duty of the fire department to make such inspections as are necessary for enforcing the provisions of this section.

Chapter 5.59

LIQUIDATION-TYPE SALES

Sections:

5.59.010 Liquidation-type sales—Definitions.
5.59.020 License—Required.
5.59.030 Exemptions from chapter provisions.
5.59.040 License—Fee.
5.59.050 License—Issuance—Year in business required when.
5.59.060 License—Issuance—Conditions and term.
5.59.070 License—Display requirements.
5.59.080 License—Renewal.
5.59.090 License—Revocation conditions.
5.59.100 Rules and regulations for conduct and advertising.
5.59.110 Recordkeeping requirements.
5.59.120 Mingling of goods prohibited.
5.59.130 Unlawful sales—Each sale a separate offense.

5.59.010 Liquidation-type sales—Definitions.

A. "Publish," "publishing," "advertisement" and "advertising" mean any and all means of conveying to the public notice of sale, or notice of intention to conduct a sale.

B. "Sale" means:

1. Any sale of or any offer to sell to the public or any group goods, wares or merchandise on order, in transit, or in stock, in connection with a declared purpose, as set forth by advertising that such sale is anticipatory to or for the purpose of termination, liquidation, revision, windup, anticipatory removal, dissolution or abandonment of the business or that portion of the business conducted at any location; and

2. All sales advertised in any manner calculated to convey to the public the belief that upon the disposal of the goods to be placed on sale, the business or that portion thereof being conducted at any location will cease, be removed, interrupted, discontinued, or changed; and

3. All sales advertised to be "adjustor's sale," "assignee's sale," "administrator's sale," "going-out-of-business sale," "insurance salvage sale," "last days sale," "lease expires sale," "liquidation sale," "reorganization sale," "removal sale," "quitting business sale," "we quit sale," "wholesale closing out sale," "fixtures for sale," or advertised by any other expression or characterization or phrase of similar language that would reasonably convey to the public that the sale is being conducted as a result of such occurrences as enumerated above, which are not intended to be all-inclusive but refer to type or class of sales.

5.59.020 License—Required.

It is unlawful to publish or conduct any sale, as defined in this chapter, without first obtaining a license to do so. This license shall be in addition to any other license which may be required by any other ordinances.

5.59.030 Exemptions from chapter provisions.

The following persons shall be exempt from the scope and operation of this chapter:

A. Persons acting pursuant to an order or process of a court of competent jurisdiction; or

B. Persons acting in accordance with their powers and duties as public officers, such as police officers.

5.59.040 License—Fee.

The fee for the license required by section 5.48.120 shall be as specified in the fee schedule adopted pursuant to section 5.06.050.

5.59.050 License—Issuance—Year in business required when.

No person, company or corporation shall be eligible for a license, nor shall a license be

issued to any person, company or corporation unless they shall have been previously licensed to do business at the same location of such closing sale for the 365-day period preceding the beginning of the sale, except in those instances where a *bona fide* hardship would be created, and in such instances proof must be furnished to the license official that:

A. Such hardship exists; and

B. At the conclusion of such closing sale all and any business transactions of that particular applicant will completely and permanently cease and desist.

5.59.060 License—Issuance—Conditions and term.

Upon the filing of an application and a finding by the license official, after investigation, that the statements contained therein appear to be true and are not false, fraudulent, deceptive or misleading in any respect, a license shall be issued for a period not exceeding 30 days, upon the payment of the fee prescribed in this chapter.

5.59.070 License—Display requirements.

Upon the commencement of any sale, and for the duration thereof, the license therefore shall be conspicuously displayed near the entrance to the premises.

5.59.080 License—Renewal.

Upon satisfactory proof by the licensee that the stock itemized in the original application has not been entirely disposed of, the license official shall renew such license for a period of not to exceed 30 days. In no event shall a license be renewed more than twice. For each renewal a fee of $50 shall be collected.

5.59.090 License—Revocation conditions.

A license granted pursuant to this chapter may be revoked by the license official if:

A. The licensee has failed to include in the inventory required by the provisions of this chapter the goods, wares and merchandise, or any part thereof, required to be contained in such inventory;

B. The licensee has added, caused to be added, or permitted to be added any goods, wares or merchandise not described in the original inventory; or

C. The licensee has violated any of the provisions of this chapter or of the laws pertaining to advertising.

5.59.100 Rules and regulations for conduct and advertising.

The license official may make such rules and regulations for the conduct and advertisement of the sales defined in this chapter as may be necessary to carry out the purposes thereof. Such rules and regulations must be submitted to, and be approved by, the manager.

5.59.110 Recordkeeping requirements.

The licensee shall keep suitable books and records and make them available at all times to the license official.

5.59.120 Mingling of goods prohibited.

No person contemplating conducting any sale, as defined in this chapter, or during the continuance of such sale, shall order any goods, wares or merchandise for the purpose of selling them at such sale. Any unusual purchase or addition to the stock of such goods, wares or merchandise within 60 days before the filing of such application for a license to conduct such sale shall be presumptive evidence that such purchase or addition was made in contemplation of such sale and for the purpose of selling it at such sale.

5.59.130 Unlawful sales—Each sale a separate offense.

Each sale made without a license, and each sale of goods, wares or merchandise that is not

inventoried and described in the original application shall constitute a separate offense under this section.

Chapter 5.60

LODGINGS—HOTELS, MOTELS, AND OTHER

Sections:

5.60.010 Register to be kept by certain businesses—Contents.
5.60.020 Inspection of premises.
5.60.030 Hotels/motels—License—Requirements.
5.60.040 Register to be kept.
5.60.050 Premises—Cleanliness and lighting.
5.60.060 Premises—Sanitary facilities.
5.60.070 Premises—Exits.
5.60.080 Inspection for compliance.

5.60.010 Register to be kept by certain businesses—Contents.

A. Every person maintaining or operating a hotel, boardinghouse or roominghouse, auto court, motel, tourist home or trailer camp in the city shall keep a register in which each guest shall be required to write his name, residence, next destination, and the make and state registration license number of his vehicle or trailer. Such persons shall not fail to enter in such register opposite the name of each guest the designation of the room, cabin, trailer or camping space assigned.

B. The register shall be open for inspection by the public, the license official and the police department.

5.60.020 Inspection of premises.

The license official and the police department may periodically investigate, examine and inspect all hotels, auto courts, trailer camps, tourist homes and roominghouses and boardinghouses licensed under the provisions of this code and shall report to the manager where it appears that the general reputation of the keeper or of anyone residing or boarding therein is questionable, or that such boardinghouse is not operated in a quiet, lawful or peaceful manner.

5.60.030 Hotels/motels—License—Requirements.

It is unlawful to conduct or operate a hotel, motel or a building or part thereof used or held out to the public, where sleeping accommodations are furnished for 20 or more persons for a period of one day or more, without first having obtained a license therefor. The annual fee for such license shall be as specified in the fee schedule adopted pursuant to section 5.06.050. Such fee shall be in addition to the general business license fee.

5.60.040 Register to be kept.

It is unlawful to knowingly permit any fugitive from justice to stay in any hotel or motel. Each hotel or motel proprietor shall keep or cause to be kept a register of guests. Such registration or list shall be available for inspection by any member of the police department or the license official at any time.

5.60.050 Premises—Cleanliness and lighting.

All premises used for hotel or motel purposes shall be kept in a clean and sanitary condition. All portions of such premises that are open for use by all guests or by the public shall be kept lighted at all times they are so open to use.

5.60.060 Premises—Sanitary facilities.

Water closets and lavatories shall be available to all guests using any hotel or motel, and there shall be at least one bathroom equipped with water closet, shower or tub, and lavatory facilities for each room.

5.60.070 Premises—Exits.

A. No building shall be used for a hotel unless it is furnished with the number of exits and fire escapes required by the building or-

dinances of the city for the construction of a new hotel or motel.

B. It is unlawful to block or permit the blocking of any exit from any premises used for a hotel.

5.60.080 Inspection for compliance.

The license official shall inspect or cause to be inspected every hotel or motel operated in the city as frequently as may be necessary to ensure compliance with the provisions of this section.

Chapter 5.62

MASSAGE ESTABLISHMENTS

Sections:

5.62.010 Definitions.
5.62.020 License—Required.
5.62.030 License—Fees.
5.62.040 License—Application and issuance restrictions.
5.62.050 License—Display required.
5.62.060 Investigation of applicant and premises.
5.62.070 Unlawful conduct and activities
5.62.080 Exemptions.
5.62.090 License—Revocation.

5.62.010 Definitions.

For the purpose of this section:

A. "Massage establishment" means any place where a massage technician conducts or carries on the business of the practice of massage for a fee, gratuity or free demonstration.

B. "Massage" means the practice whereby a person, either by the hands or with a mechanical or electrical apparatus, administers to another person effleurage (stroking), friction (rubbing), petrissage (kneading), tapotement (percussion), and vibration (shaking or trembling), or variations of these, and the use of rehabilitative procedures involving the muscles by non-intrusive means and without spinal manipulation. The practice of massage may include the use of oil, rubs, heat lamps, saltglose, hot and cold packs, or tub, shower, steam, or cabinet baths.

C. "Massage technician" means a person who is licensed by the state of Utah to engage in or to teach the practice of massage for a fee, for a gratuity, or for a free demonstration.

5.62.020 License—Required.

It is unlawful to operate, conduct, or carry on or maintain a massage establishment in the city without first obtaining a business license from the city.

5.62.030 License—Fees.

The annual fee for a massage establishment shall be as specified on the fee schedule adopted pursuant to section 5.06.050. This fee is in addition to the general license fee.

5.62.040 License—Application and issuance restrictions.

Each individual desiring a massage establishment license shall:

A. Submit with the license application a certificate of the state signifying the applicant is a licensed massage technician by the state of Utah.

B. Submit the location, including the street, building and room number of the place where the applicant proposes to operate a massage establishment.

5.62.050 License—Display required.

A. Every massage establishment licensed under this section shall display its massage establishment license in a conspicuous place on the premises.

B. Every massage technician employed by a licensed massage establishment shall maintain in his possession or immediate presence, his state massage technician license.

5.62.060 Investigation of applicant and premises.

All applications for massage establishment licenses shall be referred to the license official for zoning approval and sanitary condition and compliance with applicable health department regulations governing the same, the police department for criminal background investigation, and the fire department for inspection to determine compliance with the provisions of the fire code. A license shall be granted upon a recommendation from each of the foregoing that a license be issued.

5.62.070 Unlawful conduct and activities.

A. It is unlawful for any person who is not licensed as a massage technician by the state to practice or engage in or attempt to engage in massage or to falsely advertise or represent himself to be authorized to practice or engage in massage when not licensed by the state to do so.

B. It is unlawful to serve, store, or allow to be served or allow to be consumed, any alcoholic beverages on the premises of any massage establishment.

C. It is unlawful for a massage technician, massage apprentice, or any other employee of a massage establishment to touch or offer to touch or massage the genitalia of customers.

D. It is unlawful for a massage technician, massage apprentice, or any customer or employee of a massage establishment to display to any other person any specific anatomical area or to engage in any unlawful activities as defined in chapter 5.82 hereof while on the premises of the massage establishment.

5.62.080 Exemptions.

The provisions of this section shall not apply to those individuals listed in UTAH CODE ANN. § 58-47a-9 or any successor statute.

5.62.090 License—Revocation.

Upon a showing that a massage establishment has been operated or maintained or that any employee of a massage establishment has performed massage contrary to state statute or city ordinance, contrary to the public health or the health of the patrons or customers of the establishment or without due regard to proper sanitation or hygiene shall be grounds for the revocation of the establishment's license in accordance with the procedures established by the city.

Chapter 5.64

MOBILE HOME PARKS, TRAILER PARKS, AND AUTO COURTS

Sections:

5.64.010 License—Required—Applications.
5.64.020 Exceptions.
5.64.030 License—Fee.
5.64.040 License—Issuance restrictions.
5.64.050 Compliance with other laws.
5.64.060 Mobile homes—Permanent use outside mobile home parks or mobile home subdivisions.
5.64.070 Mobile homes—Construction and location restrictions.
5.64.080 Mobile homes—Alteration restrictions.
5.64.090 Mobile homes meeting federal standards.
5.64.100 Zoning ordinances regulating mobile homes.
5.64.110 Definition.
5.64.120 Permit required to move mobile home.
5.64.130 Permit application—Contents.
5.64.140 Abandonment.
5.64.150 License/permit fee.

5.64.010 License—Required—Applications.

It is unlawful to establish, maintain or operate in the city any mobile home park, as defined in building and construction ordinance, or any trailer park or auto court without first having obtained a license therefor. Applications for such licenses shall be made in writing to the license official in compliance with ordinances relating to license applications, and shall contain the name of the applicant, the location of the proposed park, and the number of mobile homes, trailers or automobiles to be accommodated.

5.64.020 Exceptions.

Nothing in this section shall be construed to prohibit the storage of any mobile home for any length of time when it is not used for living or sleeping purposes.

5.64.030 License—Fee.

The annual fee for the license required herein shall be as specified on the fee schedule adopted pursuant to section 5.06.050. Such fee shall be in addition to the general business license fee.

5.64.040 License—Issuance restrictions.

A. No such license shall be issued to any but a person of good character, nor to any corporation if any officer of such is not a person of good character.

B. It is unlawful to hire or keep as manager, superintendent or person in charge of a mobile home park, trailer park or auto court any person who is not a person of good character, or any person who has been convicted of a felony.

5.64.050 Compliance with other laws.

All mobile home parks licensed under this title shall comply with provisions governing same in this code and with all other applicable law.

5.64.060 Mobile homes—Permanent use outside mobile home parks or mobile home subdivisions.

It is unlawful for any person to maintain any mobile home, used for human habitation, upon any plot of ground in the city except as provided in zoning ordinances, or in a licensed mobile home park or an approved mobile home subdivision.

5.64.070 Mobile homes—Construction and location restrictions.

It is unlawful to occupy for sleeping or other residential purposes any mobile home

that has been rendered immobile by the removal of wheels or placing the same on a foundation or on the ground, unless such mobile home in construction and location complies with the ordinances relating to the construction, wiring, plumbing, sewer facilities, and other regulations applicable to single-family dwellings.

5.64.080 Mobile homes—Alteration restrictions.

It is unlawful to remove the wheels or other transporting device from any mobile home or otherwise to affix such mobile home permanently to the ground so as to prevent ready removal of such mobile home unless a permit to do so is obtained as required for the construction of a new building. Any such alteration shall be construed as converting the mobile home into a building and subject to the requirements of the zoning and building ordinances.

5.64.090 Mobile homes meeting federal standards.

Notwithstanding any other provisions of this chapter to the contrary, no mobile or manufactured home certified as in conformance with federal standards for mobile homes by the application of the label required under CFR 3282.362 shall be required to meet city construction and safety requirements covered by such federal standards.

5.64.100 Zoning ordinances regulating mobile homes.

No provision of this section is intended nor shall it be construed to authorize a mobile or manufactured home (regardless of whether the wheels have been removed or it has been placed on the ground or a foundation) to be located on a parcel of ground outside of a mobile home park or subdivision in violation of zoning ordinances.

5.64.110 Definition.

As used in this chapter:

A. "Mobile home" means a transportable structure in one or more sections with the plumbing, heating and electrical systems contained within the unit, which when erected on a site, may be used with or without a permanent foundation as a family dwelling.

B. "Storage facility" means a facility or site that complies with applicable zoning ordinances that is used or intended to be used for the storage of a mobile home.

C. "Salvage or disposal facility" means a facility or site that complies with applicable zoning ordinances that is used or intended to be used for the salvage or disposal of mobile homes.

D. "Mobile home park" means any tract of land that complies with applicable zoning ordinances on which two or more mobile home spaces are leased or offered for lease or rent to accommodate mobile homes for residential purposes that complies with zoning ordinances.

5.64.120 Permit required to move mobile home.

It is unlawful for any person to move or cause to be moved a mobile home from a mobile home park without first making application for and obtaining the required permit from the city. It is also unlawful for the owner of a mobile home park, agent, employee or a representative of the owner to allow a mobile home to be moved out of such mobile home park, without verification that a permit required by this chapter has been obtained.

5.64.130 Permit Application – Contents.

A. Applications for permits required by this chapter shall be made in writing to the city's license office. Each application shall state the name of the business; the name of the applicant; the current location of the mobile home; the new location for the mobile home;

the name and address of the business agent who is authorized to receive service of process and any communication regarding the applicant's permit via certified mail, return receipt requested; and such additional information as may be needed for the purpose of guidance of the city officials in the issuing of the permit. Any change in the above information furnished by the permit applicant shall be forwarded, in writing, before the movement of any mobile home.

B. Forms for such permit and application therefore, shall be prepared and kept on file with the license official.

5.64.140 Abandonment.

It is unlawful to move a mobile home within the city except to a mobile home park, storage facility, or a salvage or disposal facility.

5.64.150 License/permit fee.

The fee for a permit required hereunder shall be as specified on the fee schedule adopted pursuant to section 5.06.050.

Chapter 5.66

MOTION PICTURE THEATERS

Sections:

5.66.010 License—Required.
5.66.020 License—Application.
5.66.030 License—Fees.
5.66.040 Activities on unlicensed premises—Fee.
5.66.050 Building code requirements.
5.66.060 Nonflammable scenery required.
5.66.070 Crowding limitations.
5.66.080 Exits—Obstruction prohibited.
5.66.090 Compliance with laws.

5.66.010 License—Required.

It is unlawful to give, present or conduct any motion picture or theatrical, for admission to which a fee is charged, excepting performances given solely for the benefit of and under the supervision of a religious, educational or charitable organization, without having first secured a license therefor as is provided in this chapter.

5.66.020 License—Application.

Applications for such licenses shall state, in addition to any other information required, the place of the intended performance and the seating capacity thereof.

5.66.030 License—Fees.

A. Any person securing an annual license for motion pictures or theatricals, naming a specific place, building or auditorium/theater within a building housing more than one auditorium/theater where the performances are to be presented, may present therein any number of performances, including theatricals, during the year for which the license was secured, upon payment of the required fees.

B. In addition to the general license fee, the license fee for the license required in this chapter shall be based upon the number of movie screens at the place of amusement pursuant to the fee schedule adopted pursuant to section 5.06.050.

5.66.040 Activities on unlicensed premises—Fee.

For motion pictures and theatricals that are to be presented in premises that are not covered by such license fee, the fee to be paid shall be $10 per day per stage/screen; provided, that no such motion picture or theatrical shall be presented in or on any premises or building that does not fully comply with the requirements of this code relating to public gatherings and to the maintenance of buildings used for these purposes.

5.66.050 Building code requirements.

It is unlawful to present any public motion picture in any building or structure which does not contain the number of exits required by the city's building code, or by the statutes of the state, concerning buildings or places intended for motion picture performances, or in premises in which the electrical wiring does not fully comply with these ordinances. All places used for the exhibition of theatricals must be kept adequately ventilated during the performance, and for so long a time as the audience remains therein.

5.66.060 Nonflammable scenery required.

It is unlawful to use any scenery in any theater other than nonflammable scenery or such as shall have been rendered nonflammable by the application of fire-preventive coatings.

5.66.070 Crowding limitations.

It is unlawful to permit any person, excepting ushers or other theater employees, to remain standing in a hall or room in which a motion picture is presented during the time of such performance; and it is unlawful to admit to any such hall more persons than can be ac-

commodated by the seating arrangements of the premises.

5.66.080 Exits—Obstruction prohibited.

It is unlawful to obstruct or permit the obstruction of any aisles, corridors or exits leading from the room or enclosure in which a motion picture performance or theatrical is being given, or in which an audience for such a performance is gathered.

5.66.090 Compliance with laws.

All businesses owning or operating motion picture theaters shall comply with the applicable city ordinances and state criminal statutes governing the distribution, sale, exhibition or showing of pornographic films or other literature.

Chapter 5.68

MULTIPLE RENTAL DWELLING UNITS

Sections:

5.68.010 Definitions.
5.68.020 License required.
5.68.030 Exception.
5.68.040 Penalty.
5.68.050 License—Fees.

5.68.010 Definitions.

A. "Multiple family dwelling unit" shall mean 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 four or more families living independently of each other. This definition includes four-plexes, even if the owner lives in one of the units.

B. "Rental dwelling unit" shall mean any individual dwelling unit that is rented, loaned, let or hired out to be used or occupied as a home or residence.

C. "Owner" shall mean the person having ownership. "Person" includes any individual, group of individuals, partnership, corporation, association or other legal entity.

5.68.020 License required.

A. Every owner of a multiple family dwelling unit or of four or more rental dwelling units shall obtain and maintain current a business license and pay the general business license fee and the special fees as set forth on the fee schedule adopted pursuant to section 5.06.050.

B. If there is more than one owner, including purchases under contract, each owner shall be jointly and severally liable to pay the business license fee.

5.68.05. Exception.

Every owner of less than four rental dwelling units shall be exempt from licensing under this title.

5.68.040 Penalty.

Any person or party who violates the provisions of this chapter shall be deemed guilty of a misdemeanor.

5.68.050 License—Fees.

A. Owners of multiple family dwelling units or rental dwelling units shall pay the general business license fee and the special fees set forth in the fee schedule adopted pursuant to section 5.06.050.

B. The base business license fee shall be paid at the time of application for a new or renewal license.

C. The community development director may, with the approval of the manager, establish a payment plan or plans which allow the licensee to pay the per-unit fees in two, three, or four equal installment payments, made at regular intervals during the term of the license.

D. 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.

Chapter 5.70

NURSING AND CONVALESCENT HOMES

Sections:

5.70.010 Nursing or convalescent home defined.
5.70.020 License—Required.
5.70.030 Exemptions.
5.70.040 License—Application—Contents.
5.70.050 License—Application—Investigations.
5.70.060 License—Fee.
5.70.070 Compliance with laws.

5.70.010 Nursing or convalescent home defined.

"Nursing home" or "convalescent home" means any institution used for the reception or care of persons who are dependent or not capable of properly caring for themselves, and shall be understood to include homes for the aged or infirm, refuges, and shelters.

5.70.020 License—Required.

It is unlawful to operate or conduct a nursing or convalescent home without first obtaining a general business license.

5.70.030 Exemptions.

Nothing in this section shall apply to care given to relatives in the homes of parents, legal guardians, grandparents, brothers, sisters, children, uncles, aunts, or day care centers, or as part of the program of an educational institution regulated by the boards of education of the state, or as part of the program of a parochial or other private institution.

5.70.040 License—Application—Contents.

Applications for such licenses shall state the location or proposed location of the home, the purpose for which it is to be operated, maintained or conducted, the accommodations for the patients thereof, the nature and kind of care, instructions or benefits given therein, the names and addresses of the officials conducting, managing or maintaining the home, the name of the superintendent or person in charge of the home, the name and address of the chief physician or surgeon, or the names and addresses of the board of physicians or surgeons attending therein if such a board exists.

5.70.050 License—Application—Investigations.

Applications for a license shall be referred to the fire department and shall comply with applicable rules and regulations of the health department. Findings shall then be forwarded, along with recommendations to the license official for referral to the manager.

5.70.060 License—Fee.

In addition to the general license fee, nursing and convalescent homes that provide 24-hour care shall pay an annual regulatory fee as specified in the fee schedule adopted pursuant to section 5.06.050.

5.70.070 Compliance with laws.

All persons operating nursing and convalescent homes shall comply with all applicable city, state and federal health and fire regulations governing their operation.

Chapter 5.72

OUTDOOR ADVERTISERS

Sections:

5.72.010 Prohibition.
5.72.020 Definitions.
5.72.030 Penalty for noncompliance.
5.72.040 Costs.
5.72.050 Existing billboards.
5.72.060 Severability.

5.72.010 Prohibition.

All billboards are prohibited within the city.

5.72.020 Definitions.

A. "Billboard" is hereby defined as any freestanding ground sign that is designed or intended to direct attention to a business, product, service or other commercial activity that is not sold, offered, or existing on the property where the sign is located. Each billboard shall be considered a separate business for which a separate business license must be obtained upon payment of the general business license fee and all other applicable fees and charges under this code;

B. "Existing, non-conforming billboard" is hereby defined as a billboard physically constructed, in place and being used for advertising purposes as of the city's incorporation on 14 January 2005. The term does not include a prospective or anticipated billboard for which Salt Lake County issued a permit on or prior to the city's incorporation on 14 January 2005. Each existing, non-conforming billboard shall be considered a separate business for which a separate business license must be obtained upon payment of the general business license fee and all other applicable fees and charges under this code.

5.72.030 Penalty for noncompliance.

Any person, firm, corporation or other business entity, whether acting as owner or occupant of the premises involved, or contractor, or otherwise, who violates this chapter shall be guilty of a misdemeanor and, upon conviction, shall be sentenced to pay a fine and to a term of imprisonment to the maximum amount provided in UTAH CODE ANN. § 10-3-703. A separate offense shall be deemed to be committed on each day an offense occurs or continues.

5.72.040 Costs.

Costs incurred by the city in removing any billboard erected in violation of this chapter shall be charged to the owner or the entity having charge, control or benefit of the billboard.

5.72.050 Existing billboards.

Existing, non-conforming billboards are exempt from the prohibition on billboards in section 5.72.010 of this chapter; provided, however, that any existing, non-conforming billboard located on premises owned by a third party lessor, licensor or the like shall be exempt from the prohibition on billboards in section 5.72.010 of this chapter only until expiration of the term for which such premises were leased or licensed for billboard purposes. In no event may the use of any existing, non-conforming billboard be expanded, increased or extended in any way, including, without limitation, by increasing the height or size of such billboard. Further, the term of any such lease or license shall not be extended beyond the original term unless one or more options to extend the original term are specified in a written agreement for the lease or license of such premises actually in existence as of the city's incorporation on 14 January 2005 and such option(s) was formally exercised as required by such pre-existing lease or license agreement prior to the city's incorporation on 14 January 2005. If any such option(s) to extend the original term of any such pre-existing

lease or license agreement was so exercised prior to the city's incorporation on 14 January 2005, then the existing, non-conforming billboard in question shall be exempt from the prohibition on billboards in this chapter only until expiration of the term of such lease or license agreement, as so extended.

5.72.060 Severability.

If any provision or clause of this chapter or the application thereof to any person, entity or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect any other sections, provisions, clauses or application hereof which can be implemented without the invalid provision, clause or application. To this end, the provisions and clauses of this chapter are declared to be severable.

Chapter 5.74

PARKING LOTS AND GARAGES—PARKING OR STORAGE

Sections:

5.74.010 License—Required.
5.74.020 License—Fee.
5.74.030 Operation—Premises location restrictions.
5.74.040 Changing identification marks or license tags.
5.74.050 Inspection for compliance.
5.74.060 Parking lot defined.
5.74.070 License requirements.
5.74.080 Conduct of other business on same premises.
5.74.090 Rates and hours to be posted.
5.74.100 Building construction regulations.
5.74.110 Fire protection requirements.
5.74.120 Driveways.
5.74.130 Trash and refuse containers.
5.74.140 Intoxicating liquor restrictions.
5.74.150 Abandoned, junked and other vehicles prohibited.

5.74.010 License—Required.

It is unlawful to operate or maintain a public garage in the city without having first obtained a license therefor as is provided in this section.

5.74.020 License—Fee.

The annual fee for license to operate or maintain a public garage shall be as specified in the fee schedule adopted pursuant to section 5.06.050.

5.74.030 Operation—Premises location restrictions.

It is unlawful to maintain or operate any public garage in a frame building, or in any building or structure used for school, church or theater purposes, or in any building that does not conform to the requirements of the building ordinances. The premises of every garage must be kept clean and free from flammable waste material.

5.74.040 Changing identification marks or license tags.

It is unlawful to change the identification marks on the engine of any car or automobile in any public garage. It is also unlawful to change the license tags on cars, excepting in accordance with the register of motor vehicles kept by the State Division of Motor Vehicles.

5.74.050 Inspection for compliance.

The police department and the fire department shall make or cause to be made inspections of public garages as may be necessary to insure compliance with the provisions of these provisions. Any law enforcement officer shall be permitted at any reasonable time to view every car stored or kept in any public garage, and it is unlawful to hinder any such inspection or to conceal any motorcar or motor vehicle from such inspection.

5.74.060 Parking lot defined.

"Parking lot," as used in this chapter, means and includes any place maintained for the outdoor parking of cars, where such parking is permitted upon payment or compensation, or is made available solely to the patrons or customers of any place of business. "Parking lot" does not include any public place.

5.74.070 License requirements.

It is unlawful to operate a parking lot without having first obtained a license therefor. Application for such license shall be made in writing to the license official and shall contain all necessary information to ensure compliance with the provisions of this section, including a description of the location and size of the lot, the number of cars to be accommodated, and a statement of any services, other

than parking, and of any articles or commodities for sale, offered to patrons of the parking lot. The annual license fee for such license shall be that prescribed in the fee schedule adopted pursuant to section 5.06.050.

5.74.080 Conduct of other business on same premises.

If any business, other than that of parking lot, is conducted on the same premises with a parking lot, such business shall be conducted in full compliance with all ordinances pertinent thereto, and any license required for the operation of such business must be procured and the fee required therefor must be paid.

5.74.090 Rates and hours to be posted.

At the entrance of each parking lot there shall be posted, in words and figures large enough to be read by prospective patrons, a statement of the rates to be charged and the closing hours.

5.74.100 Building construction regulations.

Any buildings constructed on a parking lot shall be constructed in full compliance with the ordinances pertaining thereto, and shall have exterior walls of nonflammable material; however, any structure used or to be used for office purposes only may have less than the minimum area requirements prescribed for residences or commercial buildings.

5.74.110 Fire protection requirements.

It is unlawful to operate any parking lot unless there are available on the premises adequate fire extinguishers and personnel competent to use the same. There shall be maintained on each parking lot at least one hand chemical fire extinguisher having a capacity of one quart of liquid or two and one-half pounds of carbon dioxide for each ten cars for which accommodations are offered, which extinguisher shall always be maintained in good order and in accessible places. Where accommodations are provided for more than 100 cars, there shall be maintained, in addition to the hand extinguishers required, at least one portable chemical fire extinguisher having a capacity of two and one-half gallons of liquid or 15 pounds of carbon dioxide.

5.74.120 Driveways.

No driveway to a parking lot shall be constructed except in full compliance with the ordinances relative to the issuance of permits for driveways, and it shall be the duty of the operator of each parking lot to maintain the sidewalk and parkway over which such driveway passes in good condition.

5.74.130 Trash and refuse containers.

If a parking lot is maintained in connection with a licensed establishment serving food for consumption on the premises, and food or drinks are served to the occupants of cars, adequate containers must be maintained for all trash and refuse, and the refuse must be cleaned up, and the premises must be kept thoroughly cleaned by the proprietor.

5.74.140 Intoxicating liquor restrictions.

It is unlawful to serve intoxicating liquor for consumption in any car parked in a parking lot or to consume any intoxicating liquor while therein.

5.74.150 Abandoned, junked and other vehicles prohibited.

It is unlawful to park or store in any parking lot any vehicle that is not in a condition ready for use, or to permit the parking in such lot of any abandoned, junked or partially disabled vehicle. It is unlawful to use any parking lot for storage or parking of any vehicle for the purpose of displaying the same for sale.

Chapter 5.75

PAWNBROKERS

Sections:

5.75.010 Pawnbroker—Definitions.
5.75.020 License—Required.
5.75.030 License—Application—Issuance conditions.
5.75.040 License—Fees.
5.75.050 Relocation of business—License required.
5.75.060 Reporting changes in license information.
5.75.070 License—Denial, suspension or revocation.
5.75.080 Hearing on denial, suspension or revocation.
5.75.090 Recordkeeping—Requirements generally.
5.75.100 Recordkeeping—Legibility and access for inspection.
5.75.110 Certificate copies to police department.
5.75.120 Operation—Regulations to be posted.
5.75.130 Operation—Hours of closure.
5.75.140 Property—Holding period before deposition.
5.75.150 Stolen goods reports.
5.75.160 Computer reporting.
5.75.170 Premises—Pawnbroker partition requirements.
5.75.180 Pawnbroker—Liability of licensee.
5.75.190 Dealing with minors prohibited.

5.75.010 Pawnbroker—Definitions.

As used in this chapter, the following words shall have the meaning as defined in this chapter:

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

B. "Registered customer" means any person who is registered with the dealer and who the dealer knows to be a reputable person in the community. A registered customer must complete a registered customer form supplied by the police department and maintained in the dealer's records. The registered customer form shall have positive identification sections and a section stating that the registered customer certifies that property he will sell to the dealer meets the requirements of subsection B(1) of section 5.75.090 of this title.

5.75.020 License—Required.

It is unlawful for any person to operate as a pawnbroker, without first obtaining a license to do so. A separate license shall be required for each location and for the conduct of the business of a dealer.

5.75.030 License—Application—Issuance conditions.

A. Each application for a license shall be made on the form that the license official requires, and the applicant shall certify that the information given is true and correct under the penalties of perjury.

B. Each application for a pawnbroker license shall contain such information as deemed necessary by the police department and the license official.

C. Only individuals may apply for a pawnbroker license:

1. If an application is made on behalf of a corporation, limited partnership, LLC or other business entity, the license shall be applied for by and issued to the president of the

corporation or members of the partnership, LLC or other entity who are authorized to act for it.

2. If the application is made on behalf of a partnership, the license shall be applied for by and issued to all of the partners who are authorized to act for the partnership. Where any partner is a corporation, limited partnership, LLC or the like, the application shall be made by and issued to the president of the corporation or members of the limited partnership, LLC or other entity who are authorized to act for it.

D. Each individual who applies for a pawnbroker's license under this chapter assumes, as an individual, all responsibilities of the pawnbroker and, as an individual, is subject to all conditions, restrictions and requirements imposed on pawnbrokers.

E. Each individual applying for a pawnbroker license shall not be issued a license until such time as the police department has conducted a background investigation on the applicant pursuant to section 5.08.080 of this title.

5.75.040 License—Fees.

The license fee for the following occupations shall be as specified in the fee schedule adopted pursuant to section 5.06.050: pawnbroker.

5.75.050 Relocation of business—License required.

A. A pawnbroker may conduct the licensed business only from the fixed permanent location as specified in the application for the license, which shall be other than a motel or hotel room generally used by transients.

B. A pawnbroker may not remove or relocate the location specified in the license for the business, or open any additional location unless the person has applied for and obtained a separate license from the license official.

5.75.060 Reporting changes in license information.

If, during any license year, there is a change in the information that a pawnbroker gave in obtaining or renewing a license under this chapter, the pawnbroker shall report the change to the license official within 30 days after the change occurs, and certify that the information given is true and correct under the penalties of perjury.

5.75.070 License—Denial, suspension or revocation.

The license official may refuse to grant a license to any pawnbroker, and may suspend, revoke or refuse to renew the license of any pawnbroker if it finds.

A. The pawnbroker has violated or is attempting to violate any provisions of this chapter;

B. A similar license issued to the pawnbroker has been suspended, revoked or refused in another jurisdiction for a reason which would justify such action under this chapter;

C. Any officer, manager, agent or employee of the pawnbroker has violated or is attempting to violate any provisions of this chapter unless the person or pawnbroker:

1. Had no knowledge of the wrongful conduct and in the exercise of reasonable diligence could not have known of the conduct, and

2. Was unable to prevent the violation or attempted violation with the exercise of reasonable diligence; or

D. The pawnbroker has been convicted of theft or receiving stolen property on one or more occasions within the past five years.

5.75.080 Hearing on denial, suspension or revocation.

Before revoking, suspending or refusing to grant or renew any license, the applicant, employee or pawnbroker shall be informed of an

opportunity to appeal such decision in accordance with the provisions hereof.

5.75.090 Recordkeeping—Requirements generally.

A. It is unlawful for any pawnbroker licensed by this chapter to fail to use a computer information system approved by the police department, in which he shall enter at the time of purchase, in the English language:

1. The name, date of birth, address and physical description of the person selling the property;

2. The driver's license number or any other positive form of identification containing a numerical identifier and a photograph of the person selling the property;

3. The date and time of the transaction;

4. The identification of the person making the record entry;

5. A description of the item purchased or obtained by the pawnbroker, including, but not limited to, a description of the metallic composition, any jewels, stones or glass, and a listing of all numbers, marks, monograms, trademarks, manufacturer's names, serial numbers, and any other marks of identification appearing on the item.

6. The weight of the item or items, where payment is based on weight; and

7. The consideration paid for the item or, if pawned, the amount of money loaned or advanced.

B. Notwithstanding the foregoing paragraph, pawnbrokers who process fewer than 50 transactions per month may request written permission from the police department to use a non-computerized alternative standardized format written in ink in a legible manner specified and approved by the police department for reporting the information required in subsection A above.

C. In addition to the requirements of subsection A of this section, a pawnbroker shall also obtain and keep the following:

1. A written certificate, on forms prescribed by the police department that the person delivering the property has the legal right to sell such property; and

2. If the value of the property exceeds $20, a pawnbroker, or an agent, employee, or representative of a pawnbroker or person who buys, receives, or obtains such property shall also require the seller or person delivering the property, whether known or not, to give a legible fingerprint, preferably the right thumb, at the bottom of the written certificate next to his signature, and a copy of at least one other positive form of picture identification.

5.75.100 Recordkeeping—Legibility and access for inspection.

A. All records of all pawnbrokers defined in this chapter shall be open to inspection by any peace officer as defined by UTAH CODE ANN. § 77-1a-1.

B. Upon request to do so by any peace officer as defined by UTAH CODE ANN. § 77-1a-1, all goods, articles or other things pawned, pledged, sold or delivered to such pawnbroker must be retained and held until released by the police department or delivered to the police department upon consent of the dealer or pursuant to the terms of any search warrant issued to the police department, and served upon such pawnbroker.

5.75.110 Certificate copies to police department.

It is unlawful for any pawnbroker to fail to have available to the police department the records required to be maintained by this chapter on the business day following the transaction. It is also unlawful for any pawnbroker to fail to retain the records required by this chapter for three years following the transaction at his place of business and provide such records for inspection by the police department.

5.75.120 Operation—Regulations to be posted.

It is unlawful for any pawnbroker to conduct or transact business licensed under this chapter unless he shall keep conspicuously posted at his place of business a copy of these provisions.

5.75.130 Operation—Hours of closure.

It is unlawful for any dealer licensed under this chapter to keep his place of business open for trade before the hour of 7:00 a.m. or after 10:00 p.m., unless prior written permission is received from the police department.

5.75.140 Property—Holding period before disposition.

A. It is unlawful for any pawnbroker licensed under this chapter to sell, melt, change (except for customary testing), take apart, destroy, obliterate identification marks, or dispose of any property purchased or obtained by a pawnbroker until 30 days have elapsed from the date of compliance with the reporting requirements of sections 5.75.090 and 5.75.100, or for such additional time as to any specific item or items as may be directed by the police department or its designee. All items being so stored shall be segregated from other items and shall be identified by a tag attached to the property, numbered in a manner to correspond with the number of the transaction description in the business records required to be kept by section 5.75.090. Items purchased in bulk may be tagged in bulk. Items may be stored at other locations in the city approved by the police department. The pawnbroker shall produce these items at the business location within one hour of a request to do so by the police department. Where compliance is impossible because of the close of business hours, the item shall be produced within one hour of the opening of business on the next business day.

B. The requirements of subsection A of this section shall not be applicable to any unidentifiable secondhand precious metals which have been inspected and received written clearance for earlier disposition by the police department.

C. The police department may request that the manager modify the recordkeeping or reporting requirements of this section.

5.75.150 Stolen goods reports.

It shall be the duty of every pawnbroker to report to the police department any article sold, or which it is sought to sell, if he shall have reason to believe that the article was stolen, or lost or found by the person attempting to sell it in the case of a lost article.

5.75.160 Computer reporting.

The police department is authorized to transfer the information received pursuant to this chapter into a computer information system and to report the information in such forms as the police department may determine is useful for law enforcement purposes.

5.75.170 Premises—Pawnbroker partition requirements.

It is unlawful for any pawnbroker to keep or maintain his pawnbroker business in the same room or rooms with any other business. Patrons must enter and take their exit from all pawnbrokers' places of business through outside doors or entrances.

5.75.180 Pawnbroker—Liability of licensee.

The holder of a pawnbroker license is liable for any and all acts of his employees for any violation by them of any of the provisions of this chapter.

5.75.190 Dealing with minors prohibited.

It is unlawful for any pawnbroker under this section, by himself, his agents or servants, to purchase or receive any personal property,

or any articles whatsoever, from any person under 18 years of age.

Chapter 5.76

PRIVATE DETECTIVES

Sections:

5.76.010 License—Required.
5.76.020 Exemptions.
5.76.030 License—Fee.
5.76.040 License—Applicant eligibility.
5.76.050 License—Investigation of applications.
5.76.060 License—Bond required.
5.76.070 License—Display requirements.

5.76.010 License—Required.

It is unlawful to engage in the business of private detective or investigator for a fee or reward unless such person is first licensed by the city.

5.76.020 Exemptions.

Nothing in these provisions shall be construed to require a license by any detective or investigator regularly employed by a firm or business to patrol the premises owned by such firm or business.

5.76.030 License—Fee.

The annual fee for such license shall be as specified on the fee schedule adopted pursuant to section 5.06.050.

5.76.040 License—Applicant eligibility.

Applicants must be at least 21 years of age and be licensed by the state department of public safety. No license shall issue to any person who has been convicted of a felony by the courts of this or any other state, or who has been convicted anywhere of any act which, if done in this state, would constitute an assault, theft, larceny, unlawful entry, extortion, buying or receiving stolen property, unlawful use or possession of weapons or burglar's tools, escape from lawful custody, or a crime involving moral turpitude. Every applicant shall file with the police department a recent photograph and shall permit his fingerprints to be taken in order to assist the police department in its investigative function.

5.76.050 License—Investigation of applications.

Applications shall be referred by the license official to the police department, who shall make or cause to be made an investigation as to the applicant's experience and qualifications to engage in such business, and may interview the applicant. The police department's findings shall be referred by the license official to the manager, which shall approve or deny the application.

5.76.060 License—Bond required.

Applications shall be accompanied by a cash bond or irrevocable letter of credit in the amount of $1,000, in a form acceptable to the city attorney, conditioned that the applicant, if issued a license hereunder, will comply fully with all city ordinances and other applicable laws, rules and regulations; and further, that applicant shall pay all damages occasioned by any person by reason of any misstatement, misrepresentation, fraud or deceit of the licensee, his agent, or employees.

5.76.070 License—Display requirements.

No license granted under these provisions shall be transferable, and every licensee shall, at all times where practical, carry on his person a card issued by the license official, certifying such person to be duly licensed to engage in the business of private detective.

Chapter 5.77

RESTAURANTS

Sections:

5.77.010 Restaurant defined.
5.77.020 License—Required.
5.77.030 License—Fee.
5.77.040 Applications—Referral to health department.
5.77.050 License—Revocation conditions.
5.77.060 Compliance with health ordinances required.
5.77.070 Employees circulating among guests—Restrictions.
5.77.080 Entertainment—Hours when restricted.
5.77.090 Offensive behavior prohibited.

5.77.010 Restaurant defined.

"Restaurant" means any place where food is prepared or served for sale or sold for human consumption on or off the premises.

5.77.020 License—Required.

It is unlawful to operate or be engaged in the operations of a restaurant in the city without first obtaining a license as required in this chapter.

5.77.030 License—Fee.

The annual license fee for a restaurant shall be as specified on the fee schedule adopted pursuant to section 5.06.050.

5.77.040 Applications—Referral to health department.

All applications for a license under this chapter shall be referred to the health department for investigation and recommendation in accordance with the health ordinances of the city.

5.77.050 License—Revocation conditions.

The license granted by this chapter may be revoked by the manager at any time upon notice and hearing, for violation of any ordinance of the city or law of the state of Utah.

5.77.060 Compliance with health ordinances required.

It is unlawful for any person to operate or be engaged in the operations of a restaurant in the city without complying strictly with the health ordinances of the city.

5.77.070 Employees circulating among guests—Restrictions.

It is unlawful for any person licensed under this chapter to permit any employee to circulate among the patrons or guests of such place of business except to take or serve orders, or to permit any employee to sit down at any table, counter or other place in such place of business with any patron or guest. It is unlawful for any employee of such place of business to circulate among the patrons or guests, or for any employee to sit down at any table, counter or any other place in such place of business with any patron or guest.

5.77.080 Entertainment—Hours when restricted.

It is unlawful for the keeper, manager or person in charge of any restaurant to permit any singing, dancing, playing of musical instruments or any other form of amusement or entertainment to be carried on in such restaurant or public dining room, or in any room, booth or other place connected therewith on or after one a.m. and before eight a.m. of the same day.

5.77.090 Offensive behavior prohibited.

A. It is unlawful for the keeper, manager or the person in charge of any restaurant to permit any person to conduct himself or herself, by word or act therein, or in any room,

booth or other place connected therewith, in such manner as to constitute disturbing the peace, disorderly conduct, or a public nuisance under this code.

B. It is unlawful to permit any dancer, entertainer or other person to appear in or on such place of business in a state of nudity as defined in chapter 5.82.

Chapter 5.78

SCAVENGERS

Sections:

5.78.010 License—Required—Fee.
5.78.020 License—Application.
5.78.030 Reports from licensee required.
5.78.040 Section provisions supplementary.
5.78.050 Vehicles to be covered.
5.78.060 Refuse disposal restrictions.

5.78.010 License—Required—Fee.

It is unlawful to engage in the business of scavenging, or collecting or disposing of animal or vegetable refuse or offal, without first having secured a license therefor. The annual fee for such license shall be as specified on the fee schedule adopted pursuant to section 5.06.050.

5.78.020 License—Application.

Applications for such permits shall be made to the license official, and shall be referred by him to the manager. No such permit shall be issued except on order of the manager.

5.78.030 Reports from licensee required.

Every person granted a license under the provisions of this section to collect garbage, trade waste or market waste must report to the health department the names and addresses of all places of business or individuals from which collection of any such materials is made by such licensed collector. Report must be made as required by the health department.

5.78.040 Section provisions supplementary.

The provisions of this section shall supplement and be in addition to those provisions found under the rules and regulations of the health department.

5.78.050 Vehicles to be covered.

Any vehicle used by such scavenger in his business shall be equipped with covers for such portions as are used for the transportation of refuse.

5.78.060 Refuse disposal restrictions.

It is unlawful for any scavenger to dispose of or store any refuse in any place in the city limits or within one mile thereof except in such areas as are approved for such disposal or storage.

Chapter 5.79

SECONDHAND, COIN DEALERS AND JUNK DEALERS

Sections:

5.79.010 Secondhand, coin dealers and junk dealers—Definitions
5.79.020 Exemptions.
5.79.030 License—Required.
5.79.040 License—Application—Issuance conditions.
5.79.050 License—Fees.
5.79.070 Relocation of business—License required.
5.79.080 Reporting changes in license information.
5.79.090 License—Denial, suspension or revocation.
5.79.100 Hearing on denial, suspension or revocation.
5.79.150 Operation—Hours of closure.
5.79.180 Stolen goods reports.
5.79.190 Computer reporting.
5.79.210 Junkyard premises—Barriers required where.
5.79.220 Junkyard premises enclosure.
5.79.230 Junk dealer vehicles.
5.79.240 Dealer—Liability of licensee.
5.79.250 Secondhand dealer business restrictions.
5.79.260 Dealing with minors prohibited.

5.79.010 Secondhand, coin dealers and junk dealers—Definitions.

For the purpose of this chapter, the following words shall have the meaning as defined in this section:

A. "Antique dealer" means any person engaged in the business of selling old or archaic items which are indicative of an older culture.

B. "Charitable organizations" means any organization, group or church which receives personal property or secondhand goods from persons, groups or businesses but does not pay money or any other thing of value in return for received personal property or secondhand goods. Charitable organizations are not to be licensed or regulated by this section.

C. "Coin dealer" means any person who engages in the business of buying or selling coins having numismatic value.

D. "Dealer" means all businesses or persons licensed under this chapter, and does not include a pawnbroker.

E. "Junk collector" means any person not having a fixed place of business in the city who goes from house to house or place to place gathering, collecting, buying, selling or otherwise dealing in old rags, papers, metals or other articles commonly known as junk.

F. "Junk dealer" means any person who engages in buying or selling old metals (other than precious metals), glass, rags, rubber, paper or other junk from a fixed place of business.

G. "Major appliances" means common major kitchen and washing appliances, such as refrigerators, ovens, dishwashers, washer/dryers, etc., excluding microwaves, stereos, television sets, etc.

H. "Processor" means any person who engages in refining or otherwise altering the form of precious metal not found in a natural state (i.e., raw ore).

I. "Registered customer" means any person who is registered with the dealer and who the dealer knows to be a reputable person in the community. A registered customer must complete a registered customer form supplied by the police department and maintained in the dealer's records. The registered customer form shall have positive identification sections and a section stating that the registered customer certifies that property he will sell to the dealer meets the requirements of subsection B(1) of section 5.48.520 of this title.

J. "Secondhand dealer" means any per-

son who keeps a store, office or place of business for the purchase, barter or exchange or sale of any secondhand merchandise of value, or who engages in the business of dealing in secondhand goods. For the purpose of this section, a "secondhand dealer" shall not include any person who deals in the purchase, barter, exchange or sale of used motor vehicles and trailers, but shall include any person who buys or sells five or more firearms per year.

K. "Secondhand precious metal dealer/processor or precious gem dealer" means any person who engages in buying, selling or processing gold, silver (excluding coins), platinum, other precious metals, secondhand articles containing any of such metals, secondhand precious gems, or any articles containing any precious gems.

5.79.020 Exemptions.

A. The provisions of this chapter are inapplicable to:

1. Any merchant or dealer whose principal business is the selling of new merchandise and secondhand merchandise is taken in as a trade incident to the sale of new or secondhand merchandise;

2. Any dealer who receives secondhand merchandise in trade for other secondhand merchandise of a higher value; or

3. Any dealer whose principal business is servicing and rebuilding major appliances, who receives used major appliances and adds value thereto through refurbishing and repairing the merchandise for resale.

5.79.030 License—Required.

It is unlawful to operate as a secondhand dealer, secondhand precious metal and/or precious gem dealer, junk dealer, junk collector, antique dealer, coin dealer, or processor, without first obtaining a license to do so. A separate license shall be required for each location and for the conduct of the business of a dealer.

5.79.040 License—Application—Issuance conditions.

A. Each application for a license shall be made on the form that the license official requires, and the applicant shall certify that the information given is true and correct under the penalties of perjury.

B. Each application for a dealer's license shall contain such information as deemed necessary by the police department and the license official.

C. Only individuals may apply for a dealer's license:

1. If an application is made on behalf of a corporation, limited partnership, LLC or other business entity, the license shall be applied for by and issued to the president of the corporation or members of the partnership, LLC or other business entity who are authorized to act for it.

2. If the application is made on behalf of a partnership, the license shall be applied for by and issued to all of the partners who are authorized to act for the partnership. Where any partner is a corporation, limited partnership, LLC or the like, the application shall be made by and issued to the president of the corporation or members of the limited partnership, LLC or other entity who are authorized to act for it.

D. Each individual who applies for a dealer's license under this chapter assumes, as an individual, all responsibilities of the dealer and, as an individual, is subject to all conditions, restrictions and requirements imposed on dealers.

E. Each individual applying for a secondhand dealer or secondhand precious metal/gem dealer license shall not be issued a license until such time as the police department has conducted a background investigation on the applicant pursuant to section 5.08.070 of this title.

5.79.050 License—Fees.

The license fee for the following occupations shall be as specified in the fee schedule adopted pursuant to section 5.06.050: secondhand dealer, secondhand precious metal dealer/processor and/or gem dealer, antique dealer, junk dealer, junk collector, or coin dealer.

5.79.070 Relocation of business—License required.

A. A dealer may conduct the licensed business only from the fixed permanent location as specified in the application for the license, which shall be other than a motel or hotel room generally used by transients.

B. A dealer may not remove or relocate the location specified in the license for the business, or open any additional location unless the person has applied for and obtained a separate license from the license official.

5.79.080 Reporting changes in license information.

If, during any license year, there is a change in the information that a person gave in obtaining or renewing a license under this section, the person shall report the change to the license official within 30 days after the change occurs, and certify that the information given is true and correct under the penalties of perjury.

5.79.090 License—Denial, suspension or revocation.

The license official may refuse to grant a license to any individual, and may suspend, revoke or refuse to renew the license of any dealer if it finds:

A. The dealer has violated or is attempting to violate any provisions of this chapter;

B. A similar license issued to the dealer has been suspended, revoked or refused in another jurisdiction for a reason which would justify such action under this section;

C. Any officer, manager, agent or employee of the individual or dealer has violated or is attempting to violate any provisions of this chapter, unless the person or dealer:

1. Had no knowledge of the wrongful conduct and in the exercise of reasonable diligence could not have known of the conduct, and

2. Was unable to prevent the violation or attempted violation with the exercise of reasonable diligence; or

D. The person or dealer has been convicted of theft or receiving stolen property on one or more occasions within the past five years.

5.79.100 Hearing on denial, suspension or revocation.

Before revoking, suspending or refusing to grant or renew any license, the applicant, employee or dealer shall be informed of an opportunity to appeal such decision in accordance with the provisions hereof.

5.79.150 Operation—Hours of closure.

It is unlawful for any dealer licensed under this chapter to keep his place of business open for trade before the hour of 7:00 a.m. or after 10:00 p.m., unless prior written permission is received from the police department and the manager.

5.79.180 Stolen goods reports.

It shall be the duty of every dealer to report to the police department any article sold, or which it is sought to pledge with him, or sold, if he shall have reason to believe that the article was stolen, or lost or found by the person attempting to sell it in the case of a lost article.

5.79.190 Computer reporting.

The police department is authorized to transfer the information received pursuant to this chapter into a computer information system and to report the information in such forms as the police department may determine

is useful for law enforcement purposes.

5.79.210 Junkyard premises—Barriers required where.

Any licensee under this chapter who is the owner of, occupant of or has control of any lot, yard or any other premises within the city limits, and who keeps, collects, permits, maintains or stores in the open thereon any metal, glass, bottles, rags, cans, sacks, rubber, paper or other articles commonly known as junk, or any articles known as secondhand goods, wares or merchandise, shall comply with all applicable board of health rules and regulations and city zoning ordinances mandating solid visual barriers enclosing such lot, yard or premises.

5.79.220 Junkyard premises enclosure.

Any premises, area or piece or parcel of land licensed and used as a junkyard shall have not more than two entrances and two exits, each of which shall not exceed 15 feet in width at the perimeter of the premises. Such premises, areas, pieces or parcels of land shall be enclosed with either a solid nontransparent wall or fence, or link-weave steel wire or combination thereof with a minimum height of seven feet from the ground level, excepting entrances and exits. The fence or wall shall not contain any poster or advertising of, any kind excepting one sign of the licensee not exceeding 100 square feet in size.

5.79.230 Junk dealer vehicles.

Every vehicle used by a junk dealer in the conduct of his business shall bear thereon, in legible characters, the name and address of the owner and proprietor thereof.

5.79.240 Dealer—Liability of licensee.

The holder of a dealer's license is liable for any and all acts of his employees for any violation by them of any of the provisions of this chapter.

5.79.250 Secondhand dealer business restrictions.

No person licensed under this chapter as a secondhand dealer shall purchase, barter, exchange or sell any secondhand merchandise other than that of the same type and character which comprise his principal business, or act as a pawnbroker.

5.79.260 Dealing with minors prohibited.

It is unlawful for any licensee under this section, by himself, his agents or servants, to purchase or receive any personal property, or any articles whatsoever, from any person under 18 years of age.

Chapter 5.80

SERVICE STATIONS

Sections:

5.80.010 Service station defined.
5.80.020 License—Required.
5.80.030 License—Fee.
5.80.040 License—Issuance conditions.
5.80.050 Coin- or credit-operated stations.
5.80.060 Non-business filling stations.
5.80.070 Food and beverage sales.

5.80.010 Service station defined.

A. "Service station" means a place of business where gasoline or any highly volatile fuels for motor vehicles or internal combustion engines are sold or offered for sale at retail and dispensed into the fuel tanks of such motor vehicles.

B. "Service station" also means and includes a private storage tank where such products are dispensed for motor vehicles or internal combustion engines.

5.80.020 License—Required.

It is unlawful to conduct or operate any service station in the city without having first obtained a license therefor; provided that no license shall be issued to an individual until the necessary inspection permits have been acquired from the fire department.

5.80.030 License—Fee.

The license fee for operating a service station shall be as specified in the fee schedule adopted pursuant to section 5.06.050. Such fee shall be in lieu of the flammable combustible handlers' fee.

5.80.040 License—Issuance conditions.

No such license shall be issued unless the location and equipment to be used fully comply with all the ordinances of the city and the Fire Prevention Code of the National Fire Prevention Association governing the storage and handling of combustible liquids.

5.80.050 Coin- or credit-operated stations.

It is unlawful for any person, firm or corporation to maintain any credit or coin-operated station without the services of an attendant on duty at all times.

5.80.060 Non-business filling stations.

Anyone maintaining or operating any fuel storage tank for the use of automobiles of the owner, lessee, employees or agents of such person shall comply with all the provisions of applicable city ordinances except the payment of a fee provision.

5.80.070 Food and beverage sales.

No food or beverages shall be served, sold or allowed to be consumed on the premises of a service station without the licensee first acquiring the necessary food-handling permits and other licenses required by this code.

CHAPTER 5.82

SEXUALLY-ORIENTED BUSINESSES AND EMPLOYEE LICENSING

Sections:

5.82.010 Title for citation.
5.82.020 Purpose.
5.82.030 Definitions.
5.82.040 License required.
5.82.050 Location and zoning restrictions.
5.82.060 Additional restrictions.
5.82.070 Premises location and name.
5.82.080 Issuance of license.
5.82.085 License display.
5.82.090 Fees.
5.82.100 Inspection.
5.82.110 Expiration of license.
5.82.120 Suspension.
5.82.130 Revocation.
5.82.140 Hearing--Denial, revocation, and suspension; Appeal.
5.82.150 Transfer of license.
5.82.160 Hours of operation.
5.82.170 Regulations pertaining to exhibition of sexually explicit films or videos.
5.82.180 Loitering and exterior lighting and monitoring requirements.
5.82.190 Penalties and enforcement.
5.82.200 Application to existing businesses.
5.82.210 Additional regulations concerning live public nudity.
5.82.220 Regulations and unlawful activities.
5.82.230 Outcall services; Operational requirements.
5.82.240 Legitimate artistic modeling.
5.82.250 Severability.

5.82.010 Title for citation.

This chapter may be referred to as the "Cottonwood Heights Sexually-Oriented Business and Employee Licensing Ordinance."

5.82.020 Purpose.

It is the purpose of this ordinance 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 the deleterious secondary effects of sexually oriented businesses within the city. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, 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 ordinance to condone or legitimize the distribution of obscene material.

5.82.030 Definitions.

For purposes of this chapter, certain words and terms are defined in this section. Words used in the present tense include the future; words used in the singular include the plural and the plural the singular. The words and phrases defined in this section shall have the meanings ascribed to them unless a different meaning is clearly indicated by the context.

A. "Adult arcade" means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly 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 their emphasis upon matter exhibiting or describing "spe-

cified sexual activities" or "specified anatomical areas."

B. "Adult bookstore, adult novelty store, or adult video store" means a commercial establishment which has significant or substantial portion of its stock-in trade or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior business or advertising, or maintains a substantial section of its sales or display space to the sale or rental, for any form of consideration, of any one or more of the following:

1. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, slides, or other visual representations which are characterized by their emphasis upon the exhibition or description of "specified sexual activities" or "specified anatomical areas";

2. Instruments, devices, or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others.

C. "Adult cabaret" means a commercial establishment or juice bar, or similar establishment, whether or not alcoholic beverages are served, which regularly features: (1) persons who appear semi-nude, (2) live performances which are characterized by the exposure of "specified anatomical areas" or "specified sexual activities," or (3) films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by their emphasis upon the exhibition or description of "specified sexual activities" or " specified anatomical areas."

D. "Adult motel" means a motel, hotel, or similar commercial establishment which: (1) offers public accommodations, for any form of consideration, and which regularly provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by their emphasis upon the exhibition or description of "specified sexual activities" or "specified anatomical areas" and which advertises the availability of such material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising, including but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television, and (2) offers a sleeping room for rent for a period of time less than ten (10) hours.

E. "Adult motion picture theater" means a commercial establishment where films, motion pictures, videocassettes, slides, or similar photographic reproductions which are characterized by their emphasis upon the exhibition or description of "specified sexual activities" or "specified anatomical areas" are regularly shown for any form of consideration.

F. "Adult theater" means a theater, concert hall, auditorium, or similar commercial establishment which, for any form of consideration, regularly features persons who appear in state of semi-nudity or live performances which are characterized by their emphasis upon the exposure of "specified anatomical areas" or "specified sexual activities."

G. "Business license official" or "license official" means the manager of his designee.

H. "Controlling interest" means the power, directly or indirectly, to direct the operation, management or policies of a business or entity, or to vote twenty percent (20%) or more of any class of voting securities of a business. The ownership, control, or power to vote twenty per cent or more of any class of voting securities of a business shall be presumed, subject to rebuttal, to be the power to direct the management, operation or policies of the business.

I. "Distinguished or characterized by an emphasis upon" means the dominant or principal theme of the object described by such phrase. For instance, when the phase refers to films which are distinguished or characterized

by an emphasis upon the exhibition or description of "specified sexual activities or specified anatomical areas," the films so described are those whose dominant or principal character and theme are the exhibition or description of "specified anatomical areas" or "specified sexual activities."

J. "Escort" means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

K. "Escort agency" means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

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

M. "Employ, employee, and employment" describe and pertain to any person who performs any service on the premises of a sexually oriented 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.

N. "Establish or establishment" shall mean and include any of the following:

1. The opening or commencement of any sexually oriented business as a new business;

2. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;

3. The addition of any sexually oriented business to any other existing sexually oriented business; or

4. The relocation of any sexually oriented business.

O. "Hearing officer" shall mean the manager of the city of Cottonwood Heights or his designee.

P. "Licensee" means a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual or individuals listed as an applicant on the application or renewal application for a sexually oriented business license. In case of an "employee," it shall mean the person in whose name the sexually oriented business employee license has been issued.

Q. "Nudity" or "state of nudity" means the live showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple or areola.

R. "Operate or cause to operate" means to cause to function or to put or keep in a state of doing business.

S. "Operator" means any persons on the premises of a sexually oriented business who is authorized to exercise overall operational control of the sexually oriented business or who causes to function or who puts or keeps in operation the sexually oriented business. A person may be found to be operating or causing to be operated a sexually oriented business whether or not that person is an owner, part owner, or licensee of the sexually oriented business.

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

U. "Person" means any individual, proprietorship, partnership, corporation, limited liability company, limited liability partnership, association, or other legal entity.

V. "Regularly features or regularly shown" means a consistent or substantial course of conduct, such that the films or performances exhibited constitute a substantial portion of the films or performances offered as a part of the ongoing business of the sexually oriented business.

W. "Semi-nude or state of semi-nudity" means a state of dress in which opaque clothing covers no more than the genitals, anus, anal cleft or cleavage, pubic area, vulva, and the nipple and areola of the female breast. This definition shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided that the areola is not exposed in whole or in part.

X. "Semi-nude model studio" means any place where a person, who regularly appears in a state of semi-nudity, is observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons for money or any form of consideration. It is a defense to prosecution for any violation of this chapter that a person appearing in a state of nudity or semi-nudity did so in a modeling class operated:

1. By a college, junior college, or university supported entirely or partly by taxation;

2. By a private college or university which maintains and operates educational programs in which credited are transferable to college, junior college, or university supported entirely or partly by taxation; or:

3. In a structure:

(a) Which has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; and

(b) Where, in order to participate in a class a student must enroll at least three days in advance of the class.

Y. "Sexual encounter establishment" means a business or commercial establishment, that as one of its principle business purposes, offers for any form of consideration, a place where two or more persons may congregate, associate, or consort for the purpose of "specified sexual activities" or when one or more of the persons is semi-nude.

Z. "Sexually oriented business" means an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, escort service, outcall service or agency, adult motion picture theater, adult theater, semi-nude model studio, or sexual encounter establishment. The definition of sexually oriented businesses shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.

AA. "Sexually oriented business employee" means anyone who works on the premises of a sexually oriented business in activities related to the sexually oriented aspects of the business, including, without limitation, all managers, dancers, escorts, models, and other similar employees whether or not hired as employees, agents or independent contractors. The term "sexually oriented business employee" does not include those whose work is unrelated to the sexually oriented aspects of the business, such as janitors, bookkeepers, cooks, bartenders, servers and similar employees unless such persons also are managers or supervisors of the business. All persons making outcall meetings under this chapter, including escorts, models, guards, escort service runners, drivers, chauffeurs and other similar employees shall be considered sexually oriented business employees.

BB. "Sexually oriented entertainment activity" means the sale, rental, or exhibition for

any form of consideration, of books, films, video cassettes, magazines, periodicals, or live performances which are characterized by an emphasis on the exposure or display of specified sexual activity.

CC. "Specified anatomical areas" shall mean human genitals, anus, cleft of the buttocks, or the female breast.

DD. "Specified criminal activity" means any of the following offenses:

1. prostitution or promotion of prostitution; dissemination of obscenity or illegal pornography; sale, distribution or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; lewdness; sexual battery; rape; indecent exposure; indecency with a child; engaging in organized criminal activity relating to a sexually oriented business; sexual assault; molestation of a child; or distribution of a controlled substance; criminal attempt, conspiracy or solicitation to commit any of the foregoing offenses or offenses involving the same elements from any jurisdiction regardless of the exact title of the offense; for which:

(a) less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, or the last date of probation or parole, whichever is the later date, if the conviction is of a misdemeanor offense;

(b) less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, or the last date of probation or parole, whichever is the later date, if the conviction is of a felony offense; or

(c) less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, or the last date of probation or parole, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period.

2. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant.

EE. "Specified sexual activity" means actual or simulated acts of any of the following:

1. Sex acts, normal or perverted, including, but not limited to, human sexual intercourse, sexual copulation between a person or an animal, cunnilingus, bestiality, buggery, pederasty, sodomy, oral copulation, or masturbation; or

2. Excretory functions as a part of or in connection with any of the activities described above.

FF. "Transfer of ownership or control" of a sexually oriented business shall mean any of the following:

1. The sale, lease, or sublease of the business;

2. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or

3. The establishment of a trust, gift, or other similar legal device which 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.

GG. "Viewing room" means the room, booth, or area where a patron of sexually oriented business would ordinarily be positioned while watching a film, videocassette, or other video reproduction.

5.82.040 License required.

A. It shall be a Class B misdemeanor to operate a sexually oriented business in the city without a valid sexually oriented business license.

B. It shall be a Class B misdemeanor for any person to be an "employee" of a sexually

oriented business, provide outcall services, or act as an escort service runner in the city without a valid sexually oriented business employee license.

C. An applicant or renewal applicant for a sexually oriented business license or a sexually oriented business employee license shall file in person at the office of the city a completed application made on a form provided by the city. The application shall be signed by the applicant and notarized.

D. An application or renewal shall be considered complete when it contains the following information:

1. The applicant's full true name and any other names used in the preceding five (5) years.

2. Current mailing address and street address of the applicant.

3. Written proof of age and birth date, in the form of a copy of a birth certificate or driver's license or other picture identification document issued by a governmental agency.

4. If the application or renewal is for a sexually oriented business license, the business name, location, legal description, mailing address and phone number (if one currently exists) of the proposed sexually oriented business.

5. If the application or renewal is for a sexually oriented business license, the name and address of the statutory agent or other agent authorized to receive service of process.

6. A waiver consenting to a criminal background check.

7. A statement of whether the applicant has been convicted or has pled guilty or *nolo contendere* to a specified criminal activity and, if so, the specified criminal activity involved, the date, place, and jurisdiction of each. The statement shall also disclose whether the applicant has had a previous sexually oriented business or sexually oriented business employee license under this chapter or other sexually oriented business ordinances from another city or county denied, suspended, or revoked within the past two years, including the name and location of the sexually oriented business for which the permit was denied, suspended, or revoked, as well as the date of the denial, suspension, or revocation, and whether the applicant has been a partner in a partnership or an officer, director, or stockholder with a controlling interest in a corporation that is licensed under this ordinance whose license has previously been denied, suspended, or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended, or revoked as well as the date of the denial, suspension, or revocation.

The information provided pursuant to Paragraphs 1 through 7 of this subsection shall be supplemented in writing by certified mail, return receipt requested, to the city within ten (10) working days after a change of circumstances which would render such information false or incomplete.

E. An application or renewal for a sexually oriented business license shall be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches. Applicants who are required to comply with section 5.82.170 of this chapter shall submit a diagram meeting the requirements of that section.

F. If a person who wishes to operate a sexually oriented business is an individual, he shall sign the application or renewal for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each officer, director, general partner, manager or other person who will participate directly in decisions relating to management and control of the business shall

sign the application or renewal for a license as applicant. Each applicant must be qualified under section 5.82.080 and each applicant shall be considered a licensee if a license is granted.

G. A license or permit required by this chapter is in addition to any other licenses or permits required by the city, county, state or federal to engage in the business or occupation.

H. Any person engaged in the operation of a sexually oriented business or in the employment of a sexually oriented business shall comply with all other applicable local, state and federal laws, orders and statutes including, but not limited to, zoning ordinances.

I. The information provided by an applicant in connection with an application or renewal for a license under this chapter shall be maintained by the city on a confidential basis, except that such information may be disclosed only to law enforcement agencies in connection with a law enforcement or public safety function, or as may be required by governing law or court order.

5.82.050 Location and zoning restrictions.

It is unlawful for any sexually oriented business to operate a sexually oriented business at any location within the city that is not zoned for sexually oriented businesses. Sexually oriented businesses shall be allowed to do business in areas zoned for such use pursuant to title 19 of this code.

5.82.060 Additional restrictions.

It is unlawful for any sexually oriented business to sell or permit the consumption of any alcoholic beverage or beer, or to be located within 660 feet of a business licensed for the consumption of alcohol or liquor.

5.82.070 Premises location and name.

A. It is unlawful for any sexually oriented business or sexually oriented business employee licensee to operate a business at any location other than the licensed premises.

B. It is unlawful for any sexually oriented business or sexually oriented business employee licensee to do business in the city under any name other than the business name specified on the license.

5.82.080 Issuance of license.

A. Within three (3) business days after the filing of a completed application for a sexually oriented business license, the city shall issue a temporary license to the applicant. The temporary license shall expire upon the final decision of the license official to deny or grant the sexually oriented business license. Within thirty (30) days after the initial filing date of the completed application, the license official shall issue a sexually oriented business license to the applicant or issue to the applicant a letter of intent to deny the application. The license official shall approve the issuance of a sexually oriented business license unless one or more of the following is found by a preponderance of evidence to be true:

1. An applicant is less than eighteen (18) years of age.

2. An applicant has failed to provide information as required by section 5.82.040 for issuance of a license or has falsely answered a question or request for information on the application form.

3. The fee required by section 5.82.090 has not been paid.

4. An applicant has been convicted of a specified criminal activity, or has been shown to have committed a violation of sections 5.82.100, 5.82.130(B), or 5.82.210 within the previous year.

5. In the case of a sexually oriented business license application, the premises are not in compliance with applicable building, fire and health ordinances or codes and the interior configuration requirements of this chapter.

B. Within three (3) business days after the filing of a completed application for a sexually oriented business employee license, the city shall issue a temporary sexually oriented business license to the applicant. The temporary sexually oriented business license shall expire upon the final decision of the license official to deny or grant the license. Within thirty (30) days after the initial filing date of the receipt of a completed application, the license official shall either issue a sexually oriented business license or issue a written notice of intent to deny a sexually oriented business license to the applicant. The license official shall approve the issuance of a sexually oriented business license unless one or more of the following is found by a preponderance of evidence to be true.

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

2. The applicant has failed to provide information as required by section 5.82.040 for issuance of a license or has falsely answered a question or request for information on the application form.

3. The fee required by section 5.82.090 has not been paid.

4. The applicant has been convicted of a specified criminal activity, or has been shown to have committed a violation of sections 5.82.100, 5.82.130(B) or 5.82.210 within the previous year.

C. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and, if the license is for a sexually oriented business, the address of the sexually oriented business.

5.82.085 License display.

The sexually oriented business license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time. A sexually oriented business employee shall keep the employee's license on his or her person or on the premises where the licensee is then working or performing and shall produce such license for inspection upon request by a law enforcement officer or other city official performing functions connected with the enforcement of this chapter.

5.82.090 Fees.

The fee for engaging in, carrying on, or conducting a sexually oriented business or employee license shall be as specified on the fee schedule adopted pursuant to section 5.06.050.

5.82.100 Inspection.

A. Sexually oriented business operators and sexually oriented business employees shall permit law enforcement officers or agents of the city who are performing functions connected with the enforcement of this chapter to inspect the portions of the sexually oriented business premises where patrons are permitted, for the purpose of ensuring compliance with this chapter, at any time the sexually oriented business is occupied by patrons or open for business. A licensee's knowing or intentional refusal to permit such an inspection shall constitute a violation of this chapter.

B. Inspections authorized by this section do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation.

5.82.110 Expiration of License.

Each license shall remain valid for the term described in section 5.06.110 unless otherwise suspended or revoked. Such license may be renewed only by making application as provided in section 5.82.040 and paying the fee as provided in section 5.82.090.

5.82.120 Suspension.

The city shall issue a notice of intent to suspend a sexually oriented business license if it is determined that the sexually oriented

business licensee has knowingly violated this chapter or has knowingly allowed an employee to violate this chapter. The city shall issue a notice of intent to suspend a sexually oriented employee license if it is determined that the employee has knowingly violated this chapter. Such suspension shall not exceed thirty (30) days.

5.82.130 Revocation.

A. The city shall issue a notice of intent to revoke a sexually oriented business license or a sexually oriented business employee license if a cause for suspension pursuant to section 5.82.100 occurs and the license has been suspended within the preceding twelve (12) months.

B. The city shall issue a notice of intent to revoke a sexually oriented business license or, in the case of an employee, a sexually oriented business employee license, if the hearing officer determines by a preponderance of evidence that:

1. The licensee has knowingly given false or misleading information in the application or renewal for the license.

2. The sexually oriented business licensee has knowingly allowed possession, use, or sale of controlled substances on the premises, or in the case of an employee, the sexually oriented business employee licensee has knowingly engaged in the possession, use, or sale of controlled substances on the premises. It shall be a defense to a revocation proceeding under this subsection that such possession, use, or sale occurred pursuant to a valid medical prescription.

3. The sexually oriented business licensee has knowingly allowed prostitution on the premises or, in the case of an employee, the sexually oriented business employee licensee has engaged in prostitution on any licensed premises.

4. The sexually oriented business licensee knowingly operated the sexually oriented business during a period of time when the license was suspended or, in the case of an employee, the sexually oriented business employee licensee has been employed as a sexually oriented business employee at a time when the employee's license was suspended.

5. The sexually oriented business licensee committed an act in violation of 18 U.S.C. § 2257 in or on the premises, or in the case of an employee, the sexually oriented business employee licensee committed an act in violation of 18 U.S.C. § 2257 in or on the premises.

6. The sexually oriented business licensee has knowingly allowed any specified sexual activity to occur in or on the premises or, in the case of an employee, the sexually oriented business employee licensee has engaged in any specified sexual activity in or on any licensed premises.

C. The fact that any relevant conviction is being appealed shall have no effect on the revocation of the license.

D. For the purposes of this chapter, if an act by any employee constitutes grounds for revocation of that employee's license and the hearing officer determines by a preponderance of evidence that an officer, director, or general partner, or an employee who managed, supervised, or controlled the operation of the business, knowingly allowed such act to occur on the premises, then the hearing officer may review the employee's license.

E. When, after the notice and hearing procedure described in section 5.82.140, the hearing officer revokes a license, the revocation shall continue for one (1) year and the licensee shall not be issued a sexually oriented business license or sexually oriented business employee license for a period of one (1) year from the date revocation becomes effective, provided that, if the conditions of section 5.82.140(B) have been satisfied, a provisional license will be granted pursuant to that section. If, subsequent to a revocation based solely on subsection (B)(1) of this section, the

hearing officer finds that the basis for the revocation has been corrected or abated, the applicant shall be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective. If the license was revoked under subsections (B)(2), (B)(3), (B)(4), (B)(5), or (B)(6) of this section, an applicant may not be granted another sexually oriented business license or sexually oriented business employee license until at least one (1) year has elapsed.

5.82.140 Hearing--Denial, revocation, and suspension--Appeal.

A. If the city determines that facts exist for denial, suspension, or revocation of a license under this chapter, the city shall notify the applicant or licensee (respondent) in writing of the city's intent to deny, suspend or revoke such license, including the grounds therefore, by personal delivery, or by certified mail.

1. The notification shall be directed to the most current business address or other mailing address on file with the city for the respondent. Within twenty (20) days of receipt of such notice, the respondent may provide to the city a written response that shall include a statement of reasons why the respondent believes the license should not be denied, suspended, or revoked.

2. Within five (5) days of the receipt of respondent's written response, the city shall notify respondent in writing of the hearing date on respondent's denial, suspension, or revocation proceeding. At such hearing, the hearing officer shall conduct a hearing at which respondent shall have the opportunity present all of respondent's arguments and to be represented by counsel, present evidence and witnesses on his or her behalf, and cross-examine any of the city's witnesses. The hearing officer shall issue a written opinion within five (5) days after the hearing.

3. If a written response from respondent is not received by the city within the time stated in section (A)(1) above, or if after a hearing, the hearing officer concludes that grounds exist for denial, suspension, or revocation of the license, then such denial, suspension, or revocation shall become final five (5) days after the hearing officer sends, by certified mail, written notice to the respondent that the license has been denied, suspended, or revoked. Such notice shall include a statement advising the respondent of the right to appeal such decision to a court of competent jurisdiction. If the hearing officer finds that no grounds exist for denial, suspension, or revocation of the license, then within five (5) days after the hearing, the hearing officer shall immediately withdraw the intent to deny, suspend, or revoke the license and shall notify the respondent in writing by certified mail of such action. If the hearing relates to a denial of a license, the hearing officer shall contemporaneously order that the license be issued.

B. An applicant or licensee (aggrieved party) whose application for a license has been denied or whose license has been suspended or revoked shall have the right to appeal such action to a court of competent jurisdiction.

C. Sexually oriented businesses or sexually oriented business employees operating or working under temporary licenses shall be subject to the provisions of this chapter.

5.82.150 Transfer limitations.

A licensee shall not transfer his license to another person or location, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the sexually oriented business license application.

5.82.160 Hours of operation.

It shall be unlawful for any sexually oriented business to allow such establishment to remain open for business, or to permit any

employee to engage in the performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service, before 10:00 a.m. or after 11:00 p.m. of any particular day. It shall be unlawful for any employee of a sexually oriented business to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service, before 10:00 a.m. or after 11:00 p.m. of any particular day.

5.82.170 Regulations pertaining to exhibition of sexually explicit films or videos.

A. A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, films, video cassettes, or other video reproductions characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following requirements.

1. Each application for a sexually oriented business license shall contain a diagram of the premises showing the location of all manager's stations, viewing rooms, overhead lighting fixtures, video cameras and monitors installed for monitoring purposes and restrooms, and shall designate all portions of the premises in which patrons will not be permitted. Restrooms shall not contain video reproduction equipment. The diagram shall also designate the place at which the license will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The license official may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

2. The application shall be sworn to be true and correct by the applicant.

3. No alteration in the configuration or location of a manager's station or viewing room may be made without the prior approval of the license official.

4. It shall be the duty of the operator, and of any employees present on the premises, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to paragraph 1 of this subsection.

5. The interior premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one (1.0) foot candle as measured at the floor level. It shall be the duty of the operator, and of any employees present on the premises, to ensure that the illumination described above is maintained at all times that the premises is occupied by patrons or open for business.

6. It shall be the duty of the operator, and of any employees present on the premises, to ensure that no specific sexual activity occurs in or on the licensed premises.

7. It shall be the duty of the operator, and of any employees present on the premises, to ensure that not more than one person is present in a viewing room at any time. No person shall enter a viewing room that is occupied by another person.

8. It shall be the duty of the operator, and of any employees present on the premises, to ensure that no openings of any kind exist between viewing rooms. No person shall make

an attempt to make an opening of any kind between viewing rooms.

9. It shall be the duty of the operator, or of any employee who discovers two or more patrons in a viewing room or discovers any person making or attempting to make an opening of any kind between viewing rooms, to immediately escort such persons from the premises.

10. It shall be the duty of the operator, or of any employee, who discovers an opening of any kind between viewing rooms to immediately secure such rooms, and prevent entry into them by any patron until such time as the wall between the rooms has been repaired to remove the opening. Removal and repairing openings between viewing rooms shall be in a manner that is as structurally substantial as the original wall construction.

11. It shall be the duty of the operator, at least once each business day, to inspect the walls between viewing rooms for openings of any kind.

12. It shall be the duty of the operator to post conspicuous signs in well-lighted entry areas of the business stating all of the following:

(a) That no loitering is permitted in viewing rooms.

(b) That the occupancy of viewing rooms is limited to one person.

(c) That specific sexual activity on the premises is prohibited.

(d) That the making of openings between viewing rooms is prohibited.

(e) That violators will be required to leave the premises.

(f) That violations of Subparagraphs (b), (c) and (d) of this paragraph are unlawful.

13. It shall be the duty of the operator to ensure that floor coverings in viewing rooms are nonporous, easily cleanable surfaces, with no rugs or carpeting.

14. It shall be the duty of the operator to ensure that all wall surfaces and seating surfaces in viewing rooms are constructed of or permanently covered by nonporous easily cleanable material.

15. It shall be the duty of the operator to ensure that premises are clean and sanitary. Such duty shall be fulfilled if the operator complies with the following cleaning procedures:

(a) The operator shall maintain a regular cleaning schedule of at least two cleanings per day, documented by appropriate logs.

(b) The operator shall provide an employee to check all areas for garbage, trash, body fluids and excrement and to remove and clean all areas with a disinfectant. All solid waste generated by the business shall be collected from the premises for disposal at a lawful solid waste disposal facility at least once each week. Prior to collection solid waste shall be stored in a manner that prevents access by animals or members of the public and which will not facilitate the creation of a health nuisance.

(c) Thorough cleaning of the entire interior of any room providing patron privacy shall be done using a disinfectant. Cleaning shall include floors, walls, doors, seating, monitors, video cameras, and windows and other surfaces.

16. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises in which patrons are permitted, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose. A manager's station shall not exceed forty (40) square feet of floor area. If the premises has two (2) or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this

paragraph must be by direct line of sight from the manager's station. It is the duty of the operator to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is on the premises. It shall be the duty of the operator, and it shall also be the duty of any employees present on the premises, to ensure that the view area specified in this paragraph remains unobstructed by any doors, curtains, walls, merchandise, display racks or other materials or enclosures at all times that any patron is present on the premises.

B. It shall be unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.

5.82.180 Loitering and exterior lighting and monitoring requirements.

A. It shall be the duty of the operator of a sexually oriented business to: (a) initiate and enforce a no loitering policy within the external boundaries of the real property upon which the sexually oriented businesses are located; (b) post conspicuous signs stating that no loitering is permitted on such property; (c) designate one or more employees to monitor the activities of persons on such property by visually inspecting such property at least once every ninety (90) minutes or inspecting such property by use of video cameras and monitors; and (d) provide lighting of the exterior premises to provide for visual inspection or provide video monitoring to prohibit loitering. If used, video cameras and monitors shall operate continuously at all times that the premises is open for business. The monitors shall be installed within a manager's station.

B. It shall be unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.

5.82.190 Penalties and enforcement.

In addition to suspension or revocation of a license, it is unlawful for any person to knowingly violate, disobey, omit, neglect, or refuse to comply with or resist the enforcement of any of the provisions of this chapter. Each day the violation is committed, or permitted to continue, shall constitute a separate offense.

5.82.200 Application to existing businesses.

The provisions of this chapter shall be applicable to all persons and businesses described herein whether the herein-described activities were established before or after the effective date of the ordinance codified in this chapter and regardless of whether such persons and businesses are currently licensed to do business in the city.

5.82.210 Additional regulations concerning live public nudity.

It is unlawful for a sexually oriented business licensee to knowingly violate the following regulations or to knowingly allow an employee or any other person to violate the following regulations.

A. It shall be a violation of this chapter for a patron, employee, or any other person to knowingly or intentionally, in a sexually oriented business, appear in a state of nudity, regardless of whether such public nude conduct is expressive in nature.

B. It shall be a violation of this chapter for a person to knowingly or intentionally in a sexually oriented business appear in a semi-nude condition unless the person is an employee who, while semi-nude, shall be at least six (6) feet from any patron or customer and on a stage at least two (2) feet from the floor.

C. It shall be a violation of this chapter for any employee, while semi-nude in a sexually oriented business, to knowingly or intentionally receive any pay, drink or gratuity directly from any patron or customer, or for any patron or customer to knowingly or intentionally pay or give any gratuity directly to any

employee, while said employee is semi-nude in a sexually oriented business.

D. It shall be a violation of this chapter for any employee, while semi-nude, to knowingly or intentionally touch a customer or the clothing of a customer.

E. It is unlawful for any person, including any patron of any sexually oriented business, to touch in any manner any performer; to place any money or object on or within the costume or person of any performer; or to give or offer to give to any such performer any drinks, money or object while such performer is performing; except that money may be placed on the stage which shall not be picked up by the performer except by hand.

F. A sign in a form to be prescribed by the city and summarizing the provisions of paragraphs A, B, C, and D of this section shall be posted near the entrance of each sexually oriented business in such a manner as to be clearly visible to patrons upon entry.

5.82.220 Regulations and unlawful activities.

It is unlawful for any sexually oriented business or sexually oriented business employee to:

A. Allow persons under the age of eighteen (18) years, or the age of twenty one (21) years if required by applicable liquor ordinance, on the licensed premises, except that in adult businesses which exclude minors from less than all of the business premises, minors shall not be permitted in excluded areas;

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

C. Except for seminude dancing bars, to allow, offer or agree to allow any alcohol being stored, used or consumed on or in the licensed premises;

D. Allow the outside door to the premises to be locked while any customer is in the premises;

E. Allow, offer or agree to gambling on the licensed premises;

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

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

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

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

J. Allow, offer, commit or agree to any sex act as validly defined by city ordinances or state statute in the presence of any customer or patron;

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

L. Allow, offer or agree to allow a patron or customer to masturbate in the presence of the sexually oriented business employee or on the premises of a sexually oriented business.

5.82.230 Outcall services; Operational requirements.

It is unlawful for any business or employee providing outcall services contracted for in the city to fail to comply with the following requirements:

A. All businesses licensed to provide outcall services pursuant to this chapter shall pro-

vide 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 be performed, the total amount such services shall cost the patron, and any special terms or conditions relating to the services to be performed. The contract need not include the name of the patron. The business licensee shall keep and maintain a copy of each written contract entered into pursuant to this section for a period not less than one year from the date of provision of services there under. 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. All outcall businesses licensed pursuant to this chapter shall maintain an open office or telephone at which the licensee or licensee's designated agent may be personally contacted during all hours outcall employees are working. The address and phone number of the license location shall appear and be included in all patron contracts and published advertisements. For outcall businesses whose premises are licensed within the corporate limits of the city, private rooms or booths where the patrons may meet with the outcall employee shall not be provided at the open office or any other location by the service, nor shall patrons meet outcall employees at the business premises.

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

5.82.240 Legitimate artistic modeling.

A. The city does not intend to unreasonably or improperly prohibit legitimate modeling which may occur in a state of nudity for purposes protected by the First Amendment of the U.S. Constitution or analogous state protections. The city does intend to prohibit prostitution and related offenses occurring under the guise of nude modeling. Notwithstanding the provisions of subsection 5.82.220(K) of this chapter, a licensed outcall employee may appear in a state of nudity before a customer or patron, provided that a written contract for such appearance was entered into between the customer or patron and the employee and signed at least twenty four (24) hours before the nude appearance. All of the other applicable provisions of this chapter shall still apply to such nude appearance.

B. If a contract for nude modeling or appearance is signed more than forty eight (48) hours in advance of the modeling or appearance, the individual to appear nude shall not be required to obtain a license pursuant to this chapter. During such unlicensed nude appearance, it is unlawful to:

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

2. Allow, offer or agree to any touching of the contracting party or other person by the individual appearing nude;

3. Allow, offer or agree to commit prostitution, solicitation of prostitution, solicitation of a minor, or committing activities harmful to a minor;

4. Allow, offer, commit or agree to any sex act as validly defined by city ordinances or state statute;

5. Allow, offer, agree or permit the contracting party or other person to masturbate in the presence of the individual contracted to appear nude;

6. Allow, offer or agree for the individual appearing nude to be within five feet (5') of any other person while performing or while nude or seminude.

5.82.250 Severability.

Each section and provision of this chapter are hereby declared to be independent divi-

sions and subdivisions and, not withstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provisions of said chapter, or the application thereof to any person or circumstance is held to be invalid, the remaining sections or provisions and the application of such sections and provisions to any person or circumstances other than those to which it is held invalid, shall not be affected thereby, and it is hereby declared that such sections and provisions would have been passed independently of such section or provision so known to be invalid.

Chapter 5.84

SHOOTING GALLERIES

Sections:

5.84.010 License—Required.
5.84.020 License—Fees.
5.84.030 Premises to be kept clean.
5.84.040 Targets and safety precautions.
5.84.050 Conduct regulations.

5.84.010 License—Required.

It is unlawful to operate or conduct a shooting gallery of any kind in the city without having obtained a license therefor.

5.84.020 License—Fees.

The annual license fee for such galleries shall be as specified in the fee schedule adopted pursuant to section 5.06.050. Such fee shall be in addition to the general business license fee.

5.84.030 Premises to be kept clean.

Premises used for shooting galleries shall be kept in a clean and sanitary condition.

5.84.040 Targets and safety precautions.

Targets shall be placed before a backstop of steel or other material sufficiently thick to prevent any bullet or arrow from piercing it, and so arranged that there will be no danger from ricocheting or deflected pieces of bullet. All shooting galleries shall comply with all applicable laws, rules and regulations regarding lead contamination.

5.84.050 Conduct regulations.

All persons present in any shooting gallery shall conduct themselves in an orderly manner, and shall not make or cause to be made any loud or unnecessary noise. It is unlawful to gamble or bet in any such place.

Chapter 5.85

SHORT-TERM RENTALS

Sections:

5.85.010 Definitions.
5.85.020 Zoning code compliance—Required.
5.85.030 Business license—Required.
5.85.040 License—Application—Contents.
5.85.050 License—Application—Investigation.
5.85.060 License—Fee.
5.85.070 Inspections for compliance.
5.85.080 Register to be kept.

5.85.010 Definitions.

A. "*Bedroom*" means a room designated and used primarily for sleeping and rest on a bed.

B. "*Short-term rental*" means the rental, letting of rooms or sub-leasing/renting of any structure, dwelling, or portion thereof for occupancy, dwelling, lodging or sleeping purposes for a period of less than thirty consecutive days.

C. "*Short-term rental property*" means any real property used, or to be used, for short-term rental purposes.

5.85.020 Zoning code compliance—Required.

It is unlawful to conduct or operate a short-term rental business without full compliance with the requirements of chapter 19.89 of this code. The issuance of short-term rental business license under this chapter does not authorize operation of a short-term rental business without concurrent compliance with all of the requirements of said chapter 19.89 and all other requirements of this code and other applicable law.

5.85.030 Business license—Required.

It is unlawful to conduct or operate a short-term rental without having obtained a business license therefor under this chapter.

5.85.040 License—Application—Contents.

Applications shall contain such information as the license official shall from time to time require, including the location of the short-term rental property, the number of bedrooms contained in such property, and the number of persons to be accommodated.

5.85.050 License—Application—Investigation.

Applications shall be referred by the license official to the fire department, the police department, the health department, the planning department and such other agencies or departments as the license official may deem appropriate to make or cause to be made an investigation of the short-term rental property, the applicant and other relevant matters. Departmental recommendation as to the issuance or denial of the license, based on the above inspections, shall then be referred to the license official for submission to the manager.

5.85.060 License—Fee.

The annual fee for a business license under this chapter shall be the same as the general business license fee under this title.

5.85.070 Inspections for compliance.

A. After a license has been granted, the license official or designee may make periodic inspections of a short-term rental to ensure compliance with this chapter and all other applicable law.

B. The fire department shall perform at least one inspection annually to ensure compliance with applicable codes.

C. A licensee under this chapter also is

subject to the inspections authorized in section 19.89.160 of this code.

5.85.080 Register to be kept.

Each short-term rental proprietor shall keep or cause to be kept a register of guests. Such registration or list shall be available for inspection by the license official or designee at any time.

CHAPTER 5.86

RESIDENTIAL SOLICITATION

Sections:

5.86.001 Purpose.
5.86.002 No other city license or approval required.
5.86.003 Definitions.
5.86.004 Exemptions from chapter.
5.86.005 Solicitation prohibited.
5.86.006 Registration of solicitors.
5.86.007 Application form.
5.86.008 Written disclosures.
5.86.009 When registration begins.
5.86.010 Issuance of certificates.
5.86.011 Form of certificate and identification badge.
5.86.012 Maintenance of registry.
5.86.013 Non-transferability of certificates.
5.86.014 Denial, suspension or revocation of a certificate of registration.
5.86.015 Appeal.
5.86.016 Deceptive soliciting practices prohibited.
5.86.017 "No Soliciting" notice.
5.86.018 Duties of solicitors.
5.86.019 Time of day restrictions.
5.86.020 Buyer's right to cancel.
5.86.021 Penalties.

5.86.001 Purpose.

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

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

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.

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.

5.86.002 No other city license or approval required.

A. Registered solicitors and persons exempt from registration need not apply for, nor obtain, any other license, permit, or registra-

tion from the city to engage in door-to-door solicitation.

B. Any business licensed by the city under another city ordinance that uses employees, independent contractors, or agents for door-to-door solicitation in an effort to provide any tangible or intangible benefit to the business, shall be required to have such solicitors obtain a certificate, unless otherwise exempt from registration.

C. 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.

D. 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.

5.86.003 Definitions.

For the purposes of this chapter, the following definitions shall apply:

A. *"Advocating"* means speech or conduct intended to inform, promote, or support religious belief, political position, or charitable activities.

B. *"Appeals officer"* means the city council or designee of the city responsible for receiving the information from the city and appellant regarding the denial or suspension of a certificate and issuing a decision as required by this chapter.

C. *"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.

D. *"Applicant"* means an individual who is at least sixteen 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.

E. *"Application Form"* means a standardized form provided by the city to an applicant to be completed and submitted as part of registration.

F. *"BCI"* means an original or copy, dated no older than 180 days prior to the date of the application, of either: (1) a Utah Department of Public Safety Bureau of Criminal Identification verified criminal history report personal to the applicant; or (2) verification by the Utah Department of Public Safety Bureau of Criminal Identification that no criminal history rising to the level of a disqualifying status exists for the applicant.

G. *"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.

H. *"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.

I. *"Charitable activities"* means advocating by persons or entities that either are, or support, a charitable organization.

J. *"Charitable organization"* includes any person, joint venture, partnership, limited liability company, corporation, association, group, or other entity:

1. that is:

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

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

(c) established for any charitable purpose; and

2. 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.

3. Charitable organization includes a chapter, branch, area, or office, or similar affiliate or any person soliciting contributions within the state for a charitable organization that has its principal place of business outside the city or state of Utah.[1]

K. *"Competent individual"* means a person claiming or appearing to be at least eighteen years of age and of sufficiently sound mind and body to be able to engage in rational thought, conversation, and conduct.

L. *"Completed application"* means a fully completed application form, a BCI, two copies of the original identification relied on by the applicant to establish proof of identity, and the tendering of Fees.

M. *"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.

N. *"Disqualifying status"* means anything specifically defined in this chapter as requiring the denial or suspension of a certificate, and any of the following:

1. The applicant or registered solicitor has been criminally convicted of: (a) felony homicide, (b) physically abusing, sexually abusing, or exploiting a minor, (c) the sale or distribution of controlled substances, or (d) sexual assault of any kind.

2. Criminal charges currently pending against the applicant or registered solicitor for: (a) felony homicide, (b) physically abusing, sexually abusing, or exploiting a minor, (c) the sale or distribution of controlled substances, or (d) sexual assault of any kind.

3. The applicant or registered solicitor has been criminally convicted of a felony within the last ten years;

4. The applicant or registered solicitor has been incarcerated in a federal or state prison within the past five years;

5. The applicant or registered solicitor has been criminally convicted of a misdemeanor within the past five years involving a crime of: (a) moral turpitude, or (b) violent or aggravated conduct involving persons or property.

6. A final civil judgment been entered against the applicant or registered solicitor within the last five years indicating that: (a) the applicant or registered solicitor had either engaged in fraud, or intentional misrepresentation, or (b) 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);

7. 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;

8. The applicant or registered solicitor has an outstanding arrest warrant from any jurisdiction; or

9. 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.

O. *"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.

[1]Charitable Solicitation Act, UTAH CODE ANN. § 13-22-2(1)(a) & (b).

P. *"Entity"* includes a corporation, partnership, limited liability company, or other lawful entity, organization, society or association.

Q. *"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.

R. *"Final civil judgment"* means a civil judgment that would be recognized under state law as a judgment to which collateral estoppel would apply.

S. *"Goods"* means one or more tangible items, wares, objects of merchandise, perishables of any kind, subscriptions, or manufactured products offered, provided, or sold.

T. *"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

1. the means of payment or consideration used for the purchase;

2. the time of delivery of the goods or services; or

3. the previous or present classification of the solicitor as a solicitor, peddler, hawker, itinerant merchant, or similar designation.

U. *"Licensing officer"* means the city employee(s) or agent(s) responsible for receiving from an applicant or registered solicitor the completed application and either granting, suspending, or denying the applicant's certificate.

V. *"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.

W. *"Political position"* means any actually held belief, or information for, against, or in conjunction with any political, social, environmental, or humanitarian belief or practice.

X. *"Registered solicitor"* means any person who has been issued a current certificate by the city.

Y. *"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.

Z. *"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.

AA. *"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.

BB. *"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:

1. 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;

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

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

CC. *"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.

DD. *"Services"* means those intangible goods or personal benefits offered, provided, or sold to a competent Individual of a residence.

EE. *"Soliciting"* or *"solicit"* or "solicitation" means any of the following activities:

1. 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;

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

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

4. Seeking to obtain orders or prospective customers for goods or services.

5. 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.

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

FF. *"Solicitor" or "solicitors"* means a person(s) engaged in door-to-door solicitation.

GG. *"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.

HH. *"Substantiated report"* means an oral, written, or electronic report:

1. That is submitted to and documented by the city;

2. By any of the following:

(a) 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;

(b) City law enforcement or licensing officer; or

(c) Any other regularly established law enforcement agency at any level of government;

3. That provides any of the following information regarding a registered solicitor:

(a) Documented verification of a previously undisclosed disqualifying status of a registered solicitor;

(b) Probable cause that the registered solicitor has committed a disqualifying status which has not yet been determined to be a disqualifying status;

(c) 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

(d) 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.

II. *"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 the applicant's notarized signature.

5.86.004 Exemptions from chapter.

The following are exempt from registration under this chapter:

A. Persons specifically invited to a residence by a competent individual prior to the time of the person's arrival at the residence;

B. 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. 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. Persons advocating or disseminating information for, against, or in conjunction with, any religious belief, or political position regardless of whether goods, services, or any other consideration is offered or given, with or without any form of commitment, contribution, donation, pledge, or purchase; and

E. Persons representing a charitable organization. The charitable exemption shall apply to students soliciting contributions to finance extracurricular social, athletic, artistic, scientific or cultural programs, provided that the solicitation has been approved in writing by the school administration, and that such student solicitors carry current picture student identification from the educational institution for which they are soliciting.

Those persons exempt from registration are not exempt from the duties and prohibitions outlined in sections 5.86.017, 5.86.018 and 5.86.019 of this chapter while advocating or soliciting.

5.86.005 Solicitation prohibited.

Unless otherwise authorized, permitted, or exempted pursuant to the terms and provisions of this chapter, the practice of being in and upon a private residence within the city by solicitors, for the purpose of home solicitation sales or to provide goods or services, is prohibited and is punishable as set forth in this chapter.

5.86.006 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.

5.86.007 Application form.

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

A. *Review of written disclosures.* An affirmation that the applicant has received and reviewed the disclosure information required by this chapter.

B. *Contact Information.*

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

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

3. If different from the applicant, the name, address, and telephone number of the responsible person or entity; and

4. The address by which all notices to the applicant required under this chapter are to be sent.

C. *Proof of identity.* An in-person verification by the licensing officer of the applicant's true identity by use of any of the following which bear a photograph of said applicant:

1. A valid drivers license issued by any state;

2. A valid passport issued by the United States;

3. A valid identification card issued by any State;

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

Upon verification of identity, the original identification submitted to establish proof of identity shall be returned to the applicant.

D. *Proof of registration with Department of Commerce.* The applicant shall provide proof that either the applicant, or the responsible person or entity, has registered with the Utah Department of Commerce;

E. *Special events sales tax number.* The applicant shall provide a special events sales tax number for either the applicant, or for the responsible person or entity for which the applicant will be soliciting;

F. *Marketing Information.*

1. The goods or services offered by the applicant, including any commonly known, registered or trademarked names;

2. 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.

G. *BCI background check.* The applicant shall provide:

1. An original or a copy of a BCI background check as defined in section 5.86.003; and

2. A signed copy of a waiver whereby applicant agrees to allow the city to obtain a name/date of birth BCI background check on applicant for purposes of enforcement of this chapter. [2]

H. *Responses to questions regarding "disqualifying status."* The applicant shall be required to affirm or deny each of the following statements on the application form:

1. Has the applicant been criminally convicted of: (a) felony homicide, (b) physically abusing, sexually abusing, or exploiting a minor, (c) the sale or distribution of controlled substances, or (d) sexual assault of any kind.

2. Are any criminal charges currently pending against the applicant for: (a) felony homicide, (b) physically abusing, sexually abusing, or exploiting a minor, (c) the sale or distribution of controlled substances, or (d) sexual assault of any kind.

3. Has the applicant been criminally convicted of a felony within the last ten years;

4. Has the applicant been incarcerated in a federal or state prison within the past five years;

5. Has the applicant been criminally convicted of a misdemeanor within the past five years involving a crime of: (a) moral turpitude, or (b) violent or aggravated conduct involving persons or property.

6. Has a final civil judgment been entered against the applicant within the last five years indicating that: (a) the applicant had either engaged in fraud, or intentional misrepresentation, or (b) 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);

7. 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;

8. Does the applicant have an outstanding arrest warrant from any jurisdiction; or

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

I. *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.

J. *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.

[2] See UTAH CODE ANN. §53-10-108(1)(b).

5.86.008 Written disclosures.

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

A. The applicant's submission of the application authorizes the city to verify information submitted with the completed application including:

1. the applicant's address;

2. the applicant's and/or responsible person or entity's state tax identification and special use tax numbers, if any;

3. the validity of the applicant's proof of identity;

B. The city may consult any publically available sources for information on the applicant, including but not limited, to databases for any outstanding warrants, protective orders, or civil judgments.

C. Establishing proof of identity is required before registration is allowed;

D. Identification of the fee amount that must be submitted by applicant with a completed application;

E. The applicant must submit a BCI background check with a completed application;

F. To the extent permitted by state and/or federal law, the applicant's BCI background check shall remain a confidential, protected, private record not available for public inspection;

G. The city will maintain copies of the applicant's application form, proof of identity, and identification badge. These copies will become public records available for inspection on demand at the city offices whether or not a certificate is denied, granted, or renewed.

H. The criteria for disqualifying status, denial, or suspension of a certificate under the provisions of this chapter.

I. That a request for a temporary certificate will be granted or denied the same business day that a completed application is submitted.

5.86.009 When registration begins.

The licensing officer shall not begin the registration process unless the applicant has submitted a completed application. The original identification submitted to establish proof of identity shall be returned after the licensing officer verifies the applicant's identity. A copy of the identification may be retained by the licensing officer. If an original BCI background check is submitted by the applicant, the licensing officer shall make a copy of the BCI and return the original to the applicant.

5.86.010 Issuance of certificates.

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

A. *Temporary certificate.*

1. A temporary certificate shall issue allowing the applicant to immediately begin door-to-door solicitation upon the following conditions:

(a) Applicant's submission of a completed application**;**

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

(c) Applicant establishes proof of identity;

(d) the Applicant's representations on the application form do not affirmatively show a disqualifying status;

(e) the BCI does not affirmatively show a disqualifying status; and

(f) the applicant has not previously been denied a certificate by the city, or had a certificate revoked for grounds that still constitute a disqualifying status under this chapter.

2. 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.

B. *Annual certificate.* Within twenty-five (25) calendar days of the issuance of a temporary certificate the city shall:

1. 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.

2. Issue written notice to the applicant and the responsible person or entity, if any, that the applicant either:

(a) will be issued an annual certificate, eligible for renewal one year from the date of issuance of the temporary certificate; or

(b) will not be issued an annual certificate for reasons cited in section 5.86.014 of this chapter.

C. *Renewal certificate.* An annual certificate shall be valid for one year from the date of issuance of the temporary certificate and shall expire at midnight on the anniversary date of issuance. Any annual certificate that is not suspended, revoked, or expired may be renewed upon the request of the registered solicitor and the submission of a new completed application and payment of the fee, unless any of the conditions for the denial, suspension or revocation of a certificate are present as set forth in section 5.86.014 of this chapter, or a disqualifying status is present.

5.86.011 Form of certificate and identification badge.

A. *Certificate form.* If the licensing officer determines 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.

B. *Identification badge.* With both the temporary and annual certificates, the city shall issue each registered solicitor an identification badge that shall be worn prominently on his or her person while soliciting in the city. The identification badge shall bear the name of the city and shall contain: (1) the name of the registered solicitor; (2) address and phone number of the registered solicitor, or the name, address, and phone number of the responsible person or entity is provided; (3) a recent photograph of the registered solicitor; and (4) the date on which the certificate expires.

5.86.012 Maintenance of registry.

The licensing officer shall maintain and make available for public inspection a copy or record of every completed application received and the certificate or written denial issued by the city. The applicant's BCI background check shall remain a confidential, protected, private record not available for public inspection. The licensing officer may furnish to the head of the city's law enforcement agency a listing of all applicants, those denied, and those issued a certificate.

5.86.013 Non-transferability of certificates.

Certificates shall be issued only in the name of the applicant and shall list the responsible party or entity, if any. The certificate shall be non-transferable. A registered solicitor desiring to facilitate or attempt to facilitate home solicitation sales with different: (a) goods or services; or (b) responsible person or entity, from those designated in the originally submitted completed application, shall submit a written change request to the licensing officer. A new certificate based on the amended information shall issue for the balance of time remaining on the solicitor's previous certificate before the amendment was filed. Before

the new certificate is given to the registered solicitor, the registered solicitor shall obtain a revised identification badge from the city, after payment of the fee for the identification badge.

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

A. *Denial.* Upon review, the licensing officer shall refuse to issue a certificate to an applicant for any of the following reasons:

1. Denial of temporary certificate.

(a) the application form is not complete;

(b) the applicant fails to (i) establish proof of identity, (ii) provide a BCI or (iii) pay the fees;

(c) the completed application or BCI indicates that the applicant has a disqualifying status; or

(d) 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.

2. Denial of annual certificate.

(a) The information submitted by the applicant at the time of the granting of the temporary certificate is found to be incomplete or incorrect;

(b) Since the submission of the completed application, the applicant is subject to a previously undisclosed or unknown disqualifying status;

(c) Failure to complete payment of the fees;

(d) Since the submission of the application, the city has received a substantiated report regarding the past or present conduct of the applicant;

(e) Since the submission of the application, the city or other governmental entity has either criminally convicted or obtained a civil injunction against the applicant for violating this chapter or similar federal, state, or municipal laws in a manner rising to the level of a disqualifying status; or

(f) 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).

3. Denial of annual certificate renewal.

(a) The information submitted by the applicant when seeking renewal of a certificate is found to be incomplete or incorrect;

(b) Since the submission of the renewal application, the applicant is subject to a previously undisclosed or unknown disqualifying status;

(c) Failure to complete payment of the fees;

(d) 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;

(e) The city or other governmental entity has either criminally convicted or obtained a civil injunction against the applicant for violating this chapter or similar federal, state, or municipal laws in a manner rising to the level of a disqualifying status; or

(f) 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).

B. *Suspension or revocation.* The city shall either suspend or revoke a certificate when any of the reasons warranting the denial of a certificate occurs.

C. *Notice of denial or suspension.* Upon determination of the licensing officer to deny an applicant's completed application or to suspend a registered solicitor's certificate, the city shall cause written notice to be sent to the ap-

plicant or registered solicitor by the method indicated in the completed application. The notice shall specify the grounds for the denial or suspension, the documentation or information the city relied on to make the decision, the availability of the documentation for review by applicant upon one business day notice to the city, and the date upon which the denial or suspension of the certificate shall take effect. It shall further state that the applicant or registered solicitor shall have ten business days from the receipt of the notice of denial or suspension to appeal the same. The denial or suspension of the certificate shall be effective no sooner than two calendar days from the date the notice is sent, unless that suspension is because of exigent circumstances outlined in section 5.86.003(HH)(3)(d), in which case the suspension is effective immediately. The denial or suspension shall remain effective unless and until the order is rescinded, overturned on appeal, or determined by a court to be contrary to equity or law. Failure to appeal the suspension of a certificate automatically results in its revocation.

5.86.015 Appeal.

An applicant or registered solicitor whose certificate has been denied or suspended shall have the right to appeal to the city council or its designee. Any appeal must be submitted by either the applicant, the responsible person or entity, or legal counsel for either who: (a) documents the relationship with the applicant or responsible person or entity; or (b) is licensed or authorized by the state of Utah to do so, and makes the assertion of an agency relationship. The following procedures and requirements shall apply:

A. Any appeal must be submitted in writing to the city recorder with a copy to the license officer within ten business days of the decision from which the appeal is taken. Such appeal shall describe in detail the nature of the appeal, the action complained of and the grounds for appeal.

B. 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.

C. The appeals officer shall review, *de novo*, all written information submitted by the applicant or registered solicitor to the licensing officer, any additional information relied upon by the licensing officer as the basis for denial, suspension or revocation, and any additional information supplied by the city, applicant or registered solicitor. Any additional information submitted by any party to the appeal to the appeals officer shall be simultaneously submitted to the opposing party. If desired, any party shall have three business days to submit rebuttal documentation to the appeals officer regarding the additional information submitted by the opposing party.

D. The appeals officer will render a decision no later than fifteen calendar days from the date the appeal was taken, unless an extension of time is agreed upon by the parties. In the event that any party to the appeal submits rebuttal information as allowed in section 5.86.015(c) of this chapter, the fifteen calendar days shall be extended to include the additional three days for rebuttal.

1. The denial or suspension of the certificate shall be reversed by the appeals officer if upon review of the written appeal and information submitted, the appeals officer finds that the licensing officer made a material mistake of law or fact in denying or suspending the applicant or registered solicitor's certificate.

2. 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 af-

firmed and constitute a determination that the suspended certificate is revoked.

3. The decision of the appeals officer shall be delivered to the applicant or registered solicitor by the means designated in the completed application, or as otherwise agreed upon when the appeal was filed.

E. After the ruling of the appeals officer, the applicant or solicitor is deemed to have exhausted all administrative remedies with the city.

F. 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.

5.86.016 Deceptive soliciting practices prohibited.

A. No solicitor shall intentionally make any materially false or fraudulent statement in the course of soliciting.

B. A solicitor shall immediately disclose to the consumer during face-to-face solicitation; (i) the name of the solicitor; (ii) the name and address of the entity with whom the solicitor is associated; and (iii) the purpose of the solicitor's contact with the person and/or competent individual. This requirement may be satisfied through the use of the badge and an informational flyer.

C. No solicitor shall use a fictitious name, an alias, or any name other than his or her true and correct name.

D. 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.

5.86.017 "No Solicitation" notice.

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

B. 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.

C. It shall be the responsibility of the solicitor to check each residence for the presence of any such notice.

D. The provisions of this section shall apply also to solicitors who are exempt from registration pursuant to the provisions of this chapter.

5.86.018 Duties of solicitors.

A. Every person soliciting or advocating shall check each residence for any "No Soliciting" sign or placard or any other notice or sign notifying a solicitor not to solicit on the premises, such as, but not limited to, "No Solicitation" signs. If such sign or placard is posted such solicitor shall desist from any efforts to solicit at the residence or dwelling and shall immediately depart from such property. Possession of a certificate of registration does not in any way relieve any solicitor of this duty.

B. It is a violation of this chapter for any person soliciting or advocating to knock on the door, ring the doorbell, or in any other manner attempt to attract the attention of an occupant of a residence that bears a "No Solicitation" sign or similar sign or placard for the purpose of engaging in or attempting to engage in advocating, a home solicitation sale, door-to-door soliciting, or soliciting.

C. It is a violation of this chapter for any solicitor through ruse, deception, or fraudulent concealment of a purpose to solicit, to take action calculated to secure an audience with an occupant at a residence.

D. Any solicitor who is at any time asked by an occupant of a residence or dwelling to leave shall immediately and peacefully depart.

E. The solicitor shall not intentionally or recklessly make any physical contact with, or touch another person without the person's consent;

F. The solicitor shall not follow a person into a residence without their explicit consent;

G. The solicitor shall not continue repeated soliciting after a person and/or competent Individual has communicated clearly and unequivocally their lack of interest in the subject, goods or services of the solicitor;

H. The solicitor shall not use obscene language or gestures.

5.86.019 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.

5.86.020 Buyer's right to cancel.

In any home solicitation sale, unless the buyer requests the solicitor to provide goods or services without delay in an emergency, the seller or solicitor shall present to the buyer and obtain buyer's signature to a written statement which informs the buyer of the right to cancel within the third business day after signing an agreement to purchase. Such notice of "buyer's right to cancel" shall be in the form required by UTAH CODE ANN. § 70C-5-103, or a current version thereof or any state or federal law modifying or amending such provision.

5.86.021 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 5.87

SWAP MEETS AND FLEA MARKETS

Sections:

5.87.010 Swap meets and flea markets—Definitions.
5.87.020 License—Required.
5.87.030 License—Application—Investigation.
5.87.040 License—Fee.
5.87.050 Swap meet licensee—Right to issue daily business licenses.
5.87.060 Pawnbroker and secondhand dealer restrictions.
5.87.070 License—Revocation.
5.87.080 Posting of regulations concerning lost property.
5.87.090 Sales subject to law—Prohibited sales designated.
5.87.100 Sellers—Licensing requirements.
5.87.110 Time and Procedure for sales.
5.87.120 Liability of principal.
5.87.130 Recordkeeping—Requirements generally.
5.87.140 Lists of lost or stolen property.
5.87.150 Report of suspected lost or stolen goods.
5.87.160 Recordkeeping—Reports to police department.
5.87.170 Violation—Penalty.

5.87.010 Swap meets and flea markets—Definitions.

For the purposes of this chapter:

A. "Flea market" means and shall be considered a swap meet.

B. "Swap meet licensee" means any person who rents, lends or leases his premises to temporary sellers for use as a marketplace to barter and exchange goods.

5.87.020 License—Required.

It is unlawful to hold a swap meet or flea market without having first obtained a license therefore as is provided in this chapter. The license fee for a charity may be waived by the manager upon application.

5.87.030 License—Application—Investigation.

Application for a swap meet license shall be made to the license official, and shall state thereon the name of the applicant, the place of business, and the number of employees intended to be engaged, type of sale to be conducted, description of the place where such sale is to be held, itemized list of goods, wares and merchandise to be offered for sale (including those on order and not received), where and from whom such stock was purchased or acquired, and if not purchased, the manner of such acquisition, and such other additional information as the license official may require. The police department or any other officer of the city designated by the manager shall investigate each applicant for such license, and shall report back to the manager whether or not such applicant is a person who has been convicted of the offense of receiving stolen goods, burglary, larceny, or robbery. The license of any swap meet licensee who is presently in business and so convicted shall be revoked.

5.87.040 License—Fee.

The annual fee for a swap meet license shall be as specified in the fee schedule adopted pursuant to section 5.06.050, which shall be in addition to the general business license fee.

5.87.050 Swap meet licensee—Right to issue daily business licenses.

A swap meet licensee shall have the right to issue daily business licenses to resident sellers upon receiving the required fee, refer to fee schedule 5.06.050, and the signed, certified license applications listing the goods to be sold or exchanged.

5.87.060 Pawnbroker and secondhand dealer restrictions.

No swap meet licensee shall conduct the business of pawnbroker or secondhand dealer without having obtained the licenses required for such dealers in addition to his swap meet license.

5.87.070 License—Revocation.

In addition to other penalties provided by law, any swap meet licensee violating the provisions of this chapter may have his license revoked or suspended.

5.87.080 Posting of regulations concerning lost property.

It is unlawful to conduct a swap meet unless he shall keep conspicuously posted in his place of business copies of this section and UTAH CODE ANN. § 76-6-407 (or any amendments thereto) dealing with lost property converted by a finder.

5.87.090 Sales subject to law—Prohibited sales designated.

All swap meet sales shall be in accordance with the law. No sales of firearms, pyrotechnics, ammunition, explosives, alcoholic beverages or medicines shall be made by sellers on the swap meet licensee's premises. No seller under the age of 18 shall be entitled to sell or dispose of goods at the swap meet without the written, notarized permission of his parents or legal guardian.

5.87.100 Sellers—Licensing requirements.

A. All sellers shall apply to the swap meet licensee for a license to sell on the premises of a swap meet licensee. Each seller must furnish to the swap meet licensee a signed statement containing the required information outlined in section 5.87.030 along with the following certification:

I certify that I am the lawful and legal owner of the listed property which is free and clear from all liens and encumbrances. I further certify that the property descriptions are true and correct and I am aware that the use of a fictitious name or furnishing false information on this form is punishable by law. I am also aware that a copy of this application shall be forwarded to the police department within 24 hours after it is submitted to the owner or manager of the premises where the sale is held.

B. Upon receiving the required fee and application form, the swap meet licensee shall furnish to the seller a daily business license permit which will allow the seller to sell on the day requested, subject to revocation by the police department for the violation of any provisions of this chapter. Any seller having his license revoked by the police department may petition the manager within ten days after the revocation for review of the action by the police department. The manager, upon reviewing the action of the police department, may rescind the revocation or make the revocation permanent by prohibiting the seller from selling at a swap meet for a period of up to one year.

5.87.110 Time and procedure for sales.

A. Resident sellers must apply for a daily business license no less than ten days in advance of the day they wish to utilize a swap meet licensee's premises. Nonresident sellers must apply to the police department for the screening of all goods to be sold on a swap meet licensee's premises, and the issuance of a nonresident seller's license prior to the date of the sale. However, if the swap meet licensee employs, at its own expense, a police officer to enforce and administer the licensing provision of this article, then resident sellers may utilize the swap meet licensee's premises on

the same day application is made for daily business permits.

B. For purposes of this chapter, "resident" means a person or entity who has a valid Utah driver's license, a Utah university or college ID containing a resident seller's picture, or a Utah business license.

5.87.120 Liability of principal.

The holder of a swap meet license is liable for any and all acts of his employees, and for any violation by them of the provisions of this chapter.

5.87.130 Recordkeeping—Requirements generally.

A. Every swap meet licensee doing business in the city shall keep a record of all sellers wishing to utilize his premises. The record shall contain:

1. A description of the seller, including:

a. Name, including middle initial;

b. Address;

c. Sex;

d. Nationality;

e. Height;

f. Weight;

g. Color of hair;

h. Color of eyes;

i. Driver's license number and state of issue;

j. Occupation; and

k. Date of birth.

2. A description of the seller's vehicle, including:

a. Make;

b. Model;

c. Year;

d. Color;

e. License number and state; and

f. Registered owner if different than person offering articles for sale or exchange; and

3. A description of articles offered for sale, including:

a. Name of article;

b. Size;

c. Color;

d. Serial number or ID mark;

e. The number of a seller's sales tax permit, if any;

f. The number of the seller's daily business license permit; and

g. The date the seller applied to sell.

B. Provided, however, that for used merchandise with no ID marks, where the value of the goods is under $5, the licensee may simply note on the form approved by the police department that the seller is selling the following types of items: clothing, books, dishes, art work, bedding, toys, produce, bottles, or other types of household items specified on the form.

5.87.140 Lists of lost or stolen property.

The police department shall circulate a list of reported lost and stolen property to all swap meet licensees.

5.87.150 Report of suspected lost or stolen goods.

It shall be the duty of every swap meet licensee to report to the police department any article he has reason to believe was stolen, or lost and found by the person attempting to sell it.

5.87.160 Recordkeeping—Reports to police department.

It is unlawful for any swap meet licensee to fail to deliver on the date of application to the police department, a legible and accurate copy of the records required under section 5.48.370 along with the seller's daily business license permit fee.

5.87.170 Violation—Penalty.

In addition to other penalties provided by law, any person violating the provisions of this article shall be guilty of a misdemeanor. No seller shall be deemed to have substantially

complied with these provisions if:

A. He fails to list all the property proposed to be sold or exchanged; or

B. He fails to list the correct serial number or identifying mark(s) of such property; and

C. He gives false information as to his identity or the property's identity, even though such information is not specifically required by this chapter.

Chapter 5.88

VENDING MACHINES

Sections:

5.88.010 Vending machine defined.
5.88.020 Licensing requirements.

5.88.010 Vending machine defined.

"Vending machine" means any self-service device offered for public use which, upon insertion of coins, tokens or currency, or by other means dispenses unit servings of food or beverage, or other articles or items, either in bulk or in package, without the necessity of replenishing the device between each vending operation.

5.88.020 Licensing requirements.

A. The annual license fee for a vending machines (other than vending machines dispensing cigarettes) is as specified in the fee schedule adopted pursuant to section 5.06.050.

B. This fee shall accompany the annual license application filed with the license office.

Chapter 5.90

VENDING MACHINES—CIGARETTE

Sections:

5.90.010 License—Required.
5.90.020 License—Application.
5.90.030 License—Fee.
5.90.040 Sales to persons under 19.
5.90.050 Violation—Penalty.

5.90.010 License—Required.

It is unlawful to sell or give away any cigarettes by means of a vending machine without first being licensed to do so.

5.90.020 License—Application.

Applications for such licenses shall be made in writing to the license official. Applications shall contain the name of the applicant, the address at which sales are to be made, and the number of cigarette vending machines; applications shall be filed with the license official, together with the license fee hereinafter required.

5.90.030 License—Fee.

The annual fee for a license under this chapter shall be as specified in the fee schedule adopted pursuant to section 5.06.050.

5.90.040 Sales to persons under 19.

No person shall maintain any tobacco vending machine in a place of business where persons under the age of 19 years are allowed.

5.90.050 Violation—Penalty.

Any person, firm or corporation violating the provisions of this chapter, or permitting the same to be violated by their employees, shall be guilty of a misdemeanor. The holder of such license may also suffer the penalty of having his license for such sale revoked for any such violation.

Chapter 5.92

GARAGE/YARD SALES

Sections:

5.92.010 Purpose.
5.92..020 Frequency of Sales.
5.92.030 Duration of Sale.
5.92.040 Location of Sale.
5.92.050 Goods to be Sold.
5.92.060 Violation.

5.92.010 Purpose.

The standards in this chapter shall apply to all garage/yard sales at residences within the city. A license for a garage/yard sale held in compliance with this chapter is not required. Temporary sales within the city's commercial areas are regulated under section 19.76.250 of this code.

5.92.020 Frequency of Sales.

There shall be no more than three (3) garage/yard sales at a residence per calendar year (which is defined as the period from each January 1st through the following December 31st). Sale events shall be separated by at least ten (10) days, measured from the end of one sale to the beginning of the subsequent sale.

5.92.030 Duration of Sale.

No garage/yard sale shall occur for longer than seventy-two (72) consecutive hours.

5.92.030 Location of Sale.

Each garage/yard sale shall occur at the actual residence of the owner of the materials to be sold; provided, however, that in the event of a neighborhood garage/yard sale event (i.e.—3-5 neighbors pool their belongings into a super garage/yard sale), the materials for sale must be located at the actual residence of at least one of the participating sellers.

5.92.040 Goods to be Sold.

The goods offered for sale at a garage/yard sale must be used items from that residence. The offering for sale of new items, or used items purchased or obtained at other locations with the intent to be resold at a garage/yard sale in the city, is prohibited and is a violation of this chapter.

5.92.060 Violation.

Any person or entity violating the provisions of this chapter, or permitting the same to be violated by its employees or agents, is guilty of a misdemeanor.

CHART 5.06.050

GENERAL BUSINESS LICENSE FEE SCHEDULE

Effective January 1, 2006, all business licensees are subject to the following general, temporary, and disproportionate business license fees. The annual general business license fees levied and imposed hereunder cover registering, monitoring, reporting, licensing, related administrative costs and costs of special regulations.

Ordinance Reference	License Category	Fee Amount	Comment
5.06.040	**General Business License** (excluding home occupations)	$100.00	Per location, plus employee fee
5.06.040	**All businesses (excluding home occupations)**	10.00	Fire services disproportionate fee
5.06.040	**All businesses (excluding home occupations)**	10.00	Police services disproportionate fee
5.54	**Home Occupations:**		
	Home occupation grossing over $1,500 annually	100.00	
	Home occupation grossing $1,500 or less annually	50.00	
5.14.030	**Temporary Licenses:**	80.00	Per location, plus employee fee
	Employee Fee	6.00	Per employee

DISPROPORTIONATE BUSINESS LICENSE FEE SCHEDULE BASED ON SPECIAL REGULATIONS AND INSPECTIONS

In addition to the fee described above, the following businesses are subject to the additional annual fees described below for regulatory services involving registering, monitoring, reporting and licensing:

Ordinance Reference	License Category	Fee Amount	Comment
5.24	**Alcoholic Beverage License**	300.00	Except for a religious wine use permit
	Religious Wine Use Permit	0.00	
5.28	Amusement Device	10.00	User fee (cost of decals/ permits) per amusement device, not to exceed $1,000 annually per location
5.36	**Commercial Vehicle License**	10.00	User fee (cost of decals/permits) per commercial vehicle per vehicle user fee
5.64	**Abandoned Mobile Homes**	30.00	Per permit
5.75	**Pawnbrokers**	750.00	
5.82	**Sexually-Oriented Businesses:**	1,650.00	Plus any fee payable to the police department
5.86	**Solicitors, Canvassers and Peddlers**	20.00	Per solicitor or peddler
5.90	**Vending Machines – Cigarettes**	10.00	Per machine

DISPROPORTIONATE BUSINESS LICENSE FEE SCHEDULE
BASED ON DISPROPORTIONATE COST

In addition to the fees described above, the following businesses are subject to the additional annual fees described below for the disproportionate cost of police services:

Ordinance Reference	License Category	Fee Amount	Comment
5.28	**Amusement Halls**	250.00	Per location with four or more amusement devices, musical amusement device, billiard, pool and bagatelle table or bowling alley lane fees, plus restaurant dispro-portionate fee if ap-plicable
5.47	**Financial Institution**	550.00	Per location plus employee fee
5.50	**Fireworks**	300.00	Per location
5.53	**Food or Grocery, Retail and Department Stores**	900.00	Per location
5.66	**Motion Picture Theatres**	165.00	Per screen/stage
5.68	**Multiple Rental Dwelling Units**	0.00	Per unit in excess of four rental dwelling units
5.70	**Nursing and Convalescent Homes**	40.00	Per bed
5.77	**Restaurant**	225.00	Per location
5.80	**Service Stations**	350.00	Per location

CHART 5.86.070

BOND SCHEDULE

Average Price of Products or Services to be Sold	Required Bond Amount
Less than $500	$500
More than $500 but less than $1,000	$1,000
More than $1,000 but less than $1,500	$1,500
More than $1,500 but less than $2,500	$2,500
More than $2,500 but less than $5,000	$5,000
More than $5,000 but less than $10,000	$10,000
More than $10,000	$15,000