



SYRACUSE CITY

Syracuse City Council Agenda
June 28, 2011 – 6:00 PM
Large Conference Room
Municipal Building, 1979 W. 1900 S.

1. Consideration of adjourning into Closed Executive Session pursuant to the provisions of Section 52-4-205 of the Open and Public Meetings Law for the purpose of discussing the character, professional competence, or physical or mental health of an individual; pending or reasonably imminent litigation; or the purchase, exchange, or lease of real property (roll call vote).

**** Meetings of the Syracuse City Council may be conducted via electronic means pursuant to Utah Code Ann. § 52-4-207. In such circumstances, contact will be established and maintained via electronic means and the meeting will be conducted pursuant to the Rules, Policies and Procedures established by the Governing Body for electronic meetings. Councilmember Shingleton has requested an opportunity to participate in this meeting via electronic means.****

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In compliance with the Americans Disabilities Act, persons needing auxiliary communicative aids and services for this meeting should contact the City Offices at 801-825-1477 at least 48 hours in advance of the meeting.

#### **CERTIFICATE OF POSTING**

The undersigned, duly appointed City Recorder, does hereby certify that the above notice and agenda was posted within the Syracuse City limits on this 24<sup>th</sup> day of June 2011 at Syracuse City Hall on the City Hall Notice Board and at <http://www.syracuseut.com/>. A copy was also provided to the Standard-Examiner on June 24, 2011.

CASSIE Z. BROWN, CMC  
SYRACUSE CITY RECORDER

**\*\*Members of the public who desire to offer a thought or invocation at Syracuse City Council Meetings shall contact the City Administrator at least two (2) weeks in advance of the meeting. Request will be honored on a first come, first serve basis. In the event there are no requests to offer a comment or prayer, the Mayor may seek opening comment or prayer from those members of the public attending the meeting or from City Staff or City Council.**



## SYRACUSE CITY

### **Syracuse City Council Work Session Notice**

June 28, 2011 – Immediately following the Special Meeting  
which begins at 6:00 pm  
Municipal Building, 1979 W. 1900 S.

Notice is hereby given that the Syracuse City Council will meet in a work session on Tuesday, June 28, 2011, immediately following the Special Meeting which begins at 6:00 p.m. in the large conference room of the Municipal Building, 1979 W. 1900 S., Syracuse City, Davis County, Utah. The purpose of the work session is to discuss/review the following items:

- a. Public Comments
- b. Discuss potential funding options for road repairs (1 hour)
- c. Discussion regarding Title Six rewrite of the Syracuse City Code (1 hour)
- d. Council Business

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COUNCIL AGENDA

June 28, 2011

Agenda Item # b Discuss potential funding options for road repairs

Factual Summation

- Any questions regarding this item may be directed at City Manager Bob Rice
- Please see attached power point presentation regarding funding options



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Road Funding Options

Syracuse City Council
June 28, 2011



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Problem

- \$2.889 million backlog for immediate road repairs
 - Additional \$12 million to complete all road work – completed over 5-10 years
 - Ongoing yearly road maintenance need of approximately \$850k
-



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Since 2006

- Cost of road repair/resurfacing increased 25%
 - Cost of road reconstruction increased 30%
 - Total mileage increased by 10 miles or 11.8%
 - Population increased approximately 24%
-



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History

- City receives \$650k annually from the State in Class B & C Road Funds
 - City has diverted Class B & C road funds to other needs – mainly salaries & wages approximately \$450,000. Left with \$200,000/year dedicated to roads.
 - No general fund contribution to road maintenance
-



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Option 1: Raise Property Taxes

- Increase property taxes 28.75%
- Sunset in two years

Pros

- Will generate approximately \$900k over two years

Cons

- Will not generate sufficient funds to meet current backlog
-



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Option 2: Bonding Only

- Sales Tax Bond \$3 million for ten years @ 2.8% interest
- Yearly payment of \$350,000
- Sales Tax Funds dedicated to pay back the bond
- Requires majority community wide vote in November

Pros

- No tax increase to residents
- Early 2012 generation of needed funds

Cons

- \$0 to ongoing road maintenance for 10 years
- B&C still not meeting ongoing maintenance needs
- 500k in interest payments
- Fund 150k deficit???



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Option 2: Bond \$ Breakdown

- Bond for \$3 million increases our budget expense approximately \$350,000/ year.
 - Current scenario only allows for \$200,000 of B&C funds to be dedicated to roads.
 - Add \$350,000 in bond repayment
 - = No projects for 10 years and an \$150,000 overall budget shortfall.
-



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Option 3: Street Maintenance Fee

- Maintenance Fee added to utility bills
- Pledge that fees added to the general fund go to roads
- 6,514 households + 115 businesses & churches = 6,629 (as of May 2011)
- @ \$6 per month generates a yearly revenue of =\$477,288
- @ \$7 per month generates a yearly revenue of =\$556,836
- @ \$8 per month generates a yearly revenue of =\$636,384

Pros

- Ongoing revenue source
- Retain B&C funds for road maintenance.
- Easier to plan for projects as funds are not subject to budget approval
- Fees can be adjusted up or down to meet ongoing road needs

Cons

- Take time to begin addressing backlog of projects



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Option 3: Fee \$ Breakdown

- **\$6 Fee** = increase revenues by \$477,288. Ensures that approximately \$677,288 (200,000 + 477,288) goes directly to road projects.
 - **\$7 Fee** = increase revenues by \$556,836. Ensures that approximately \$756,836 (200,000 + 556,836) goes directly to road projects.
 - **\$8 Fee** = increase revenues by \$636,384. Ensures that approximately \$836,384 (200,000 + 636,384) goes directly to road projects.
-



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Option 4: Bond w/Property Tax Increase

- Increase property taxes 28.75%
- Sunset in two years
- Bond \$3 million for ten years

Pros

- Tax will generate approximately 900K
- Bond will immediately generate needed funds

Cons

- Sunset tax will not completely repay bond
 - B&C will have to pick up remaining bond payments, eliminating ongoing maintenance
 - 500k in interest
-



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Option 4: Bond and Tax \$ Breakdown

- Bond for \$3 million increases our budget expense approximately \$350k/ year.
 - Current scenario with property tax increase allows for \$650k (200k + 450k) of funds to be dedicated to roads.
 - Add \$350k in bond repayment
 - = First 2 years road budget of \$300k. Years 3-10 would result in budget shortfall of \$150k (300k – 450k property tax increase removed)
-



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Option 5: Bond w/Street Maintenance Fee

- Maintenance fee added to utility bills
- \$6= \$477,288 \$7= \$556,836 \$8= \$636,384
- Bond \$3 million for ten years

Pros

- Ongoing revenue source
- Bond will immediately generate needed funds
- After bond repayment, fee will supplement B&C funds, reaching a sustainable yearly funding for road maintenance
- Can implement fee immediately

Cons

- First 10 years, B&C funds not sufficient to meet ongoing maintenance
- 500k in interest payments



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Option 5: Bond and \$6 Fee Breakdown

- Bond for \$3 million increases our budget expense approximately \$350k/ year.
 - With \$6 Fee increase allows for \$677,288 (200k + 477,288) of funds to be dedicated to roads.
 - Add \$350k in bond repayment
 - = First 10 years road budget of \$327,288. After year 10, annual budget of \$677,288.
-



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Option 5: Bond and \$7 Fee Breakdown

- Bond for \$3 million increases our budget expense approximately \$350k/ year.
 - With \$7 Fee increase allows for \$756,836 (200k + 556,836) of funds to be dedicated to roads.
 - Add \$350k in bond repayment
 - = First 10 years road budget of \$406,288. After year 10, annual budget of \$756,836.
-



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Option 5: Bond and \$8 Fee Breakdown

- Bond for \$3 million increases our budget expense approximately \$350k/ year.
 - With \$8 Fee increase allows for \$836,384 (200k + 636,384) of funds to be dedicated to roads.
 - Add \$350k in bond repayment
 - = First 10 years road budget of \$486,384. After year 10, annual budget of \$836,384.
-



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Steps for Sales Tax Bond Ballot Measure

- According to State law, sales tax bonds must be approved by voters.
 - Council must approve an election resolution for bond to be on ballot 75 days before the November 8th general election.
 - Adopt resolution August 9th City Council meeting
-



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Staff Recommendation

- Option 5: \$3 Million Bond with \$8 Street Maintenance Fee.
 - Bond for \$2.889 million in road projects
 - Include a minimum base road budget of \$486,384 for next 10 years and a long-term ongoing budget of \$836,384 after bond repayment.



COUNCIL AGENDA

June 28, 2011

Agenda Item # c

Discussion regarding Title Six rewrite of the
Syracuse City Code

Factual Summation

- Any questions regarding this item may be directed at City Recorder Cassie Brown
- Please see attached Title Six (previously Title Five) rewrite provided by City Attorney Todd Godfrey

TITLE 6

BUSINESS REGULATIONS

- CHAPTER 6-01: GENERAL PROVISIONS**
- CHAPTER 6-02: ASSESSMENTS AND LICENSE FEES**
- CHAPTER 6-03: REVOCATION, SUSPENSION OR DENIAL OF LICENSES**
- CHAPTER 6-04: ALCOHOLIC BEVERAGES**
- CHAPTER 6-05: SEXUALLY ORIENTED BUSINESSES**
- CHAPTER 6-06: DOOR-TO-DOOR SOLICITATION**

CHAPTER 6-01: GENERAL PROVISIONS

- 6-01-010. Definitions.**
- 6-01-020. Business License Required.**
- 6-01-030. Business License Official - Duties and Responsibilities.**
- 6-01-040. License - Application Requirements.**
- 6-01-050. Issuance of a Business License.**
- 6-01-060. Renewals of Business Licenses.**
- 6-01-070. Inspections.**
- 6-01-080. Payment Dates of Business License Fees.**
- 6-01-090. Term of Business Licenses.**
- 6-01-100. License - Transfer of Name or Location - Fee.**
- 6-01-110. License - Transfer to Other Persons Prohibited.**
- 6-01-120. License - Posting and Display Required.**
- 6-01-130. Reciprocal Recognition of Business Licenses.**
- 6-01-140. Constructive Notice of Time Periods.**
- 6-01-150. Penalty.**

6-01-010. Definitions.

The following definitions shall be applicable throughout this Title unless a different meaning is clearly intended:

- (a) “Alcoholic Beverage Licenses” means Class 'A' or Class 'B' beer licenses as defined in Chapter 6-04 of this Title.
- (b) “Applicant” means any person applying for any license provided for in this Title. If the person is a partnership or corporation, then each partner, officer or director is considered an applicant and must qualify accordingly.
- (c) “Application” means a formal written request for the issuance of any license permitted under this Title.

(d) “Authorized Officers” means those persons authorized by the City or other entities to inspect businesses and enforce the provisions of this Title or other applicable regulations, including peace officers, ordinance enforcement officers, and employees of the Health Department, Fire District, Community Development Department, Building Inspection Division, City Attorney's Office or the City Administrator.

(e) “Business” means and includes all trades, occupations, professions or activities engaged in within Syracuse City, carried on for the purpose of gain or economic profit, except that the acts of employees rendering service to employers shall not be included in the term "business" unless otherwise specifically provided.

(f) “Business License Official” or “License Official” shall mean the City employee with the responsibility of administering this Title and all licenses granted hereunder.

(g) “Consolidated Fee Schedule” means the schedule of fees adopted each year by resolution of the Syracuse City Council setting forth the various fees charged by the City.

(h) “Employee” means all individuals who work for an employer for salary or commission or wages and who are subject to the direction and control of such employer.

(i) “Engaging in Business” includes, but is not limited to, the sale of real or personal property at retail or wholesale, the bartering or trading of property or services, 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.

(j) “Fire Department” means the Syracuse City Fire Department.

(k) “Health Department” means the Davis County Health Department.

(l) “Home Occupation” means the use of a portion of a dwelling or accessory building, studio, or work room for occupation at home and subject to rules and regulations of the City Zoning Ordinance. Includes any business activity at or from one’s residence that does not fall within the definition of Limited Home Occupation.

(m) “Limited Home Occupation” means any business activity conducted away from one’s residence but in which said residence is used as the primary location for any of the following activities associated with the business activity: record keeping, phone calls, reception of mail, computer or internet activity.

(n) “Licensee” means the person who has obtained any type of license provided for in this Title. The term shall also include any employee or agent of the licensee.

(o) “Person” means an individual, partnership, corporation, association or other legal entity.

(p) “Place of Business” means each separate location maintained or operated by the licensee, whether or not under the same name, within the City from which business is engaged in.

(q) “Solicitors” means a person who does not reside in or have an established business in Syracuse City and who is in the City for a temporary time to sell products or services. (Ord. 02-10)

(r) “Temporary or Seasonal Merchant” means a person who sells products for a given period of time at a temporary location; i.e. fruit, vegetables, flowers, Christmas trees, hand crafted items, yard sales, etc.

(s) “Violated” or “Violating” means that there exists reasonable cause to believe that any ordinance, code, statute or law has been or is being violated and is not limited to pleas of guilty or convictions for violating said ordinances, codes, statutes or laws.

6-01-020. Business License Required.

Unless otherwise provided, it shall be unlawful for any person to engage in any business within the City without first having obtained a business license pursuant to this Title or to continue doing business after a previously issued business license has expired without renewing said license and paying any applicable fees and penalties. A separate license shall be required for each type of business defined herein and for each place of business. Each day of noncompliance shall constitute a separate violation.

6-01-030. Business License Official - Duties and Responsibilities.

It shall be the duty and responsibility of the Business License Official to:

- (a) Enforce the provisions of this Title;
- (b) Collect all business license fees and all alcoholic beverage license fees;
- (c) Process all applications and renewals of all licenses provided for in this Title;
- (d) Obtain any necessary approvals from the various City departments and divisions before issuing any business licenses or alcoholic beverage licenses; and
- (e) Deny, suspend or revoke licenses as provided in Chapter 6-06 of this Title.

6-01-040. License - Application Requirements.

(a) Applications for licenses and permits required by this Title shall be made in writing to the License Official in the absence of provision to the contrary, which applications shall be made upon forms provided by the City. The application shall show:

- (1) The name of the person desiring a license;
 - (2) The kind of license desired, stating the business, calling, trade or profession to be performed, practiced or carried on;
 - (3) The class of license desired, if such licenses are divided into classes;
 - (4) The place where such business, calling, trade or profession is to be carried on, giving the street number, if such business, calling, trade or profession is to be carried on in any building or enclosure;
 - (5) The period of time for which such license is desired to be issued;
 - (6) That the proposed use of any premises by the applicant will not be in violation of City zoning regulations, that the principals of the applicant's business are properly bonded if bonding is required, and that the applicant will otherwise be in full compliance with all applicable City, State and federal laws and ordinances;
 - (7) Such additional information as may reasonably be required by the City as needed for the proper guidance of City officials in issuing the permit or license applied for.
- (b) The truthfulness, completeness and accuracy of all of said information provided by applicant shall be attested to by an authorized representative of the business.
- (c) Failure to provide all required information or providing false or misleading information in the application shall constitute grounds for denial of the application or revocation of a permit or license which was granted in reliance on the information provided, and shall constitute a misdemeanor, if such is done willfully with the intent to mislead the City.

6-01-050. Issuance of a Business License.

- (a) An applicant for a business license shall fill out the application in full and sign it as verification, under penalty of law, that all information contained therein is true.
- (b) The application shall be returned to the Business License Official along with full payment of all business license fees.
- (c) If required by separate ordinance, the Business License Official shall submit copies to other departments, divisions or agencies of the City for their review.
- (d) Only after signed, written approvals from any required department, division or agency are obtained, the Business License Official shall be authorized to prepare a certificate of license for issuance.
- (e) The certificate of license shall be signed by the Mayor and shall contain the following information:

- (1) The person's name to whom the certificate is issued;
- (2) The business name;
- (3) The type of business licensed;
- (4) The date the license was issued;
- (5) The expiration date of the license;
- (6) The address of the place of business licensed; and
- (7) The business license number.

6-01-060. Renewals of Business Licenses.

(a) Each year, licensees shall renew their business licenses by completing an application for a license renewal signed under penalty of law that all information contained therein is true and returning it, along with the proper fees, to the Business License Official within the time period set forth in Section 6-01-080(b) below. Renewal applications for businesses which required police checks of the licensees under the original license application shall be submitted to the Police Department to determine whether the licensee still meets the necessary qualifications.

(b) Upon receipt of the application fees, and Police Department approval, if applicable, the Business License Official shall be authorized to prepare a certificate of license as provided in this Chapter.

6-01-070. Inspections.

(a) Authorized officers shall be permitted to make an inspection to enforce any of the provisions of this Title or any other applicable statute or ordinance, and may enter any building or may enter upon any premises during regular business hours; or, if there are no regular business hours, the officers or their authorized representatives shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry.

(b) No owner, occupant or any other person having charge, care or control of any building or premises shall fail or neglect, after proper request is made as herein provided, to properly permit entry therein by the authorized officer or his representative(s) for the purpose of inspection and examination to ensure compliance with this Title.

6-01-080. Payment Dates of Business License Fees.

(a) Business license fees for new businesses shall be due and payable upon making application to the Business License Official. The application shall not be processed until the fee is paid.

(b) Business license fees for renewal businesses shall be due and payable on or before the first day of January each year. If the license is not paid by January 31, a fifty percent (50%) penalty of the amount of the fee shall be added to the original amount due. If the fee is still not paid by February 28, a seventy-five percent (75%) penalty of the amount of the fee shall be added to the original amount due. If the fee is still not paid by March 31, a one hundred percent (100%) penalty of the amount of the fee shall be added to the original amount.

(c) Penalty fees may be appealed to the by written Notice of Appeal filled with the City Recorder within fifteen (15) days of the Business License Official's Decision. The City Manager may, for good cause shown, refund all or part of the applicable penalty fee that has been paid. The decision of the Business License Official and the City Manager may be appealed to the City Council as set forth in Chapter 6-03 of this Title. The City Council may, upon good cause, recommend that all or part of the penalty fee be refunded.

6-01-090. Term of Business Licenses.

All business licenses shall expire each year on December 31.

6-01-100. License - Transfer of Name or Location - Fee.

(a) Any person to whom a business license has been issued to transact or carry on some business, calling, trade or profession at a definite location in the City may make application for the transfer of his/her business license for the sole purpose of transacting or carrying on the same business, calling, trade or profession as is therein mentioned at some other definite location in the City by himself or herself by filing said application with the License Official, together with the sum as set forth in the City's Consolidated Fee Schedule.

(b) Any person who wishes to change his/her business name shall also make application for the change of name of such person's business license, for the sole purpose of transacting or carrying on the same business, calling, trade or profession as is therein mentioned under a new name, by filing an application with the License Official, along with the sum as set forth in the City's Consolidated Fee Schedule.

(c) If the business in question has any other licenses which are required under this Title, or the City Manager may charge an additional fee for the change of address as set forth in the City's Consolidated Fee Schedule.

(d) The transfer fee shall be nonrefundable regardless of whether the application is granted or denied. The License Official, after receiving reports which may be furnished by the

Police Department or the Board of Health, when necessary, may in his/her discretion, deny or grant the transfer of any or all of said licenses strictly within the above limitations.

6-01-110. License - Transfer to Other Persons Prohibited.

No license granted or issued under any of the provisions of any ordinance of the City shall be in any manner assignable, transferable or authorize any person other than the person named therein as the licensee to carry on or conduct the licensed business, except as may be otherwise specifically provided by ordinance.

6-01-120. License - Posting and Display Required.

Every certificate of license issued shall be posted by the licensee in a conspicuous place upon the wall of the building, room or office of the store or place in which such licensed business, calling, trade or profession is carried on, so that the same may be easily seen. When such certificate of license shall have expired it shall be removed by the licensee from such place in which it has been posted; and no certificate of license which is not in force and effect shall be permitted to remain posted upon the wall or any part of any room, store, office or place of business after the period of such certificate or license has expired.

6-01-130. Reciprocal Recognition of Business Licenses.

(a) A business license shall not be required for operation of any vehicle or equipment in the City when:

- (1) Such vehicle is merely passing through the City; or
- (2) Such vehicle is used exclusively in interstate commerce.

(b) A business license shall not be required of any person whose only business activity in the City is the mere delivery in the City of property sold by him at a regular place of business maintained by him outside the City where:

(1) Such person's business is at the time of such delivery licensed by the Utah city or county in which such place of business is situated; and

(2) The authority licensing such business grants to licensees of the City making deliveries within its jurisdiction the same privileges, upon substantially the same terms as are granted by this Section; and

(3) Neither the property delivered nor any of the facilities by which it was manufactured, produced or processed are subject to inspection by authority of the City for compliance with health or sanitary standards prescribed by the City; and

(4) The truck or other conveyance by which such delivery is made prominently displays at all times a license plate or symbol issued by the licensing authority to

evidence such business license. Such plate or symbol shall identify the licensing authority by which it is issued, shall indicate that it evidences a license issued thereby, and shall specify the year or term for which it is effective.

(c) Except as otherwise provided herein, a business license shall not be required of any person who is duly licensed in another county or another city in Utah, has no business location in the City, and the county or other licensing city would also reciprocate if the same business were located in the City.

(1) Before reciprocity is granted, the person must fill out a business license application and show proof of a valid business license in a qualifying city or county.

(2) Reciprocity shall not be granted to solicitors, mobile food units or any business requiring police checks or police I.D. cards.

(d) The City Recorder shall, at the request of any person, upon payment of copying and postage costs, certify a copy of this Section to any city or county of the State of Utah.

6-01-140. Constructive Notice of Time Periods.

(a) All businesses, owners, licensees, or applicants are obligated to be aware of and are deemed to have constructive notice of all time periods and/or deadlines and the effect of noncompliance with said time periods and/or deadlines as set forth in this Title relating to the application, issuance, renewal, expiration, appeal or other action relating to business licenses, alcohol licenses, or any other licensing matters set forth in this Title.

(b) Nothing in this Title shall be construed as requiring the City to take any affirmative action to notify businesses, owners, licensees, or applicants of any time periods and/or deadlines or the effect of noncompliance with said time periods and/or deadlines set forth in this Title relating to the application, issuance, renewal, expiration, appeal or other action relating to business licenses, alcohol licenses, or any other licensing matters as set forth in this Title.

6-01-150. Penalty.

(a) Any violations of this Title shall be a Class B misdemeanor.

(b) Each day of noncompliance shall constitute a separate violation.

CHAPTER 6-02: ASSESSMENTS AND LICENSE FEES

- 6-02-010. Definitions.**
- 6-02-020. Provisions as Regulatory Measure.**
- 6-02-030. License Fee - Required to do Business.**
- 6-02-040. License Fee - Not Required When.**
- 6-02-050. License Fee Additional to all Regulatory Licenses.**
- 6-02-060. Fee - No Undue Burden on Interstate Commerce.**
- 6-02-070. License Fees Levied.**
- 6-02-080. Joint Licenses.**
- 6-02-090. Branch Establishments.**
- 6-02-100. License Fees - Debt to City - Collection.**
- 6-02-110. Fees - Delinquent Payments - Penalty.**
- 6-02-120. Information Not to be Made Public.**
- 6-02-130. Recordkeeping Required.**
- 6-02-140. Filing False Return Prohibited.**

6-02-010. Definitions.

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

(a) “Business” means and includes all activities engaged in within the corporate limits of Syracuse City carried on for the business of gain or economic profit, 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 said place of business and any persons employed by such person in the operation of the place of business in any capacity, and also any salesman, agent or independent contractor engaged in the operation of said 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) “Person” means any individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, co-partnership, 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, non-profit or otherwise.

(e) “Place of Business” means each separate location maintained or operated by the licensee within the City from which business activity is conducted or transacted.

6-02-020. Provisions as Regulatory Measure.

The ordinance codified in this Chapter is intended to serve as a means for the City to recoup the administrative costs associated with issuance and renewal of business licenses issued within the City.

6-02-030. License Fee - Required to do Business.

It is unlawful for any person to engage in business within the City without first paying all license fees required by this Chapter and any other City or State taxes, fees or assessments.

6-02-040. License Fee - Not Required When.

No license fee shall be imposed under this Chapter upon any person:

(a) Engaged in business for solely religious, charitable, eleemosynary or other types of strictly nonprofit purpose who is tax exempt in such activities under the laws of the United States and the state of Utah;

(b) Engaged in a business specifically exempted from municipal taxation and fees by the laws of the United States or the state; or

(1) Not maintaining a place of business within the City who has paid a like or similar license tax or fee to some other taxing unit within the state, and which taxing unit exempts from its license tax or fee, by reciprocal agreement, businesses domiciled in the City and doing business in such taxing unit.

6-02-050. License Fee Additional to all Regulatory Licenses.

The license fee imposed by this Chapter shall be in addition to any and all other taxes or license fees imposed by any other provisions of the ordinances of Syracuse City.

6-02-060. Fee - No Undue Burden on Interstate Commerce.

None of the license fees provided for by this Chapter shall be applied so as to occasion an undue burden on interstate commerce. In any case where a license fee is believed by a licensee or applicant for license to place an undue burden upon such commerce, such person may apply to the City Council for an adjustment of the fee so that it shall not be discriminatory, unreasonable or unfair as to such commerce. Such application may be made before, at or within six (6) months after payment of the prescribed license fee. The applicant shall, by affidavit and supporting testimony, show the method of applicant's business, the gross volume or estimated gross volume of business, and such other information as the Council may deem necessary in order to determine the extent, if any, of such undue burden on such commerce. The Council may designate a person to conduct an investigation, comparing the applicant's business with other businesses of like nature. The Council or the Council's designee shall make findings of facts;

shall determine whether the fee fixed by this Chapter is discriminatory, unreasonable or unfair as to applicant's business; and shall determine, or if investigated by the Council's designee, shall recommend to the Council, a license fee for the applicant in an amount that is nondiscriminatory, reasonable and fair. If the Council is satisfied that such license fee is the amount that the applicant should pay, the license fee shall be fixed in such amount. If the regular license fee has already been paid, the Council shall order a refund of the amount over and above the fee fixed by the Council. In fixing the fee to be charged, the Council shall have the power to use methods which will assure that the fee assessed shall be uniform with those assessed on businesses of like nature.

6-02-070. License Fees Levied.

(a) Fees for Businesses Located in the City. There is hereby levied upon the business of every person engaged in business in the City at a place of business within the City, an annual license fee as set forth in the City's Consolidated Fee Schedule.

(b) Fee for Applications filed after October 31st. The Business License Fee for any license application filed after October 31st of any year shall be one-half (½) the amount of the fee that would be payable for a full year license.

(c) Fee for Businesses Located Outside the City. There is levied upon every person engaged in business in the City, not having a place of business in the City, and not exempt as provided by Section 6-03-040 of this Chapter, or its successor, a license fee based upon the percentage of gross sales and/or services made or performed from a place of business outside the corporate limits of the City from which business within the City is transacted, and by applying such percentage to the fee which would otherwise be assessed for such place of business were it located within the corporate limits of Syracuse City.

(d) Nonrefundable Application Fee. In the event any initial or renewal business license application is denied by the City or is withdrawn by the applicant, the City shall be entitled to retain the sum of thirty-five dollars (\$35) as a nonrefundable business license application fee from any license fees paid or payable to the City, unless another nonrefundable business license application fee is otherwise provided for under the ordinances of the City.

6-02-080. Joint Licenses.

Whenever any person is engaged in two or more businesses at the same location within the City, such person shall not be required to obtain separate licenses for conducting each of such businesses, but shall be issued one license which shall specify on its face all such businesses. The license fee shall be computed as if all said businesses were one business being conducted at such location. Where two or more persons conduct separate businesses at the same location, each such person shall obtain a license for such business and pay the required license tax for such business.

6-02-090. Branch Establishments.

A separate license must be obtained for each branch establishment or location of business engaged in, 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 Chapter shall not be deemed to be separate places of business or branch establishments.

6-02-100. License Fees - Debt to City - Collection.

Any license fee due and unpaid under this Chapter and all penalties thereon shall constitute a debt to Syracuse City, and shall be collected by court proceedings in the same manner as any other debt in like amount, which remedy shall be in addition to all other existing remedies.

6-02-110. Fees - Delinquent Payments - Penalty.

License fees for renewal of an existing business license shall be due on or before January 1 of each year. In the event any fee is not paid on or before such date, a penalty shall be assessed pursuant to the provisions of Section 6-01-080 of this Title, or its successor section, which penalty shall become part of the license fee imposed by this Chapter.

6-02-120. Information Not to be Made Public.

(a) Information furnished to the License Official, as required by this Chapter, shall not be made public nor shall it be subject to the inspection of any person except the City Manager or his or her authorized agent, or to those persons first authorized to do so by order of the Mayor, except where the provisions of the Government Records Access and Management Act or its successor requires a different result.

(b) It is unlawful for any person to make public or to inform any other person as to the content of any information provided in conjunction with a license application, or to permit the inspection of any such information, except where the provisions of the Government Records Access and Management Act or its successor requires a different result.

6-02-130. Recordkeeping Required.

It shall be the duty of every person liable for the payment of any license fee imposed by this Chapter to keep and preserve for a period of three (3) years such books and records as will accurately reflect the amount of any license fee for which he or she may be liable under the provisions of this Chapter.

6-02-140. Filing False Return Prohibited.

It is unlawful for any person to make a return that is false, knowing the same to be so.

CHAPTER 6-03: REVOCATION, SUSPENSION OR DENIAL OF LICENSES

- 6-03-010. Denial of a Business License.**
- 6-03-020. Reasons for Suspension or Revocation.**
- 6-03-030. Enforcement.**
- 6-03-040. Procedure for Suspension or Revocation.**
- 6-03-050. Appeal Procedure.**
- 6-03-060. Hearing.**
- 6-06-070. Decision of the City Council.**
- 6-03-080. Appeal of City Council Decision.**
- 6-03-090. Licensing After Revocation.**
- 6-03-100. Validity of Business License During Appeal.**

6-03-010. Denial of a Business License.

After a person has made application to the City for a business license, the application may be denied for any of the following reasons:

- (a) The applicant does not meet the qualifications for a license as provided under this Title.
- (b) For a new application, nonpayment of a returned check for the required license fees at the time the application is made. For a business license renewal application, nonpayment of the required license fees plus penalty three (3) months after it is due.
- (c) Any reviewing department, division or agency of the City provided for in this Title has disapproved the application pursuant to any applicable provision of the City Code.
- (d) False or incomplete information given on the application.
- (e) Noncompliance with any requirement or condition set by the Planning Commission or Planning and Zoning Division, if applicable, under a conditional use permit or by the Board of Adjustment or Planning and Zoning Division, if applicable, granting a variance or special exception.
- (f) Noncompliance with any City, State or federal statutes or any Health Department regulations governing the applicant's proposed business.
- (g) Any other reason expressly provided for in this Title.

6-03-020. Reasons for Suspension or Revocation.

An existing business license may be suspended or revoked for any of the following reasons:

- (a) The license does not now meet the qualifications for a license as provided under this Title.
- (b) False or incomplete information given on an application.
- (c) The licensee has violated or is violating any provision of this Title or provision of the City Code, State or federal statutes or regulations governing the licensee's business.
- (d) The licensee has obtained or aided another person to obtain a license by fraud or deceit.
- (e) The licensee has failed to pay any taxes or fees to the City when due.
- (f) The licensee has refused authorized representatives of the City access to the licensed premises for the purpose of an inspection or has interfered with such representatives while in the performance of their duty in making such inspection.
- (g) The licensee is not complying with a requirement or condition set by the Planning Commission or Planning and Zoning Division, if applicable, under a conditional use permit; by the Board of Adjustment or Planning and Zoning Division, if applicable, granting a variance or special exception; by the City Council, or by agreement.
- (h) Violation of this Title by the agents or employees of a licensee and violations of any other laws by the agents or employees committed while acting as an agent or employee of the licensee; or
- (i) Any other reason expressly provided for by ordinance.

6-03-030. Enforcement.

- (a) The Business License Official shall have the authority without a hearing, to deny a license for the reasons provided for in this Chapter.
- (b) The Business License Official shall have the authority to suspend or revoke a license without a hearing, for reasons provided for in this Chapter. However, the suspension or revocation shall not take effect until the time period for appealing the decision as set forth in this Chapter below has passed.
- (c) The Business License Official may, on his/her own initiative or in response to complaints from the general public or any City department or division, investigate and gather evidence of violations of this Title or other circumstances which may give rise to a denial, suspension or revocation.

6-03-040. Procedure for Suspension or Revocation.

The Business License Official shall cause written notice to be given by personal service or registered mail to the licensee at the licensee's business address of his or her decision to suspend or revoke a license, the reason for such decision, that operation of a business after the effective date of the suspension or revocation is a Class B misdemeanor, the licensee's right to appeal the Business License Official's decision and have a hearing, and the appeal procedure.

6-03-050. Appeal Procedure.

(a) Appeals of the Business License Official's or City Manager's decision to deny, suspend or revoke a license or regarding the application of this Title may be made to the City Council by filing a written notice of appeal with the City Recorder within fifteen (15) days of receipt of the notice of denial, suspension or revocation.

(b) The notice of appeal shall be in writing and shall set forth with specificity the reasons for which the appeal is taken.

6-03-060. Hearing.

(a) The hearing shall be at a time, place, and day set by the City Council, but not later than twenty-one (21) days after receipt of the notice of appeal.

(b) At the hearing, the Business License Official or his or her designee shall present the reasons for the decision to deny, suspend or revoke the license.

(c) The applicant or licensee, in person or through his or her attorney, may then present any evidence showing reason why the decision was in error.

(d) All witnesses shall be sworn to testify truthfully. Either party is entitled to confront and cross-examine any witnesses.

(e) Any oral or documental evidence may be received, but the Council shall exclude all privileged, irrelevant, immaterial, or unduly repetitious evidence.

(f) If the denial, suspension, or revocation appealed from is based on a finding by the Building Department or Fire District that the business was or would be in violation of any Uniform Construction Codes or on a finding by the County Health Department that the business was or would be in violation of any County Health Department regulations, then that finding shall be conclusive on the City Council, and the Council's decision may be based only on whether the license was properly denied, suspended, or revoked because of the Building Department, Fire Department or County Health Department finding.

(g) If the denial, suspension, or revocation appealed from is based on a determination by the Business License Official that grounds existed pursuant to this Code, the City Council

may examine the factual nature of the grounds and determine whether such grounds are sufficient to sustain the decision of the Business License Official.

(h) The City Council does not have the authority to waive compliance with applicable provisions of the Business License ordinances, nor can the Council extend deadlines set forth in the ordinances or change the substance or form of the ordinances.

6-03-070. Decision of the City Council.

The City Council, after hearing all the evidence, shall announce its decision within fifteen (15) days from the date of hearing. The Council may affirm, reverse or modify the decision of the City Manager. The decision shall be in writing and shall be based upon findings of fact.

6-03-080. Appeal of City Council Decision.

Any decision of the City Council made pursuant to the provisions of this Title may be appealed by any aggrieved party to the District Court within thirty (30) days from when the written decision is made.

6-03-090. Licensing After Revocation.

A person, whose license has been revoked, may not be issued a license for a period of twelve (12) months after the revocation.

6-03-100. Validity of Business License During Appeal.

Throughout the administrative appeal process as outlined above, a licensee holding a suspended or revoked business license may continue to operate his or her business in accordance with federal, State and local laws pending final decision on the appeal, or until the time for appeal has passed, whichever occurs first.

CHAPTER 4: ALCOHOLIC BEVERAGES

PART I.	ADMINISTRATION
PART II.	LIQUOR LICENSE LOCAL CONSENTS
PART III.	RESTAURANT LIQUOR LICENSE LOCAL CONSENTS
PART IV.	SPECIAL USE PERMITS
PART V.	BEER RETAILER LICENSES
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PART I.	ADMINISTRATION
Section 6-4-010.	Authority.
Section 6-4-020.	Definitions.
Section 6-4-030.	General Restrictions.
Section 6-4-040.	Licensee Compliance with Other Laws.

Section 6-4-010. Authority.

The provisions of this Chapter are enacted pursuant to the authority set forth in *Utah Code Annotated* §10-8-42, as amended, and applicable provisions of the Utah Alcoholic Beverage Control Act, as set forth in *Utah Code Annotated* §§ 32B-1-101, et seq., as amended. The provisions and regulations set forth in this Chapter are an exercise of the police powers of the City for the protection of public health, safety and welfare.

Section 6-4-020. Definitions.

All words and phrases used in this Chapter shall have the following meanings, unless a different meaning clearly appears from the context:

(a) "Alcoholic Beverages" means "beer" and "liquor" as the terms are defined in this section.

(b) "Beer," means a product that (1) contains at least .5% alcohol by volume, but not more than 4% alcohol by volume or 3.2% alcohol by weight, and (2) is obtained by fermentation, infusion, or decoction of malted grain. Moreover, the term "beer" applies to products that contain alcohol in the specified percentages and are referred to as beer, ale, porter, stout, lager, or a (non-flavored) malt beverage.

(c) "Brew Pub" means any restaurant that has within or contiguous to its premises a brewer which manufactures alcoholic beverages for on-premise sale and consumption.

(d) "Brewer" means any person or facility engaged in manufacturing beer, malt liquor, or malted beverages.

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

(f) "City" means Syracuse City.

(g) "Club" and/or "Private Association" means any non-profit corporation operating as a social club, dining club, recreational, fraternal or athletic association, or kindred association whether incorporated or not which maintains facilities which are restricted to a clientele or group other than the general public and which sells or dispenses alcoholic beverages.

(h) "Commission" means the State of Utah Alcoholic Beverage Control Commission.

(i) "Community Location" means a public or private school, a church, a public library, a public playground or a public park.

(j) "Licensee" means any person(s) holding any beer, liquor or private club license in connection with the operation of a place of business or private club in the City. This term shall also include any employee of the Licensee.

(k) "Licensed Premises" means any room, house, building, structure or place occupied by any person licensed to sell beer on any premises under this Title; provided, that in any multi-roomed establishment, an applicant for a Class B License shall designate a room or portion of the building of such business for the sale of beer, which portion so specifically designated in the application and in the license issued pursuant thereto shall be the licensed premises. Multiple dining facilities located in one building and owned or leased by one licensed applicant shall be deemed to be only one licensed premises.

(l) "Liquor" means alcohol, or any alcoholic, spiritous, vinous, fermented, malt, or other liquid, or combination of liquids, a part of which is spiritous, vinous, or fermented, and all other drinks, or drinkable liquids that contain more than ½ of 1% of alcohol by volume and is suitable to use for beverage purposes. "Liquor" does not include any beverage defined as a beer, malt liquor, or malted beverage that has an alcohol content of less than 4% alcohol by volume.

(m) "Package Agency" means a retail liquor location operated under an agreement with the department by a person other than the state who is authorized by the commission in accordance with Chapter 2, Part 6, of the Alcoholic Beverage Control Act to sell packaged liquor for consumption off the premises of the package agency.

(n) "Park" means a piece of public, private or neighborhood ground within the City boundaries and identified in Section _____ of the Syracuse City Municipal Code that is set apart for the use of the public, whether developed or undeveloped, and that is usually, or may be, planted with trees, lawns, or other shrubbery. The park may include within its boundary facilities for sport, entertainment, dancing, recreation, swimming or a park may be planned for such future use of any and all other facilities.

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

(p) "Playground" means any public, private or neighborhood area which may or may not include play equipment where children go for physical activity and/or to play.

(q) "Restaurant" means any business establishment, engaged primarily in serving complete meals to the general public, where a variety of foods are prepared, located on a premises having adequate culinary fixtures for food preparation and dining accommodations with sufficient seating to concurrently serve a minimum of 25 customers.

(r) "Retailer" means any person engaged in the sale or distribution of alcoholic beverages to the consumer.

(s) "School" means any building used primarily for the general education of minors. "School" does not include nursery schools, infant day care centers, or trade or technical schools.

(t) "Sell," "Sale," or "To Sell" means any transaction, exchange, or barter whereby, for any consideration, an alcoholic beverage is either directly or indirectly transferred, solicited, ordered, delivered for value, or by any means or under any pretext is promised or obtained, whether done by a person as a principal, proprietor, or as an agent, servant, or employee, unless otherwise defined in this chapter or the rules made by the Commission.

(u) "Single Event" means a convention, civic, or community enterprise conducted by a bona fide corporation, non-profit organization, church, political organization, or association or a recognized subordinate lodge, chapter, or other local unit thereof.

(v) "State Store" means a facility for the sale of package liquor located on premises owned or leased by the state and operated by state employees. "State store" does not apply to any licensee, permittee, or to package agencies.

(w) "Tavern" means any business establishment engaged primarily in the retail selling or distribution of beer to public patrons for consumption on the establishment's premises. "Tavern" includes beer bars, parlors, lounges, cabarets, and night clubs where the revenue from the sale of beer exceeds the revenue of the sale of food, although food need not be sold in such establishments.

(x) "Trail" means a linear corridor of property which is planned as part of the Parks and Trails Master Plan or recognized as a City facility by the Parks and Trails Master Plan, although not classified as a park, and maintained by the City for the purpose of recreation and alternate transportation as a part of the transportation system, thus not designed or intended for use by unaccompanied small children. A trail is not a park for purposes of the ordinance codified in this chapter.

Section 6-4-030. General Restrictions.

(a) Manufacturer/Brewer. Except as set forth in *Utah Code Annotated* §32B-11-202, as amended, a person may not manufacture any alcoholic beverage in the City unless an alcoholic beverage manufacturing license has been issued by the Commission. A separate license is required for each place of manufacture, storage, and sale of alcoholic beverages. Whether independent or associated with a restaurant, a brewer requires local consent from the City Council. Violation of this subsection is a class B misdemeanor.

(c) Advertising. It shall be unlawful to advertise the sale of alcoholic beverages in violation of the Utah Alcoholic Beverage Control Act. Permitted signage shall comply with requirements contained in Title 10 of the Syracuse City Municipal Code (the Syracuse City Sign Ordinance). There shall be no advertising within the City that in any manner attempts to promote or increase the sale or consumption of alcoholic beverages.

Section 6-4-040. Licensee Compliance with Other Laws.

(a) Each Licensee shall comply with all applicable federal, state and local laws. Failure to do so may result in the suspension or revocation of the Licensee's license, permit or consent.

(b) If any Licensee neglects, fails or refuses to pay the amount assessed for any license renewal when it becomes due and payable, such Licensee shall be subject to all additional penalties as set forth in this Ordinance or in the Business Licensing Ordinances of Syracuse City and the same shall be collected as other licenses are collected, paid and enforced.

PART II. LIQUOR LICENSE LOCAL CONSENTS.

Section 6-4-200. Local Consent for Package Agency.

Section 6-4-210. Local Consent for Private Club Liquor Licenses.

Section 6-4-220. Local Consent for Alcoholic Beverage Manufacturing Licenses.

Section 6-4-230. Local Consent for Liquor Warehousing License.

Section 6-4-200. Local Consent for Package Agency.

The City shall not issue or grant local consent to a State Package Agency. Package Agencies shall not conduct business at a location within the City.

Section 6-4-210. Local Consent for Private Club Liquor Licenses.

The City shall not grant local consent for a State Private Club Liquor License for businesses located within Syracuse City.

Section 6-4-220. Local Consent for Alcoholic Beverage Manufacturing Licenses.

The City may not grant local consent for alcoholic beverage manufacturing licenses, except for brew restaurants. Alcoholic beverage manufacturers shall only be allowed in conjunction with a brew restaurant within the city. The City's grant or denial of a license

application for a Brew Restaurant shall be deemed either denial or approval, respectively, of any required local consent.

Section 6-4-230. Local Consent for Liquor Warehousing License.

The City shall not issue local consent for any liquor warehousing license for any business located in the City. Liquor warehousing businesses shall not conduct business from a location within the City.

PART III. RESAURANT LIQUOR LICENSE LOCAL CONSENT

Section 6-4-300. The City's Power to Grant Local Consent; Limitations.

Section 6-4-310. Application and Renewal Requirements:

Section 6-4-320. Duties of the City before Granting Consents.

Section 6-4-330. Grant of Consent.

Section 6-4-340. Qualifications.

Section 6-4-350. Bond.

Section 6-5-360. Operational Restrictions.

Section 6-4-300. The City's Power to Grant Local Consent; Limitations.

(a) The City may issue local consent for a State Full-Service Restaurant Liquor License or for a State Limited-Service Restaurant Liquor License for businesses located in the City. Local consent will not be granted until the applicant has met all applicable City and State requirements.

(b) A person may not sell or offer for sale in a restaurant any alcoholic beverage subject to liquor licensure unless a Restaurant Liquor License has been issued by the State, following local consent. A separate grant of local consent is required for each place of business and for each premises having different ownership. Separate business licenses shall be required for each business name utilized. Violation of this Section is a Class B misdemeanor.

(c) The City may only grant local consent for a State Restaurant Liquor License when the applicant is in compliance with all provisions of the Syracuse City Municipal Code.

Section 6-4-310. Application and Renewal Requirements:

(a) Each person seeking a restaurant liquor license consent under this Part shall file a written application with the City License Administrator, in a form prescribed by the license administrator. It shall be accompanied by:

1. A nonrefundable application fee in an amount as set forth in the City's Consolidated Fee Schedule;

2. A statement of the purpose for which the applicant has applied for the consent to a restaurant liquor license;

3. A signed consent form granting an irrevocable license to the city permitting any authorized representative of the City or any law enforcement officer unrestricted right to enter and inspect the premises; and

4. Any other documents and evidence the City may require by rule or policy to allow complete evaluation of the application.

(b) Each application shall be signed and verified by oath or affirmation by an executive officer or any person specifically authorized by the corporation or association to sign the application, to which shall be attached written evidence of said authority.

(c) Prior to operating under the authority of this chapter, each approved applicant must obtain and provide to the business license administrator proof of:

1. Respective state licensure immediately upon state approval (not more than 1 year from approval of the original local consent);

2. A surety compliance bond in the amount of five thousand dollars (\$5,000.00);

3. Respective federal licensure immediately upon federal approval, if any.

(d) All city restaurant liquor consents expire on December 31 of each year. Persons desiring to renew their consent shall submit a renewal fee and a completed renewal application to the City no later than October 31 of the year the consent expires. Failure to meet the renewal requirements results in an automatic forfeiture of the consent effective on the date the existing consent expires. Renewal applications shall be in a form prescribed by the City and shall be accompanied by:

1. Proof of a surety compliance bond in the amount of five thousand dollars (\$5,000.00);

2. The consent application/renewal fee; and

3. Copies of current state and federal licenses.

(e) If any restaurant liquor consent holder does not immediately notify the City of any change in the ownership of the entity holding the consent, or in the case of a Utah corporate owner of any change in the corporate officers or directors, the City may suspend or revoke that license.

Section 6-4-320. Duties of the City Before Granting Consents.

Before any restaurant liquor license consent may be granted by the administrator, the City

may conduct investigations and hold on site inspections of the premises by license review authorities as directed by the administrator for the purpose of gathering information and making recommendations to the administrator to aid in the determination regarding local consent. Reviews and inspections conducted by license review authorities include, but are not limited to:

(a) Conformance with all appropriate building code, as inspected and verified by the building inspection City of the community development department;

(b) Police and criminal background check and clearance by the city police department;

(c) Zoning and planning review by the community development department to address issues of locality, proximity, building design and conformance with relative code;

(d) Fire department inspections of premises and determination of code compliance;

(e) Reviews and inspections by various health officers, including city and state representatives making determinations regarding hazardous waste, solid waste, environmental health, pretreatment requirements, and other health issues which may be presented;

(f) The City review for state and federal identification of business, including identification of the business ownership and entity structure, employer's withholding account number, federal employer identification number, state sales and use tax number, workers' compensation insurance carrier policy number and expiration date, business name registration number, Utah corporate identification number or limited liability company identification number (when applicable), and proof of bonding with the city as the named insured;

(g) The City review for complete information on the application, including the provision of:

1. Authorized signature on the application and written evidence of said authority;
2. Appropriate application and license fees; and
3. Any other documentation considered necessary to render a determination.

Section 6-4-330. Grant of Consent

The City License Administrator shall grant local consent for the issuance of a Restaurant Liquor License to any applicant that meets all conditions, criteria and restrictions as set forth in this Title and the Alcoholic Beverage Control Act.

Section 6-4-340. Qualifications.

If any person to whom a consent has been issued under this chapter no longer possesses the qualifications required by this chapter and title 32B of the *Utah Code Annotated* for obtaining that consent, the business license administrator may suspend or revoke that consent.

Section 6-4-350. Bond.

Restaurant liquor consentees shall acquire and maintain a surety compliance bond in the amount of five thousand dollars (\$5,000.00) prior to operating under the authority of the license. Evidence of such bonding shall be provided to the city annually with each consent renewal submission. (Ord. 96-64 § 1, 1996)

Section 6-5-360. Operational Restrictions.

Each person granted local consent for a restaurant liquor license shall conform to all the operational restrictions assigned by this Title and the Alcoholic Beverage Control Act, including the following conditions:

(a) Transfers will not be granted from one person, partnership or corporation to another person, partnership or corporation.

(b) There shall be no transfer of a restaurant liquor license consent from one location to another without prior written approval of the administrator. Transfers may be granted for a change of location within the city by the original consentee providing all qualifying conditions are met.

(c) Each separate location must be separately licensed.

(d) Each location with more than one type of operation, more than one business name, or more than one specific ownership must have a separate license/consent for each and must submit applications for licensure which includes diagrams depicting the boundaries of the premises for each as well as defining the distinctive operations.

PART IV. SPECIAL USE PERMITS

Section 6-4-400. Single Event Permits

Section 6-4-400. Single Event Permits

(a) Permit Required. Before any operator, participant or sponsor of a Single Event may sell beer at retail for on-premise consumption at the event, a Single Event Permit must be obtained from the City.

(b) Application. An applicant seeking a Single Event Permit to sell beer within the City for consumption on the premises of a Single Event shall provide a written application on forms provided by the City. The application shall be accompanied by

- (1) The City fee for a Single Event Permit as set forth in the City's consolidated fee schedule and evidence of necessary regulatory approvals to conduct the Single Event;
- (2) Evidence of proximity to any Community Location;

- (3) A site plan of the location of the Single Event, including clear depiction of consumption areas and areas where the applicant proposes to keep, store and sell beer;
- (4) A statement of the purpose of the association, corporation, church or political organization or its local lodge, chapter, or other local unit;
- (5) A signed consent form stating that authorized representatives of the City, including any City law enforcement agency, will have unrestricted right to enter the premises during the event;
- (6) Proper verification evidencing that the person signing the application is authorized to act on behalf of the association, corporation, church or political organization conducting the Single Event; and
- (7) Any other information the City may require to accurately evaluate the merits of the application.

(c) Operational Restrictions. Each person granted a Single Event Permit and the employees, management and personnel of the permittee shall abide by the following conditions and requirements. Failure to comply may result in suspension or revocation of the permit or other criminal or civil action taken against individual employees or management personnel.

- (1) A Single Event Permit shall entitle the licensee to sell beer on the premises described therein, in containers of a size not to exceed one liter capacity, for consumption on the permitted premises.
- (2) Each permittee shall retain all invoices, vouchers, sales slips, receipts and other records of commodity purchases from all suppliers. Such records shall be available for inspection and audit by the City license official at any time following the close of the semi-annual period, and for eighteen (18) months thereafter. Failure to properly maintain such records for such inspection and audit shall be cause for revocation of the Single Event Permit.
- (3) No person under the age of 21 years shall sell or serve beer for a Single Event Permit.
- (4) Beer purchased at a Single Event shall not be removed from the Single Event premises.
- (5) No person shall be allowed to bring any alcoholic beverages onto the premises of the Single Event. Officers, managers, employees or agents of the permittee shall not allow a person to bring onto the Single Event premises any alcoholic beverage for on-premise consumption or allow consumption of any such alcoholic beverage on the premises. If any permittee or any of its officers, managers, employees or agents violates this subsection, the City may immediately suspend or revoke the Single Event Permit.
- (6) No person engaged in the service of alcohol on the premises of a Single Event, while on duty, shall consume any alcoholic beverages or be under the influence of any alcoholic beverages.
- (7) A permittee may not charge more than the maximum amount set forth in the permit for any alcoholic beverage.
- (8) Each permittee shall post in a prominent place in the area in which alcohol is being sold, served and consumed:

- (i) A copy of the permit;
- (ii) A list of the operational restrictions and requirements of Single Event permittees set forth in this Section; and
- (iii) A sign in large letters stating: "WARNING, THE CONSUMPTION OF ALCOHOLIC BEVERAGES PURCHASED IN THIS ESTABLISHMENT MAY BE HAZARDOUS TO YOUR HEALTH AND THE SAFETY OF OTHERS."
- (iv) A sign in large letters stating: "WARNING, DRINKING ALCOHOL DURING PREGNANCY HAS BEEN LINKED TO BIRTH DEFECTS AND IS THE LEADING KNOWN PREVENTABLE CAUSE OF MENTAL RETARDATION."

- (9) Alcohol purchased for the event may not be stored in any place other than that described in the application and designated on the permit.
- (10) Alcohol purchased for the event may not be sold or served in any place other than the site described in the application and designated on the permit.
- (11) Alcohol may not be sold, served, or otherwise furnished on the day of any regular general election, regular primary election, or statewide special election until after the polls are closed.
- (12) Public advertising of the event may not include reference to the availability of any alcoholic beverage at the event. However, the permittee may use signs or similar displays at the site of the event to inform attendees of the locations where alcoholic beverages are being dispensed.
- (13) Single Event permittees shall be subject to all the restrictions set forth in Utah Code Annotated §§ 32B-9-304, 305.
- (14) A Single Event permittee may not engage in or allow any form of gambling, or have any video gaming device as defined and proscribed by Utah Code Ann., Title 76, Chapter 10, Part 11, Gambling, on the premises serviced by the single event permittee.
- (15) A Single Event Permit shall not authorize the storage, sale or consumption of alcoholic beverages at an event for any period exceeding 72 hours.

(d) Monetary Value of Permit.

- (1) A person having been granted a Single Event Permit shall not sell, exchange, barter, give or attempt in any way to dispose of the permit whether for monetary gain or not.
- (2) A Single Event Permit has no monetary value for purpose of any type of disposition.

(e) Restriction on Permits. No person or entity may be issued more than two Single Event Permits in any calendar year.

PART V. BEER RETAILER LICENSES.

Section 6-4-500. General Restrictions.

Section 6-4-510. The City's Power to Grant Licenses; Limitations.

Section 6-4-520. Applications and Renewal Requirements.

- Section 6-4-530. Qualifications.**
- Section 6-4-540. Duties of the City before Granting Licenses.**
- Section 6-4-550. Bond.**
- Section 6-4-560. Operational Restrictions.**
- Section 6-4-570. On Premise Beer Retailer/Restaurant.**
- Section 6-4-580. Brew Restaurant.**
- Section 6-4-590. Off Premise Beer Retailer.**

Section 6-4-500. General Restrictions.

(a) It is unlawful for any person to engage in the business of the sale of light beer at retail in bottles or draft within the corporate limits of the city without first having procured a license from the city as provided in this chapter. A separate license shall be required for each place of sale and the license shall at all times be conspicuously displayed in the place to which it shall refer or for which it shall be issued. All licensees shall comply with the UABC and use of city licenses granted under this chapter shall not be allowed until the required state and federal licenses have been authorized and are in effect.

(b) Except as set forth in *Utah Code Annotated* §32B-11-202, as amended, it is unlawful for any person within the corporate limits of the city to malt, ferment or manufacture homebrew or for any person to have in his possession, keep or store for the purpose of sale, giving away or exchanging homebrew containing one-half of one percent or more alcohol by weight.

(c) It is unlawful for any person to have in her or his possession within the corporate limits of the city any beer which has not been manufactured by a regularly licensed brewer.

(d) No person shall sell light beer at any public dance or to any person intoxicated or under the influence of an intoxicating beverage. No person shall sell, serve or give beer to any person under the age of twenty one (21) years.

(e) 1. It is unlawful to sell, serve or give away light beer or any other alcoholic beverage except during hours allowed by state law.

2. No licensee shall violate the terms of the license issued. No licensee shall permit light beer or any other alcoholic beverages to be consumed on licensed premises at any time it is unlawful to sell the same.

(f) Violation of this section is a class B misdemeanor. Should the city be required to take action to suspend a license on more than one occasion within a three (3) year period, the beer retailer license shall be revoked for a period of not less than one year.

Section 6-4-510. The City's Power to Grant Licenses; Limitations.

(a) The City may issue beer retailer licenses and brew restaurant licenses to businesses located in this city, and may regulate the sale, service, distribution and consumption

of alcoholic beverages for each type of license provided by this chapter in conformance with state laws and city codes.

(b) The type of licenses issued under this chapter are known as Off Premises Beer Retailer, On Premises Beer Retailer/Restaurant and Brew Restaurant licenses.

(c) A person may not sell at retail any Beer beverage unless a beer retailer license has been issued by this city and state. A separate license is required for each place of business and for each premises having different ownership. A separate business license is required for each business name used. One business name (DBA) may be used for each premises and the most appropriate city alcoholic beverage license may be applied for on behalf of each premises. The applicant shall not misrepresent either the boundaries of the premises, the ownership of the business operation, the type of business conducted nor the business name(s) used. Violation of this subsection is a class B misdemeanor.

(d) The City may prescribe by policy, directive, or rule, consistent with this chapter, the general operational requirements of licensees relating to:

1. Physical facilities;
2. Other matters considered appropriate by the City as they are allowed by state law.

(e) The City may grant licenses to beer retailers with the following limitations:

1. On Premises Beer Retailer/Restaurant licenses shall be limited to one per two thousand (2,000) population.
2. Off Premises Beer Retailer licenses shall not be limited in number.
3. Brew Restaurant licenses shall be limited to one per five thousand (5,000) population.

Section 6-4-520. Applications and Renewal Requirements.

(a) Each person seeking a Beer Retailer license of any kind under this chapter shall file a written application with the City License Administrator, in a form prescribed by the License Administrator. The application shall be accompanied by:

1. A nonrefundable application fee in the amount set forth in the City's Consolidated Fee Schedule;
2. A statement of the purpose for which the applicant has applied for the Beer Retailer license;

3. A signed consent form granting an irrevocable license to the city permitting any authorized representative of the City or any law enforcement officer unrestricted right to enter and inspect the premises; and
4. Any other documents and evidence the City may require by rule or policy to allow complete evaluation of the application.

(a) Each application shall be signed and verified by oath or affirmation by an executive officer or any person specifically authorized by the corporation or association to sign the application, to which shall be attached written evidence of said authority.

(b) Prior to operating under the authority of this chapter, each approved applicant must obtain and provide to the License Administrator proof of:

1. Respective state licensure immediately upon state approval (not more than 1 year from approval of the original local consent);
2. A surety compliance bond in the amount of five thousand dollars (\$5,000.00);
3. Respective federal licensure immediately upon federal approval.

(c) All city Beer Retailer licenses expire on December 31 of each year. Persons desiring to renew their license shall submit the renewal fee and completed renewal application to the City no later than October 31 of the year the license expires. Failure to meet the renewal requirements results in an automatic forfeiture of the license effective on the date the existing license expires. Renewal applications shall be in a form prescribed by the City and shall be accompanied by:

1. Proof of a surety compliance bond in the amount of five thousand dollars (\$5,000.00);
2. The license renewal fee; and
3. Copies of current state and federal licenses.

(d) If any Beer Retailer licensee does not immediately notify the City of any change in the ownership of the entity holding the license, or, in the case of a Utah corporate owner, of any change in the corporate officers or directors, the City may suspend or revoke that license.

Section 6-4-530. Qualifications.

- (a) No Beer Retailers, including all allowed On Premises Retailers and Off Premises Retailers shall be established within six hundred feet (600') of any Community Location, as measured from the nearest entrance of the outlet by following the shortest route of either ordinary pedestrian traffic, or where applicable, vehicular travel along public thoroughfares, whichever is the closer, to the property boundary of

the Community Location. No Beer Retailers licensee premises shall be established within two hundred feet (200') of any Community Location, measured in a straight line from the nearest entrance of the proposed outlet to the nearest property boundary of the Community Location.

- (b) The City may not grant a Beer Retailer license to any sole proprietor, partner, managing agent, officer, director, or stockholder who holds at least twenty percent (20%) of the total issued and outstanding stock of an applicant corporation that is unqualified to acquire the respective state license because that person has been convicted of any offense identified in UABC section 32B-1-304 or does not qualify for state licensure for any other reason.
- (c) If a proprietor, employee, partner, managing agent, officer, director, or stockholder, who holds at least twenty percent (20%) of the total issued and outstanding stock of a corporation that has been granted a beer retailer license is convicted of any offense provided in UABC section 32B-1-304, the City may take emergency action by immediately revoking the license without further notice to the licensee. The state will be notified of city action regarding the local license(s). A letter may be sent to the licensee confirming the action taken by the city.
- (d) Upon the arrest of any Beer Retailer licensee on any charge set forth in Utah Alcoholic Beverage Control Act section 32B-1-304, the administrator or chief of police or their designee may take emergency action by immediately suspending the operation of the licensee according to the procedures and requirements set forth in title 63G, Chapter 4, section 46B of the Utah Code Annotated, as amended from time to time, for the period during which the criminal matter is being adjudicated. Any such action taken by the city will be communicated to the Department of Alcoholic Beverage Control and a letter confirming those actions may be sent to the licensee.
- (e) If any person to whom a license has been issued under this chapter no longer possesses the qualifications required by this chapter and title 32B of the Utah Code Annotated for obtaining that license, the license administrator may suspend or revoke that license or consent.

Section 6-5-540. Duties of the City before Granting Licenses.

- (a) Before any Beer Retailer license may be granted by the license administrator, the City may conduct investigations and hold on site inspections of the premises by license review authorities as directed by the license administrator for the purpose of gathering information and making recommendations to the license administrator as to whether or not a license should be granted. This information shall be forwarded to the license administrator to aid in the determination regarding licensure. Reviews and inspections conducted by license review authorities, include, but are not limited to:

1. Conformance with all appropriate building codes, as inspected and verified by the building inspection City of the community development department;
2. Police and criminal background check and clearance by the city police department;
3. Zoning and planning review by the community development department to address issues of locality, proximity, building design and conformance with relative code;
4. Fire department inspections of premises and determination of code compliance;
5. Reviews and inspections by various health officers, including city and state representatives making determinations regarding hazardous waste, solid waste, environmental health, pretreatment requirements, and other health issues which may be presented;
6. City review for state and federal identification of business, including identification of the business ownership and entity structure, employer's withholding account number, federal employer identification number, state sales and use tax number, workers' compensation insurance carrier policy number and expiration date, business name registration number, Utah corporate identification number or limited liability company identification number (when applicable), and proof of bonding with the city as the named insured;
7. City review for complete information on the individual owner, or any partner, managing agent, officer, director, or stockholder, who holds at least twenty percent (20%) of the total issued and outstanding stock of a corporation, including the provision of:
 - i. Social security administration number;
 - ii. Number on driver's license or nondriver identification issued by the state of Utah;
 - iii. Home address and home telephone number;
 - iv. Date of birth, including month, day and year;
 - v. Complete personal name, including first, middle and last names;
 - vi. Status as either a United States citizen or valid United States work authorization;
 - vii. Statement under perjury of the accuracy and completeness of the application, the licensee's agreement to notify the City immediately of any changes to the ownership or other qualifying criteria, and granting permission to authorized representatives of the city and state to enter the premises;

- viii. Authorized signature on the application and written evidence of such authority;
- ix. Appropriate application and license fees;
- x. Compliance with distance and proximity requirements equal to those specified by the Alcoholic Beverage Control Act for alcoholic beverage retailer categories; and
- xi. Any other documentation considered necessary to render a determination.

Section 6-4-550. Bond.

(a) Off Premises Beer Retailer licensees shall acquire and maintain in force a surety compliance bond in the amount of five thousand dollars (\$5,000.00) prior to operating under the authority of the license. Evidence of such bonding shall be provided to the city annually with each license renewal submission.

(b) On Premises Beer Retailer licensees shall acquire and maintain in force a surety compliance bond in the amount of five thousand dollars (\$5,000.00) prior to operating under the authority of the license. Evidence of such bonding shall be provided to the city annually with each license renewal submission.

Section 6-4-560. Operational Restrictions.

Each person granted a Beer Retailer license shall conform to all the operational restrictions assigned by the Alcoholic Beverage Control Act, including the following conditions:

(a) Transfers will not be granted from one person, partnership or corporation to another person, partnership or corporation.

(b) There shall be no transfer of a Beer Retailer license from one location to another without prior written approval of the administrator. Transfers may be granted for a change of location within the city by the original licensee providing all qualifying conditions are met.

(c) Each separate location must be separately licensed.

(d) Each location with more than one type of operation, more than one business name, or more than one specific ownership must have a separate license for each and must submit applications for licensure which includes diagrams depicting the boundaries of the premises for each as well as defining the distinctive operations.

Section 6-4-570. On Premise Beer Retailer/Restaurant.

(a) An On Premises Beer Retailer/Restaurant license shall entitle the licensee to sell light beer for consumption on the retailer's premises and to all of the privileges granted by local ordinances to the holder of an On Premises Beer Retailer license and in accordance with the Alcoholic Beverage Control Act.

(b) Beer sales may not exceed fifty percent (50%) of total sales. If the gross sales of the business enterprise during any quarter of a calendar year develop so that the primary revenue resource becomes beer, the On Premises Beer Retailer/Restaurant license shall be automatically suspended until the appropriate revenue basis is regained. Should the city be required to take action on more than one such noncompliance within a three (3) year period, the On Premises Beer Retailer/Restaurant license shall be revoked for a period of not less than one year. The On Premises Beer Retailer/Restaurant shall be required to report to the city on a quarterly basis the gross revenue from beer sales and gross revenue from all other sales and may be audited to determine compliance at any point.

(c) If any portion of relative code is not complied with, all city licenses for the premises may be revoked or suspended.

Section 6-4-580. Brew Restaurant.

(a) A Brew Restaurant license shall entitle the licensee to manufacture and sell light beer for consumption on the retailer's premises and to all of the privileges granted by local ordinances to the holder of a Brew Restaurant retailer license and in accordance with the Alcoholic Beverage Control Act.

(b) Beer sales may not exceed fifty percent (50%) of total sales. If the gross sales of the business enterprise during any quarter of a calendar year develop so that the primary revenue resource becomes beer, the Brew Restaurant license shall be automatically suspended until the appropriate revenue basis is regained. Should the city be required to take action on more than one such noncompliance within a three (3) year period, the Brew Restaurant license shall be revoked for a period of not less than one year. The Brew Restaurant shall be required to report to the city on a quarterly basis the gross revenue from beer sales and gross revenue from all other sales and may be audited to determine compliance at any point.

(c) If any portion of an applicable code is not complied with, all city licenses for the premises may be revoked or suspended.

Section 6-4-590. On Premise Beer Retailer/Tavern.

The City shall not grant any license for an On Premise Beer Retailer/Tavern.

Section 6-4-595. Off Premises Beer Retailer.

(a) An Off Premises Beer Retailer license shall entitle licensee to sell beer on the licensed premises in original containers for consumption off the premises in accordance with state and local law.

(b) Off Premises Beer Retailer licenses shall be granted only to those applicants whose business enterprise at the proposed location is one which would typically be classified as primarily a grocery or convenience store and which sells a variety of food items and other items

typically found in a grocery store. Beer sales shall not exceed fifty percent (50%) of the total revenue for any Off Premises Beer Retailer. If the gross sales of the business enterprise during any quarter of a calendar year develop so that the primary revenue resource becomes beer, the Off Premises Beer Retailer license shall be automatically suspended until the appropriate revenue basis is regained. Should the city be required to take action on more than one such noncompliance within a three (3) year period, the Off Premises Beer Retailer license shall be revoked for a period of not less than one year. The Off Premises Beer Retailer shall be required to report to the city on a quarterly basis the gross revenue from beer sales and gross revenue from all other sales and may be audited to determine compliance at any point.

(c) Off Premises Beer Retailers must post a clearly visible sign approved by the city business license City, no less than one square foot in size, which warns customers of the penalty consequent to the sale or distribution of alcoholic beverages to minors (persons under 21 years of age).

PART VI. BEER WHOLESALING LICENSE LOCAL CONSENTS

Section 6-4-600. Local Consent for Beer Wholesaling License.

Section 6-4-610. Application and Renewal Requirements.

Section 6-4-620. Duties of the City before Granting Consents.

Section 6-4-630. Qualifications.

Section 6-4-640. Bond.

Section 6-4-650. Operational Restrictions.

Section 6-4-600. Local Consent for Beer Wholesaling License.

(a) The City may Grant local consent to state beer wholesaling licenses for businesses which are located in this city. Beer wholesaling license issuance shall be determined by the DABC and shall entitle the licensee to only those privileges they may have by virtue of having been issued a state license and shall thereafter exercise the privileges granted them under the UABC only as they are in harmony with the state license(s) issued and with city code. Such local consent will not be granted until the applicant has met all applicable city and state requirements.

(b) A person may not wholesale beer unless a beer wholesaling local consent has been issued by the city and any appropriate license has been issued by the state and federal governments. A separate consent is required for each beer wholesale location. A separate business license is required for each business name used. One business name (DBA) may be used for each premises and the most appropriate city alcoholic beverage license may be applied for on behalf of each premises. The applicant shall not misrepresent either the boundaries of the premises, the ownership of the business operation, the type of business conducted nor the business name(s) used. Violation of this subsection is a class B misdemeanor.

(c) The City may prescribe by policy, directive, or rule, consistent with this chapter, the general operational requirements of consentees relating to:

1. Physical facilities;
2. Other matters considered appropriate by the City as they are allowed by state law.

(d) Violation of this section is a class B misdemeanor. (Ord. 96-64 § 1, 1996)

Section 6-4-610. Application and Renewal Requirements.

(a) Each person seeking a beer wholesaling local consent under this chapter shall file a written application with the City, in a form prescribed by the City. It shall be accompanied by:

1. A nonrefundable application fee in an amount as set forth in the City's Consolidated Fee Schedule;
2. A statement of the purpose for which the applicant has applied for the consent to a beer wholesaling license;
3. A signed consent form granting an irrevocable license to the city permitting any authorized representative of the City or any law enforcement officer unrestricted right to enter and inspect the premises; and
4. Any other documents and evidence the City may require by rule or policy to allow complete evaluation of the application.

(b) Each application shall be signed and verified by oath or affirmation by an executive officer or any person specifically authorized by the corporation or association to sign the application, to which shall be attached written evidence of said authority.

(c) Prior to operating under the authority of this chapter, each approved applicant must obtain and provide to the business license administrator proof of:

1. Respective state licensure immediately upon state approval (not more than 1 year from approval of the original local consent);
2. A surety compliance bond in the amount of five thousand dollars (\$5,000.00);
3. Respective federal licensure immediately upon federal approval.

(d) All city beer wholesaling consents expire on December 31 of each year. Persons desiring to renew their consent shall submit a renewal fee and a completed renewal application to the City no later than October 31 of the year the consent expires. Failure to meet the renewal requirements results in an automatic forfeiture of the consent effective on the date the existing

consent expires. Renewal applications shall be in a form prescribed by the City and shall be accompanied by:

1. Proof of a surety compliance bond in the amount of five thousand dollars (\$5,000.00);
2. The consent renewal fee; and
3. Copies of current state and federal licenses.

(e) If any consentee does not immediately notify the City of any change in ownership of the business, or, in the case of a Utah corporate owner, of any change in the corporate officers or directors, the City may suspend or revoke that consent.

Section 6-4-620. Duties of the City before Granting Consents.

Before any beer wholesaling consent may be granted by the administrator, the City may conduct investigations and hold on site inspections of the premises by license review authorities as directed by the administrator for the purpose of gathering information and making recommendations to the administrator as to whether or not local consent should be granted. This information shall be forwarded to the administrator to aid in the determination regarding local consent. Reviews and inspections conducted by license review authorities include, but are not limited to:

- (a) Conformance with all appropriate building codes, as inspected and verified by the building inspection City of the community development department;
- (b) Police and criminal background check and clearance by the city police department;
- (c) Zoning and planning review by the community development department to address issues of locality, proximity, building design and conformance with relative code;
- (d) Fire department inspections of premises and determination of code compliance;
- (e) Reviews and inspections by various health officers, including city and state representatives making determinations regarding hazardous waste, solid waste, environmental health, pretreatment requirements, and other health issues which may be presented;
- (f) City review for state and federal identification of business, including identification of the business ownership and entity structure, employer's withholding account number, federal employer identification number, state sales and use tax number, workers' compensation insurance carrier policy number and expiration date, business name registration number, Utah corporate identification number or limited liability company identification number (when applicable), and proof of bonding with the city as the named insured;

(g) City review for complete information on the application, including the provision of:

1. Authorized signature on the application and written evidence of such authority;
2. Appropriate application and consent fees; and
3. Any other documentation considered necessary to render a determination.

Section 6-4-630. Qualifications.

If any person to whom a consent has been issued under this chapter no longer possesses the qualifications required by this chapter and title 32B of the Utah Code Annotated for obtaining that license, the business license administrator may suspend or revoke that consent.

Section 6-4-640. Bond.

Beer wholesaling consentees shall acquire and maintain in force a surety compliance bond in the amount of five thousand dollars (\$5,000.00) prior to operating under the authority of the consent. Evidence of such bonding shall be provided to the city annually with each consent renewal submission.

Section 6-4-650. Operational Restrictions.

Each person granted a beer wholesaling consent shall conform to all the operational restrictions assigned by the UABC with the following amendment:

(a) Transfers will not be granted from one person, partnership or corporation to another person, partnership or corporation.

(b) There shall be no transfer of a beer wholesaling consent from one location to another without prior written approval of the administrator. Transfers may be granted for a change of location within the city by the original consentee providing all qualifying conditions are met.

(c) Each separate location must be separately licensed.

(d) Each location with more than one type of operation, more than one business name, or more than one specific ownership must have a separate license/consent for each and must submit applications for licensure which includes diagrams depicting the boundaries of the premises for each as well as defining the distinctive operations.

CHAPTER 6-05: SEXUALLY ORIENTED BUSINESSES

- 6-5-010. Title for Citation.**
- 6-5-020. Purpose and Findings.**
- 6-5-030. Application of Provisions.**
- 6-5-040. Definitions.**
- 6-5-050. Obscenity and Lewdness - Statutory Provisions.**
- 6-5-060. Location and Zoning Restrictions.**
- 6-5-070. Business License Required.**
- 6-5-080. Business Categories - Number of Licenses.**
- 6-5-090. License - Fees.**
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- 6-5-110. License - Premises Location and Name.**
- 6-5-120. Issuance of License.**
- 6-5-130. Inspection**
- 6-5-140. Expiration of License; Denial of Renewal.**
- 6-5-150. Suspension.**
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- 6-5-350. Hours of Operation.**
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- 6-5-370. Notices.**
- 6-5-380. Injunction.**
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6-5-010. Title for Citation.

The provisions codified in this Chapter shall be known and may be referred to as the ■Sexually Oriented Business and Employee Licensing Ordinance.●

6-5-020. Purpose and Findings.

(a) Purpose. It is the purpose of this ordinance to regulate sexually oriented businesses and related activities 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 location and concentration 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 of 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 materials.

(b) Findings. Based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings and in reports made available to the City Council, and on findings incorporated in the cases of *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *City of Erie v. Pap's A.M.*, 529 U.S. 277 (2000); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Arcara v. Cloud Books, Inc.*, 478 U.S. 697, (1986); *Iacobucci v. City of Newport, Ky*, 479 U.S. 92 (1986); *Young v. American Mini Theatres*, 427 U.S. 50 (1976); *California v. LaRue*, 409 U.S. 109 (1972); *United States v. O'Brien*, 391 U.S. 367 (1968); *DLS, Inc. v. City of Chattanooga*, 107 F.3d 403 (6th Cir.1997); *Kev, Inc. v. Kitsap County*, 793 F.2d 1053 (9th Cir.1986); *Hang On, Inc. v. City of Arlington*, 65 F.3d 1248 (5th Cir.1995); *South Florida Free Beaches, Inc. v. City of Miami*, 734 F.2d 608 (11th Cir.1984); and *N.W. Enterprises v. City of Houston*, 27 F.Supp. 2d 754 (S.D. Tex.1998), as well as studies conducted in other cities including, but not limited to, Phoenix, Arizona; Minneapolis, Minnesota; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas; Seattle, Washington; Oklahoma City, Oklahoma; Cleveland, Ohio; and Beaumont, Texas; and findings reported in the Final Report of the Attorney General's Commission on Pornography (1986), the Report of the Attorney General's Working Group On the Regulation Of Sexually Oriented Businesses (June 6, 1989, State of Minnesota), and statistics obtained from the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, the City Council finds that:

(1) Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the operators of the establishments. Further, there is presently no mechanism to make owners of these establishments responsible for the activities that occur on their premises.

(2) Crime statistics show that all types of crimes, especially sex-related crimes, occur with more frequency in neighborhoods where sexually oriented businesses are located.

(3) Sexual acts, including masturbation, and oral and anal sex, occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows.

(4) Offering and providing such booths and/or cubicles encourages such activities, which creates unhealthy conditions.

(5) Persons frequent certain adult theaters, adult arcades, and other sexually oriented businesses, for the purpose of engaging in sex within the premises of such sexually oriented businesses.

(6) At least 50 communicable diseases may be spread by activities occurring in sexually oriented businesses including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infections, and shigella infections.

(7) As of June, 2001, the total number of reported cases of AIDS in the United States caused by the immunodeficiency virus (HIV) was 793,025.

(8) The total number of cases of genital chlamydia trachomatis infections in the United States reported in 2000 was 702,093, a 6% increase over the year 1999.

(9) The total number of cases of early (less than one year) syphilis in the United States reported during the twelve year period 1996-2000 was 212,672.

(10) The number of cases of gonorrhea in the United States reported annually remains at a high level, with a total of 1,730,911 cases reported during the period 1996-2000.

(11) The surgeon general of the United States in his report of October 22, 1986, advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug use, exposure to infected blood and blood components, and from an infected mother to her newborn.

(12) According to the best scientific evidence available, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.

(13) Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and

operators of the facilities to self-regulate those activities and maintain those facilities.

(14) Numerous studies and reports have determined that bodily fluids, including semen and urine, are found in the areas of sexually oriented businesses where persons view "adult" oriented films.

(15) Nude dancing in adult establishments encourages prostitution, increases sexual assaults, and attracts other criminal activity.

(16) Nude dancing in adult establishments increases the likelihood of drug-dealing and drug use.

(17) Alcohol consumption in adult establishments increases the likelihood of crime, illegal drug use, and illegal sexual activity, and encourages undesirable behavior that is not in the interest of the public health, safety, and welfare.

(18) The findings noted in paragraphs numbered (1) through (17) raise substantial governmental concerns.

(19) Sexually oriented businesses have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.

(20) A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and operators of sexually oriented businesses. Further, such licensing procedure will place a heretofore non-existent incentive on operators to see that the sexually oriented business is run in a manner consistent with the health, safety, and welfare of its patrons and employees, as well as the citizens of the City. It is appropriate to require reasonable assurances that the licensee is the actual operator of the sexually oriented business, fully in possession and control of the premises and activities occurring therein.

(21) Removal of doors on adult booths and requiring sufficient lighting on the premises with adult booths advances a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in adult establishments.

(22) The disclosure of certain information by those persons ultimately responsible for the day-to-day operation and maintenance of the sexually oriented business, where such information is substantially related to the significant governmental interest in the operation of such uses, will aid in preventing the spread of sexually transmitted diseases and criminal activity.

(23) It is desirable, in the prevention of crime and the spread of communicable diseases, to obtain a limited amount of information regarding certain employees who may engage in the conduct this ordinance is designed to prevent, or who are likely to be witnesses to such activity.

(24) The fact that an applicant for a sexually oriented business license has been convicted of a sex-related crime leads to the rational assumption that the applicant may engage in that conduct in contravention to this ordinance.

(25) The barring of such individuals from operation or employment in sexually oriented businesses for a period of five (5) years for a previous felony conviction serves as a deterrent to further criminal conduct, and prevents conduct which leads to the transmission of sexually transmitted diseases.

(26) The general welfare, health, morals, and safety of the citizens of this City will be promoted by enactment of this ordinance.

(27) When more than one sexually oriented business use occupies the same location or business address, the secondary effects caused by such businesses are increased. Secondary effects are eliminated or controlled to a greater degree when only a single sexually oriented business use is allowed to occupy the same location.

6-5-030. Application of Provisions.

This Chapter imposes regulatory standards and license requirements on certain business activities which are characterized as sexually oriented businesses, and certain employees of those businesses characterized as sexually oriented business employees. Except where the context or specific provisions require, this Chapter does not supersede or nullify any other related ordinances, including but not limited to those codified in other chapters and provisions of the Business Regulations of the City.

6-5-040. Definitions.

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

(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, videos, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

(b) ■Adult Bookstore■ or ■Adult Video Store■ means a commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

(1) Books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides, electronic media or other visual representations that are characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas"; or

(2) Instruments, devices, or paraphernalia that are designed for use in connection with "specified sexual activities."

A principal business purpose exists if materials offered for sale or rental depicting or describing "specified sexual activities" or "specified anatomical areas" generate 20% or more of the business's income, or account for 20% or more of inventory, or occupy 20% or more of total floor space. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as ■adult bookstore• or ■adult video store•. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an ■adult bookstore• or ■adult video store• so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(3) ■Adult Cabaret• means a nightclub, bar, restaurant, café or similar commercial establishment that regularly, commonly, habitually, or consistently features:

(i) Persons who appear in a state of nudity or semi-nudity; or

(ii) Live performances that are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or

(iii) Films, motion pictures, video cassettes, slides, photographic reproductions, or other image producing devices that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; or

(iv) persons who engage in "exotic" or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

(c) ■Adult Motel• means a hotel, motel or similar commercial establishment that:

(1) Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right of way that advertises the availability of this adult type of photographic reproductions; or

(2) Offers a sleeping room for rent for a period of time that is less than twenty-four (24) hours; or

(3) Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than twenty-four (24) hours.

(d) ■**Adult Motion Picture Theater**• means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly, commonly, habitually, or consistently shown that are characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

(e) ■**Adult Theater**• means a theater, concert hall, auditorium, or similar commercial establishment that regularly, commonly, habitually, or consistently features persons who appear, in person, in a state of nudity and/or semi-nudity, and/or live performances that are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

(f) ■**Director**• means the Chief of Police and such employee(s) of the City Police Department as he or she may designate to perform the duties of the Director under this ordinance.

(g) ■**Employee**• means a person who performs any service on the premises of a sexually oriented business on a full time, part time, contract basis, or independent basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise, and whether or not the said person is paid a salary, wage, or other compensation by the operator of said business. "Employee" does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises, nor does "employee" include a person exclusively on the premises as a patron or customer.

(h) ■**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.

(i) ■**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.

(j) ■**Establishment**• means and includes 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 additions of any sexually oriented business to any other existing sexually oriented business; or

(4) The relocation of any sexually oriented business; or

(5) A sexually oriented business or premises on which the sexually oriented business is located.

(k) **■Licensed Day-Care Center•** means a facility licensed by the State of Utah, whether situated within the City or not, that provides care, training, education, custody, treatment or supervision for more than twelve (12) children under fourteen (14) years of age, where such children are not related by blood, marriage or adoption to the owner or operator of the facility, for less than twenty-four (24) hours a day, regardless of whether or not the facility is operated for a profit or charges for the services it offers.

(l) **■Licensee•** means a person in whose name a license has been issued, as well as the individual listed as an applicant on the application for a license.

(m) **■Live Theatrical Performance•** means a play, skit, opera, ballet, concert, comedy, or musical drama.

(n) **■Nude Model Studio•** means any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons for consideration.

(o) **■Nudity•** or a **■State of Nudity•** means the appearance of a human bare buttock, anus, anal cleft or cleavage, pubic area, male genitals, female genitals, or vulva, with less than a fully opaque covering; or a female breast with less than a fully opaque covering of any part of the areola; or human male genitals in a discernibly turgid state even if completely and opaquely covered.

(p) **■Patron•** means any person who contracts with or employs any escort services or escort or the customer of any business licensed pursuant to this Chapter.

(q) **■Person•** means an individual, proprietorship, partnership, corporation, association, or other legal entity.

(r) **■Premises•** means the real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually oriented business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the licensee, as described in the application for a business license pursuant to Section 6-6-070 of this ordinance.

(s) **■Semi-nude•** means a state of dress in which opaque clothing covers no more than the female breast below a point immediately above the top of the areola; and the male or female genitals, pubic region, and anus shall be fully covered by an opaque covering no narrower than

four inches wide in the front and five inches wide in the back, which shall not taper to less than one inch wide at the narrowest point.

(t) **■Semi-nude Dancing Agency●** means any person, agency, firm, corporation, partnership, or any other entity or individual which furnishes, books, or otherwise engages or offers to furnish, book, or otherwise engage the service of a professional dancer licensed pursuant to this Chapter for performance or appearance at a business licensed for adult theaters.

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

(v) **■Sexual Encounter Center●** means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

(1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

(2) Activities between persons of the opposite sex and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity.

A principal business purpose exists if the services offered are intended to generate business income.

(w) **■Sexually Oriented Business●** means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center or semi-nude entertainment business.

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

(y) **■Specified Anatomical Areas●** means:

(1) The human male genitals in a discernibly turgid state, even if fully and opaquely covered;

(2) Less than completely and opaquely covered human genitals, pubic region, buttocks, or a female breast below a point immediately above the top of the areola.

(z) ■Specified Criminal Activity• means any of the following offenses:

(1) Prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution, or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; sexual assault; molestation of a child; or any similar sex-related offenses to those described above under the criminal or penal code of this state, other states, or other countries;

(2) For which:

(i) Fewer than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;

(ii) Fewer than five (5) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a felony offense;

(iii) Fewer than five (5) years have elapsed since the date of the last conviction or the date of release from confinement imposed for the last conviction, whichever is the later date, if the convictions are for two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty-four (24) month period;

(3) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant.

(aa) ■Specified Sexual Activities• means:

(1) Acts of:

- (i) Masturbation,
- (ii) Human sexual intercourse,
- (iii) Sexual copulation between a person and a beast,
- (iv) Fellatio,
- (v) Cunnilingus,
- (vi) Bestiality,
- (vii) Pederasty,
- (viii) Buggery, or
- (ix) Any anal copulation between a human male and another human male, human female, or beast;

(2) Manipulating, caressing or fondling by any person of:

- (i) The genitals of a human,
- (ii) The pubic area of a human,
- (iii) The uncovered female nipple and areola;

(3) Flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of the one so clothed.

(bb) ■Substantial Enlargement• of a sexually oriented business means the increase in floor areas occupied by the business by more than twenty-five (25%) percent, as the floor areas existed on January 1, 2004.

(cc) ■Transfer of Ownership or Control• of a sexually oriented business means and includes any of the following:

(1) The sale, lease, or sublease of the business;

(2) The transfer of securities that form 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 that transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

6-5-050. Obscenity and Lewdness - Statutory Provisions.

Notwithstanding anything contained in this Chapter, nothing in this Chapter shall be deemed to permit or allow the showing or display of any matter which is contrary to the provisions of Title 14 of this Code, "lewdness" as defined in this Code, or other applicable federal or State statutes prohibiting obscenity.

6-5-060. Location and Zoning Restrictions.

It is unlawful for any sexually oriented business to do business at any location within the City not zoned for such business. Sexually oriented businesses licensed as adult business or semi-nude entertainment businesses pursuant to this Chapter shall only be allowed in areas where they are specifically designated as permitted or conditional uses pursuant to Title 11 of the Syracuse City Code.

6-5-070. Business License Required.

(a) It shall be unlawful:

(1) For any person to operate a sexually oriented business without a valid sexually oriented business operator's license (operator's license) issued by the Director pursuant to this ordinance; or

(2) For any person who operates a sexually oriented business to employ a person to work and/or perform services on the premises of the sexually oriented business, if such employee is not in possession of a valid sexually oriented business employee license ("employee license") issued to such employee by the Director pursuant to this ordinance; or

(3) For any person to obtain employment with a sexually oriented business if such person is not in possession of a valid sexually oriented business employee license issued to such person by the Director pursuant to this ordinance.

(4) It shall be a defense to subsections (2) and (3) of this Section if the employment is of limited duration and for the sole purpose of repair and/or maintenance of machinery, equipment, or the premises.

(b) An application for a sexually oriented business operator's license must be made on a form provided by the City. The application must be accompanied by a sketch or a 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 must 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. Prior to issuance of an operator's license, the premises must be inspected by the health department, building department, and zoning department. Prior inspection by the health department and building department shall be required only when the provisions set forth in Sections 6-6-250 and/or 6-6-240 are applicable.

(c) An application for a sexually oriented business employee license must be made on a form provided by the City.

(d) All applicants for a license must be qualified according to the provisions of this ordinance. The application may request, and the applicant shall provide, such information reasonably necessary (including fingerprints) to enable the City to determine whether the applicant meets the qualifications established under this ordinance. The applicant has an affirmative duty to supplement an application with new information received subsequent to the date the application was deemed completed.

(e) If a person who wishes to own or operate a sexually oriented business is an individual, he or she must sign the application for an operator's license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a ten (10%) percent or greater interest in the business must sign the application for an operator's license as applicant. If a corporation is listed as owner of a sexually oriented business or as the entity that wishes to operate such a business, all corporate officers and directors must sign the application for an operator's license as applicant.

(f) Applications for an operator's license, whether original or renewal, must be made to the Director by the intended operator of the enterprise. Applications must be submitted to the office of the Director or the Director's designee during regular working hours. Application forms shall be supplied by the Director. The following information shall be provided on the application form:

- (1) The name, street address (and mailing address if different) of the applicant(s);
- (2) The applicant's Social Security number and/or his/her state or federally issued tax identification number;
- (3) The name under which the establishment is to be operated and a general description of the services to be provided. If the applicant intends to operate the sexually oriented business under a name other than that of the applicant; he or she must state: 1) the sexually oriented business's fictitious name; and 2) submit the required registration documents;
- (4) Whether the applicant has been convicted, or is awaiting trial on pending charges, of a "specified criminal activity" as defined herein, and, if so, the "specified criminal activity" involved, the date, place, and jurisdiction of each;
- (5) Whether the applicant has had a previous license under this ordinance or other similar sexually oriented business ordinance from another city or county denied, suspended or revoked, including the name and location of the sexually oriented business for which the business license was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant is or has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is or was licensed under a sexually oriented business ordinance whose business license has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the business license was denied, suspended or revoked as well as the date of denial, suspension or revocation;
- (6) Whether the applicant holds any other licenses under this ordinance or other similar sexually oriented business ordinance from another city or county and, if so, the names and locations of such other licensed businesses;
- (7) The single classification of license, as found in Section 6-6-080, for which the applicant is filing;
- (8) The telephone number of the establishment;
- (9) The address and legal description of the tract of land on which the establishment is to be located;
- (10) If the establishment is in operation, the date on which the owner(s) acquired the establishment for which the business license is sought, and the date on

which the establishment began operations as a sexually oriented business at the location for which the business license is sought;

(11) If the establishment is not in operation, the expected startup date (which shall be expressed in number of days from the date of issuance of the business license). If the expected startup date is to be more than ten (10) days following the date of issuance of the business license, then a detailed explanation of the construction, repair or remodeling work or other cause of the expected delay and a statement of the owner's time schedule and plan for accomplishing the same;

(12) If an applicant wishes to operate a sexually oriented business, other than an adult motel, which shall exhibit on the premises, in a viewing room or booth of less than one hundred fifty (150) square feet of floor space, films, video cassettes, other video reproductions, or live entertainment which depict specified sexual activities or specified anatomical areas, then the applicant shall comply with the application requirements set forth in Section 6-6-250 hereunder.

(g) Each application for an operator's license shall be accompanied by the following:

(1) Payment of the application fee in full;

(2) If the establishment is a State of Utah corporation, a certified copy of the articles of incorporation, together with all amendments thereto;

(3) If the establishment is a foreign corporation, a certified copy of the certificate of authority to transact business in this state, together with all amendments thereto;

(4) If the establishment is a limited partnership or limited liability company formed under the laws of the State of Utah, a certified copy of the certificate of limited partnership or limited liability company, together with all amendments thereto;

(5) If the establishment is a foreign limited partnership or limited liability company, a certified copy of the certificate of limited partnership or limited liability company and the qualification documents, together with all amendments thereto;

(6) Proof of the current fee ownership of the tract of land on which the establishment is to be situated in the form of a copy of the recorded deed;

(7) If the persons identified as the fee owner(s) of the tract of land in item (6) is not also the owner of the sexually oriented business, then the lease, purchase contract, purchase option contract, lease option contract or other document(s) evidencing the legally enforceable right of the owner(s) or proposed owner(s) of the sexually oriented business to have or obtain the use and possession of the tract or portion thereof that is to be used for the sexually oriented business;

(8) A current certificate and straight-line drawing prepared within thirty (30) days prior to application by a registered land surveyor depicting the property lines and the structures containing any existing sexually oriented businesses within 1,000 feet of the property to be certified; and the property lines of any established religious institution/synagogue, school, public park or recreation area within 1,000 feet of the property to be certified. For purposes of this Section, a use shall be considered existing or established if it is in existence at the time an application is submitted;

(9) Any of items (2) through (8) above shall not be required for a renewal application if the applicant states that the documents previously furnished to the Director with the original application or previous renewals thereof remain correct and current.

(h) Applications for an employee license to work and/or perform services in a sexually oriented business, whether original or renewal, must be made to the Director by the person to whom the employee license shall issue. Each application for an employee license shall be accompanied by payment of the application fee in full. Application forms shall be supplied by the Director. Applications must be submitted to the office of the Director or the Director's designee during regular working hours. Each applicant shall be required to give the following information on the application form:

(1) The applicant's given name, and any other names by which the applicant is or has been known, including "stage" names and/or aliases;

(2) Age, and date and place of birth;

(3) Height, weight, hair color, and eye color;

(4) Present residence address and telephone number;

(5) Present business address and telephone number;

(6) Date, issuing state, and number of photo driver's license, or other state issued identification card information;

(7) Social Security Number; and

(8) Proof that the individual is at least eighteen (18) years old.

The personal information provided in this subsection shall be confidential, and shall not be disclosed to the public except to the extent required by state or federal law.

(i) Attached to the application form for any license under this ordinance shall be the following:

(1) A color photograph of the applicant clearly showing the applicant's face, and the applicant's fingerprints on a form provided by the Police Department. Any fees for the photographs and fingerprints shall be paid by the applicant.

(2) A statement detailing the license history of the applicant for the five (5) years immediately preceding the date of the filing of the application, including whether such applicant, in this or any other city, county, state, or country, has ever had any license, permit, or authorization to do business denied, revoked, or suspended, or had any professional or vocational license or permit denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the name(s) under which the license was sought and/or issued, the name(s) of the issuing or denying jurisdiction, and describe in full the reason(s) for the denial, revocation, or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application.

(3) A statement whether the applicant has, within the past five (5) years, been convicted, or is awaiting trial on pending charges, of a "specified criminal activity" as defined herein and, if so, the "specified criminal activity" involved, the date, place and jurisdiction of each.

(j) Every application for a license under this ordinance shall contain a statement under oath that:

(1) The applicant has personal knowledge of the information contained in the application, and that the information contained therein and furnished therewith is true and correct; and

(2) The applicant has read the provisions of this Chapter.

(k) A separate application and operator's license shall be required for each sexually oriented business classification as set forth in Section 6-6-080.

(l) The fact that a person possesses other types of state or city permits and/or licenses does not exempt him/her from the requirement of obtaining a sexually oriented business operator or employee license.

6-5-080. Business Categories - Number of Licenses.

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

(b) The categories of sexually oriented businesses are:

- (1) Outcall services;
- (2) Adult businesses;
- (3) Semi-nude entertainment businesses;

(4) Semi-nude dancing agency.

6-5-090. License - Fees.

Each applicant for a sexually oriented business or employee license shall be required to pay regulatory license fees as set forth in the Consolidated Fee Schedule.

6-5-100. License - Bond.

Each applicant for a sexually oriented business license shall post, with the Director, a cash or corporate surety bond payable to Syracuse City in the amount of two thousand dollars. Any fines assessed against the business, officers, or managers for violations of City ordinances shall be taken from this bond if not paid in cash within ten days after notice of the fine, unless an appeal is filed as provided by this Chapter. In the event the funds are drawn against the cash or surety bond to pay such fines, the bond shall be replenished to two thousand dollars within fifteen days of the date of notice of any draw against it.

6-5-110. License - Premises Location and Name.

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

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

6-5-120. Issuance of License.

(a) Upon the filing of an application for a sexually oriented business employee license, the Director shall issue a temporary license to said applicant. The application shall then be referred to the appropriate City departments for investigation to be made on the information contained in the application. The application process shall be completed within thirty (30) days from the date of the completed application. After the investigation, the Director shall issue an employee license, unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

(1) The applicant has failed to provide the information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;

(2) The applicant is under the age of eighteen (18) years; or

(3) The applicant has been convicted of a "specified criminal activity" as defined herein; or

(4) The sexually oriented business employee license is to be used for employment in a business prohibited by local or state law, statute, rule, or regulation, or prohibited by a particular provision of this ordinance; or

(5) The applicant has had a sexually oriented business employee license revoked by the City within two (2) years of the date of the current application.

If the sexually oriented business employee license is denied, the temporary license previously issued is immediately rendered null and void. Denial, suspension, or revocation of a license issued pursuant to this subsection shall be subject to appeal as forth in subsection (i) of this Section.

(b) A license issued pursuant to subsection (a) of this Section, if granted, shall state on its face the name of the person to whom it is granted, the expiration date, and the address of the sexually oriented business. While engaged in employment or performing services on the sexually oriented business premises, an employee shall, at all times, possess the license in such manner as to be available for immediate inspection upon lawful request.

(c) A license issued pursuant to subsection (a) of this Section shall be subject to annual renewal upon the written application of the applicant and a finding by the Director that the applicant has not been convicted of any "specified criminal activity" as defined in this ordinance, or committed any act during the existence of the previous license which would be grounds to deny the initial license application. The decision whether to renew a license shall be made within thirty (30) days of the completed application. The renewal of a license shall be subject to the fee as set forth in Section 6-6-090. Non-renewal of a license shall be subject to appeal as set forth in subsection (i) of this Section.

(d) If application is made for a sexually oriented business operator's license, the Director shall approve or deny issuance of the license within thirty (30) days of receipt of the completed application. The Director shall issue a license to an applicant unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

(1) An applicant has failed to provide the information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;

(2) An applicant is under the age of eighteen (18) years;

(3) An applicant has been denied a license by the City to operate a sexually oriented business within the preceding twelve (12) months, or whose license to operate a sexually oriented business has been revoked within the preceding twelve (12) months;

(4) An applicant is overdue in payment to the City for taxes, fees, fines, or penalties assessed against or imposed upon him/her in relation to the sexually oriented business for which license is sought, or the property on which the sexually oriented business is located or will be located;

(5) An applicant has been convicted of a "specified criminal activity" as defined herein;

(6) The premises to be used for the sexually oriented business have not been approved by the health department, building department, and zoning department as being in compliance with applicable laws and ordinances, if such approval is required under other sections of this ordinance;

(7) The license fee required under this ordinance has not been paid;

(8) An applicant of the proposed establishment is in violation of or is not in compliance with one or more of the provisions of this ordinance.

(e) A license issued pursuant to subsection (d) of this Section, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the sexually oriented business, and the business classification as set forth in Section 6-6-080 for which the license is issued. The 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.

(f) If so required under other sections of this ordinance, the health department, building department, and zoning department shall complete their certification that the premises are in compliance or not in compliance within twenty (20) days of receipt of the completed application by the Director. The certification shall be promptly presented to the Director. Failure of an appropriate department to timely certify its inspection shall not be grounds for refusing to issue a license within the mandatory time period prescribed in subsection (d). In the event the Director fails to render a decision on the application within the time specified herein, the operator shall be permitted to commence operation of the business.

(g) A sexually oriented business license shall issue for only one business classification, as set forth in Section 6-6-080.

(h) In the event that the Director determines that an applicant is not eligible for a sexually oriented operator's license, the applicant shall be given notice in writing of the reasons for the denial within thirty (30) days of the receipt of the completed application by the Director, provided that the applicant may request, in writing at any time before the notice is issued, that such period be extended for an additional period of not more than ten (10) days in order to make modifications necessary to comply with this ordinance. Notice of denial shall be sent to the applicant in accordance with the notice provisions set forth in Section 6-6-370.

(i) An applicant may appeal the decision of the Director regarding a denial to the City Council by filing a written notice of appeal with the City Recorder within ten (10) days from receipt of the notice of denial. The notice of appeal shall be accompanied by a memorandum or other writing setting out fully the grounds for such appeal and all arguments in support thereof. The Director may, within fifteen (15) days from the date of filing of the notice of appeal, submit a responsive memorandum to the City Council. After reviewing such

memoranda, as well as the Director's written decision, if any, and exhibits submitted to the Director, the City Council shall vote either to uphold or overrule the Director's decision. Such vote shall be taken within twenty-one (21) calendar days after the date on which the City Recorder receives the notice of appeal. The status quo immediately prior to denial of the license shall be maintained during the pendency of the appeal. Judicial review of a denial by the Director and City Council may be made pursuant to Section 6-6-170 of this ordinance. The status quo shall continue to be maintained during the pendency of judicial review.

(j) A license issued pursuant to this Section shall be subject to annual renewal upon the written application of the applicant and a finding by the Director that the applicant has not been convicted of any "specified criminal activity" as defined in this ordinance, or committed any act during the existence of the previous license which would be grounds to deny the initial license application. The decision whether to renew a license shall be made within thirty (30) days of the completed application. The renewal of a license shall be subject to the fee as set forth in Section 6-6-090.

6-5-130. Inspection.

The City shall regularly inspect the premises of the sexually oriented business in order to ensure compliance with the provisions of this ordinance. An applicant or licensee shall permit representatives of the Police Department and/or Health Department to inspect the premises at any time the establishment is open for business. Such inspection shall be limited to visual assessment of the activities conducted in areas to which patrons have access or are allowed access; to requests for inspection of the licenses required under this ordinance; and to requests for identification of those individuals who reasonably appear to be under the age of 18.

6-5-140. Expiration of License; Denial of Renewal.

(a) Each license shall expire one year from the date of issuance and may be renewed only by making application as provided in Section 6-6-070. Application for renewal should be made at least thirty (30) days before the expiration date. When application is made less than thirty (30) days before the expiration date, the expiration of the license will not be affected.

(b) When the Director denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. Notwithstanding the provisions of this section, in the event a licensee appeals the non-renewal of a license, the status quo immediately prior to non-renewal shall be maintained throughout the pendency of the appeal, up to and including judicial review on the merits as set forth in Section 6-6-170.

6-5-150. Suspension.

The Director shall suspend a license for a period not to exceed thirty (30) days if he or she determines that licensee or an employee of licensee has:

(a) Violated or is not in compliance with any section of this ordinance;

(b) Operated or performed services in a sexually oriented business while intoxicated by the use of alcoholic beverages or controlled substances;

(c) Refused to allow prompt inspection of the sexually oriented business premises as authorized by this ordinance;

(d) With knowledge, permitted gambling by any person on the sexually oriented business premises.

A licensee may appeal the suspension of a license to the City Council in accordance with the procedure set forth in Section 6-6-120. Notwithstanding any other provisions of this section, in the event a licensee appeals the suspension of a license, the status quo immediately prior to suspension shall be maintained throughout the pendency of the appeal, up to and including judicial review on the merits as set forth in Section 6-4-170.

6-5-160. Revocation.

(a) The Director shall revoke a license if a cause of suspension in Section 6-6-150 occurs and the license has been suspended within the proceeding twelve (12) months.

(b) The Director shall revoke a license if he or she determines that:

(1) A licensee gave materially false or misleading information in the material submitted during the application process;

(2) A licensee was convicted of a "specified criminal activity" on a charge that was pending prior to the issuance of the license;

(3) A licensee has, with knowledge, permitted the possession, use, or sale of controlled substances on the premises;

(4) A licensee has, with knowledge, permitted the sale, use, or consumption of alcoholic beverages on the premises;

(5) A licensee has, with knowledge, permitted prostitution on the premises;

(6) A licensee has, with knowledge, operated the sexually oriented business during a period of time when the licensee's license was suspended;

(7) A licensee has, with knowledge, permitted any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sexual conduct to occur in or on the licensed premises;

(8) A licensee is delinquent in payment to the City or State for any taxes, fees, fines, or penalties relating to the sexually oriented business or the premises thereon;

(9) A licensee has, with knowledge, permitted a person under eighteen (18) years of age to enter or remain in the establishment; or

(10) A licensee has attempted to sell his business license, or has sold, assigned, or transferred ownership or control of the sexually oriented business to a non-licensee of the establishment;

(11) A licensee has, with knowledge, permitted a person or persons to engage in specified sexual activities on the premises of the sexually oriented business.

(c) When the Director revokes a license, the revocation shall continue for one (1) year, and the licensee shall not be issued a license for one (1) year from the date revocation became effective. A licensee may appeal the revocation of a license to the City Council in accordance with the procedure set forth in Section 6-6-120. Notwithstanding any other provision of this Section, in the event the licensee appeals the revocation of a license, the status quo immediately prior to revocation shall be maintained throughout the pendency of the appeal, up to and including judicial review on the merits as set forth in Section 6-6-170.

6-5-170. Judicial Review.

Within thirty (30) days of a denial of an initial or renewal application by the Director and City Council, or suspension or revocation of a license by the Director, the applicant or licensee may seek prompt judicial review of such administrative action in any court of competent jurisdiction.

6-5-180. No Transfer of License.

(a) A licensee shall not transfer his/her employee license to another, 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 application and set forth in the operator's license.

(b) An operator's license shall not be transferable from one location to another.

6-5-190. License - Display.

It is unlawful for any sexually-oriented business location within the boundaries of the City to fail to display the license granted pursuant to this Chapter in a prominent location within the business premises. It is unlawful for any individual licensed pursuant to this Chapter to fail to carry their employee license on their person while engaged in licensed activities within the corporate boundaries of the City,. If the individual is semi-nude, such license shall be visibly displayed in the same room in which the individual is performing. Individuals or businesses engaged in licensed activities within the corporate boundaries of the City violate the law if they fail to show the appropriate licenses when requested to do so by police, City licensing officials, health officials or other enforcement personnel.

6-5-200. License - Statement in Advertisements.

It is unlawful for any advertisement by the sexually oriented business or employee to fail to state that the business or employee is licensed by the City, and such advertisement shall include the City license number.

6-5-210. 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 years on the licensed premises, except that in adult businesses which exclude minors from less than all of the business premises, minors shall not be permitted in excluded areas;

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

(c) To allow, offer, or agree to allow any alcohol to be 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 area, 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 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 a sexually oriented business employee or on the premises of a sexually oriented business.

(m) Appear in a state of nudity before a patron on the premises of a sexually oriented business.

6-5-220. Outcall Services - Operation Requirements.

It is unlawful for any business or employee that provides 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 provide to each patron a written contract in receipt of pecuniary compensation for services. The contract shall clearly state the type of services to be performed, the length of time such services shall 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 thereunder. The contracts shall be numbered and entered into a register listing the contract number, date, names of all employees involved in the contract, and pecuniary compensation paid.

(b) 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 owned or leased 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.

(d) All employees of outcall services who provide outcall services within the City shall be licensed in accordance with this Chapter, regardless of the primary location of the business.

6-5-230. Additional Regulations for Adult Motels.

(a) Evidence that a sleeping room in a hotel, motel, or a similar commercial enterprise has been rented and vacated two or more times in a period of time that is less than ten (10) hours creates a rebuttable presumption that the enterprise is an adult motel as that term is defined in this Chapter.

(b) It is unlawful if a person, as the person in control of a sleeping room in a hotel, motel, or similar commercial enterprise that does not have a sexually oriented business license, rents or subrents a sleeping room to a person and, within ten (10) hours from the time the room is rented, he rents or subrents the same sleeping room again.

(c) For purposes of subsection (b) of this Section, the terms "rent" or "subrent" mean the act of permitting a room to be occupied for any form of consideration.

(d) Violation of subsection (b) of this Section shall constitute a misdemeanor.

6-5-240. Adult Business - Design of Premises.

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

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

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

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

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

(b) It shall be the duty of the licensee and the licensee's employees to insure that the views from the manager's station in subsection (1) of this Section remain unobstructed by any doors, walls, merchandise, display racks, or any other materials at all times that any patron is present within the premises, and to insure 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.

(c) The premises shall at all times be equipped and operated with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one footcandle, measured at floor level. It shall be the duty of

the licensee and the licensee's employees present on the premises to insure that the illumination described above is maintained at all times that any patron is present within the premises.

6-5-250. Regulations Pertaining to Exhibition of Sexually Explicit Films and 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, a film, video cassette, or other video reproduction, that depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

(1) Upon application for a sexually oriented business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area. The diagram shall also designate the place at which the business 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 should be oriented to the north or to some designated street or object and should 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 (6") inches. The Director 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 said diagram 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 may be made without the prior approval of the Director or his designee.

(4) It is the duty of the owners and operator of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

(5) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of the entire area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two 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 the entire 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 subsection must be by direct line of sight from the manager's station.

(6) It shall be the duty of the operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that the view area specified in subsection (5)

of this Section remains unobstructed at all times. No doors, walls, partitions, curtains, merchandise, display racks, or other object(s) shall obstruct from view of the manager's station any portion of the premises to which patrons have access. It shall be the duty of the operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that no patron is permitted access to any area of the premises that has been designated as an area in which patrons will not be permitted, as designated in the application filed pursuant to subsection (1) of this Section.

(7) The 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 five (5) foot-candle as measured at the floor level.

(8) It shall be the duty of the operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

(9) No viewing room or booth may be occupied by more than one person at any time.

(10) No opening of any kind shall exist between viewing rooms or booths.

(11) It shall be the duty of the operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that no more than one person at a time occupies a viewing booths or rooms, and to ensure that no person attempts to make an opening of any kind between the viewing booths or rooms.

(12) The operator of the sexually oriented business shall, each business day, inspect the walls between the viewing booths to determine if any openings or holes exist.

(13) The operator of the sexually oriented business shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.

(14) The operator of the sexually oriented business shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used within forty eight (48") inches of the floor.

(b) A person having a duty under Subsections (1) through (14) of this Section is in violation of this Chapter if he/she, with knowledge, fails to fulfill that duty.

6-5-260. Semi-Nude Entertainment Business - Design of Premises.

(a) It is unlawful for business premises licensed for semi-nude entertainment to:

(1) Permit a bed, sofa, mattress, or similar item in any room on the premises, except that a sofa may be placed in a reception room open to the public or in any office to which

patrons are not admitted, and except that in an adult theater such items may be on the stage as part of a performance;

(2) Allow any door on any room used for the business to be lockable from the inside. Doors to an office to which patrons shall not be admitted, outside doors, and restroom doors are exempt from this requirement;

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

(b) Adult theaters shall also require that the performance area shall be separated from the patrons by a minimum of three feet, which separation shall be delineated by a physical barrier at least three feet high.

6-5-270. Semi-Nude Entertainment Business - Location Restriction.

It is unlawful for any business licensed for semi-nude entertainment to be located within five hundred (500) feet of a business licensed for the sale or consumption of alcohol.

6-5-280. Semi-Nude Dancing Agencies.

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

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

6-5-290. Performers - Prohibited Activities.

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

- (a) Appear before any customer or patron in a state of nudity;
- (b) Touch in any manner any other person;
- (c) Throw any object or clothing off the stage area;
- (d) Accept any money, drink, or any other object directly from any person; or

(e) Allow another person to touch such performer or to place any money or object on the performer or within the costume or person of the performer; or

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

6-5-300. Patrons - Prohibited Activities.

It is unlawful for any person or any patron of any business to touch in any manner any performer; to place any money or object on or within the costume or person of any performer; or to give or offer to give 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.

6-5-310. Existing Businesses - Compliance Time Limits.

The provisions of this Chapter shall be applicable to all persons and businesses described herein, whether the herein-described activities were established before or after the effective date of the provisions codified in this Chapter and regardless of whether such persons and businesses are currently licensed to do business in the City.

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

(b) All semi-nude dancing agency licensees shall have seventy-five (75) days from the effective date of the ordinance codified in this Chapter, or until their license must be renewed, whichever is first, to comply with the provisions of this Chapter.

(c) All adult businesses and semi-nude entertainment businesses that are not covered under subsections (a) and (b) shall have one hundred thirty-five (135) days from the effective date of the ordinance codified in this Chapter, or until their current license must be renewed, whichever is first, to comply with the provisions of this Chapter.

6-5-320. Exterior Portions of Sexually Oriented Businesses.

(a) It shall be unlawful for an owner or operator of a sexually oriented business to allow the merchandise or activities of the establishment to be visible from a point outside the establishment.

(b) It shall be unlawful for the owner or operator of a sexually oriented business to allow the exterior portion of the sexually oriented business to have flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent permitted by the provisions of this ordinance.

(c) It shall be unlawful for the owner or operator of a sexually oriented business to allow exterior portions of the establishment to be painted any color other than a single achromatic color. This provision shall not apply to a sexually oriented business if the following conditions are met:

(1) The establishment is a part of a commercial multi-unit center; and

(2) The exterior portions of each individual unit in the commercial multi-unit center, including the exterior portions of the business, are painted the same color as one another or are painted in such a way so as to be a component of the overall architectural style or pattern of the commercial multi-unit center.

(d) Nothing in this article shall be construed to require the painting of an otherwise unpainted exterior portion of a sexually oriented business.

6-5-330. Signage.

(a) In addition to applicable City ordinances regarding signs, the following sign regulations shall apply to all sexually oriented businesses within the City. In the event of conflict between the provisions of this Section and the provisions of the City sign ordinances, the more restrictive provisions shall apply. Notwithstanding any other city ordinance, code, or regulation to the contrary, it shall be unlawful for the operator of any sexually oriented business or any other person to erect, construct, or maintain any sign for the sexually oriented business other than the one (1) primary sign and one (1) secondary sign, as provided herein.

(b) Primary signs shall have no more than two (2) display surfaces. Each such display surface shall:

(1) Not contain any flashing lights;

(2) Be a flat plane, rectangular in shape;

(3) Not exceed seventy-five (75) square feet in area; and

(4) Not exceed ten (10) feet in height or ten (10) feet in length.

(c) Primary signs shall contain no photographs, silhouettes, drawings or pictorial representations in any manner, and may contain only the name of the enterprise.

(d) Each letter forming a word on a primary sign shall be of solid color, and each such letter shall be the same print-type, size and color. The background behind such lettering on the display surface of a primary sign shall be of a uniform and solid color.

(e) Secondary signs shall have only one (1) display surface. Such display surface shall:

- (1) Be a flat plane, rectangular in shape;
- (2) Not exceed twenty (20) square feet in area;
- (3) Not exceed five (5) feet in height and four (4) feet in width; and
- (4) Be affixed or attached to any wall or door of the enterprise.

(f) The provisions of item (1) of subsection (b) and subsections (c) and (d) shall also apply to secondary signs.

6-5-340. Messages or Baths Administered by Person of Opposite Sex.

It shall be unlawful for any sexually oriented business, regardless of whether in a public or private facility, to operate as a massage salon, massage parlor or any similar type business where any physical contact with the recipient of such services is provided by a person of the opposite sex.

6-5-350. Hours of Operation.

No sexually oriented business, except for an adult motel, may remain open at any time between the hours of one o'clock (1:00) a.m. and eleven o'clock (11:00) a.m. on weekdays and Saturdays. No sexually oriented business shall open for business or remain open for business on Sunday or any legal holiday recognized by the State of Utah.

6-5-360. Exemptions.

(a) It is a defense to prosecution under this ordinance that a person appearing in a state of nudity did so in a modeling class operated:

(1) By a proprietary school, licensed by the State of Utah, a college, junior college, or university supported entirely or partly by taxation;

(2) By a private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.

(b) Notwithstanding any other provision in this ordinance, movies rated G, PG, PG-13, or R, by the Motion Picture Association of America (MPAA), or live theatrical performances with serious artistic, social, or political value, that depict or describe specified anatomical areas or specified sexual activities, are expressly exempted from regulation under this ordinance.

6-5-370. Notices.

(a) Any notice required or permitted to be given by the Director or any other City office, division, department or other agency under this ordinance to any applicant, operator or owner of a sexually oriented business may be given either by personal delivery or by certified United States mail, postage prepaid, return receipt requested, addressed to the most recent address as specified in the application for the license, or any notice of address change that has been received by the Director. Notices mailed as above shall be deemed given upon signature for receipt. In the event that any notice given by mail is returned by the postal service, the Director or his designee shall cause it to be posted at the principal entrance to the establishment. Notice by posting shall be deemed given twenty-four (24) hours from time of posting.

(b) Any notice required or permitted to be given to the Director by any person under this ordinance shall not be deemed given until and unless it is received in the office of the Director.

(c) It shall be the duty of each owner who is designated on the license application and each operator to furnish notice to the Director in writing of any change of residence or mailing address.

6-5-380. Injunction.

A person who operates or causes to be operated a sexually oriented business without a valid operator's license, or in violation of Section 6-6-060 of this ordinance, is subject to a suit for injunction as well as prosecution for criminal violations. Each day a sexually oriented business so operates is a separate offense or violation.

6-5-390. Severability.

If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

6-5-400. Penalty.

Unless otherwise specifically provided herein or provided by law, any person who violates any provision of this Chapter shall be guilty of a class B misdemeanor, subject to fines, forfeitures, penalties and/or imprisonment as provided by law.

CHAPTER 6-06: DOOR-TO-DOOR SOLICITATION

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- 5-6-17. “No Soliciting” Notice**
- 5-6-18. Duties of Solicitors**
- 5-6-19. Time of Day Restrictions**
- 5-6-20. Buyer’s Right to Cancel**
- 5-6-21. Penalties**

5-6-1. 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 affect of the regulations in this Chapter on the rights of those who are regulated. Based on the collective experiences of the 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 citizens decisions regarding privacy in their residence.

- (b) Protecting persons from criminal conduct.
- (c) Providing equal opportunity to advocates for and against religious beliefs, 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's interests referred to herein while at the same time balancing the rights of those regulated. (Ord. 02-27, 02-32) (Ord. 07-09)

5-6-2. 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 registration 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. (Ord. 07-09)

5-6-3. Definitions.

For the purpose of this Chapter, the following definitions shall apply:

- (a) **ADVOCATING:** Speech or conduct intended to inform, promote, or support religious belief, political position, or charitable activities.
- (b) **APPEALS OFFICER:** 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:** 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:** An individual who is at least sixteen (16) years of age and not a corporation, partnership, limited liability company, or other lawful entity who applies for a Certificate permitting door-to-door solicitation.

(e) **APPLICATION FORM:** A standardized form provided by the City to an Applicant to be completed and submitted as part of registration.

(f) **B.C.I.:** 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:** 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:** A temporary, annual, or renewable Certificate permitting door-to-door solicitation in the City issued pursuant to the terms of this Chapter.

(i) **CHARITABLE ACTIVITIES:** Advocating by persons or entities that are or support a charitable organization.

(j) **CHARITABLE ORGANIZATION:** Any person, joint venture, partnership, limited liability company, corporation, association, group, or other entity, including a chapter, branch, area or office, or similar affiliate or any person soliciting contributions within the state for a charitable organization that has its principal place of business outside the State of Utah, that is:

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

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

(3) Established for any charitable purpose; and

(4) 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.

(k) **COMPETENT INDIVIDUAL:** A person claiming or appearing to be at least eighteen (18) years of age and of sufficiently sound mind and body to engage in rational thought, conversation, and conduct.

(l) **COMPLETED APPLICATION:** A fully completed application form, B.C.I., two copies of the original identification relied on by Applicant to establish proof of identify, and tendering of fees.

(m) **CRIMINALLY CONVICTED:** The final entry of conviction, whether by a plea of no contest, guilt, 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:** 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:

- (i) Felony homicide,
- (ii) Physically abusing, sexually abusing, or exploiting a minor,
- (iii) Sale or distribution of controlled substances, or
- (iv) Sexual assault of any kind.

(2) Criminal charges currently pending against Applicant or registered Solicitor for:

- (i) Felony homicide,
- (ii) Physically abusing, sexually abusing, or exploiting a minor,
- (iii) Sale or distribution of controlled substances, or
- (iv) Sexual assault of any kind.

(3) Applicant or registered Solicitor has been Criminally Convicted of a felony within the last ten (10) years.

(4) Applicant or registered Solicitor has been incarcerated in a federal or state prison within the last five (5) years.

(5) Applicant or registered Solicitor has been criminally convicted of a misdemeanor within the past five (5) years involving a crime of:

- (i) Moral turpitude,

(ii) Violent, aggravated, or destructive conduct involving persons or property;

(6) A final civil judgment has been entered against Applicant or registered Solicitor within the last five (5) years indicating:

(i) Applicant or registered Solicitor had either engaged in fraud or intentional misrepresentation.

(ii) Applicant or registered Solicitor had engaged in willful and malicious activity causing injury to another entity or to the property of another entity;

(iii) A debt of Applicant or registered Solicitor was non-dischargeable in bankruptcy pursuant to 11U.S.C§523(a)(2), (a)(4), (a)(6), or (a)(19).

(7) Applicant or registered Solicitor is currently on parole or probation to any court, penal institution, or government entity, including being under house arrest or subject to a tracking device;

(8) Applicant or registered Solicitor has an outstanding arrest warrant from any jurisdiction; or

(9) 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:** 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.

(p) **ENTITY:** Includes a corporation, partnership, limited liability company, or other lawful entity, organization, society, or association.

(q) **FEES:** The cost charged to 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 badges.

(r) **FINAL CIVIL JUDGMENT:** A civil judgment recognized under state law as a judgment to which collateral estoppels would apply.

(s) **GOODS:** 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: 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) Means of payment or consideration used for the purchase;
- (2) 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: The City employee(s) or agent(s) responsible for receiving the completed applications from Applicants or registered solicitors and either granting, suspending, or denying an applicant's Certificate.

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

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

(x) PROBABLE CAUSE: Facts and circumstances within the person's knowledge sufficient to warrant a prudent person to believe the information is true.

(y) REGISTERED SOLICITOR: Any person issued a current Certificate by the City.

(z) REGISTRATION: 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.

(aa) RELIGIOUS BELIEF: Any sincerely-held belief or information for, against, or in conjunction with any theistic, agnostic, or atheistic assumption, presumption or position, or religious doctrine, dogma, or practice regardless of whether or not the belief or information is endorsed by any other person or public or private entity.

(bb) RESIDENCE: Any living unit contained within any building or structure 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.

(cc) RESPONSIBLE PERSON OR ENTITY: A Person or Entity responsible for providing the following to an Applicant or 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) Responses to requests from consumers who desire to cancel sale pursuant to applicable contractual rights or law; and

(3) Refunds of any monies paid in reversals on credit card charges to those persons who timely rescind any sale pursuant to applicable contractual rights or law.

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

(ee) **SERVICES:** Those intangible goods or personal benefits offered, provided, or sold to a competent individual of a residence.

(ff) **SOLICITING, or solicit, or solicitation:** Any of the following activities:

(1) Seeking to obtain 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.

(gg) **SOLICITOR OR SOLICITORS:** A person(s) engaged in door-to-door solicitation.

(hh) **SUBMITTED IN WRITING:** 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, delivery confirmation mail, facsimile, or hand delivery.

(ii) SUBSTANTIATED REPORT: An oral, written or electronic report:

(1) Submitted to and documented by the City by any of the following:

(i) A competent individual willing to provide law enforcement or other City employees with publicly available identification of their name, address, and other reliable means of contact;

(ii) City law enforcement or Licensing Officer; or

(iii) Any other regularly established law-enforcement agency at any level of government.

(2) That provides any of the following information regarding a registered Solicitor:

(i) Documented verification of a previously undisclosed disqualifying status of a registered Solicitor;

(ii) Probable cause that the registered Solicitor has committed a disqualifying status, which information is not already known by the Licensing Officer;

(iii) Documented, eye-witness accounts the registered Solicitor has engaged in repeated patterns of behavior that demonstrate failure the registered Solicitor would adhere to the requirements of this Chapter; or

(iv) Probable cause that continued licensing of the registered Solicitor creates exigent circumstances that threaten the health, safety, or welfare of any individuals or entities within the City.

(jj) WAIVER: The written form provided to Applicant by the City wherein Applicant agrees the City may obtain a name/date of birth-BCI background check on the Applicant for licensing purposes under this Chapter, and which is either executed in the presence of the Licensing Officer or contains Applicant's notarized signature. (Ord. 02-27, 02-32) (Ord. 07-09)

5-6-4. 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 property within

the City by Solicitors for the purpose of Home Solicitation Sales or to provide goods or services, is prohibited and punishable as set forth in this Chapter. (Ord. 02-27, 02-32) (Ord. 07-09)

5-6-5. 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 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;

(c) 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

(d) 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 5-6-17, 5-6-18, and 5-6-19 while advocating or soliciting. (Ord. 02-27, 02-32) (Ord. 07-09) (Ord. 07-14)

5-6-6. 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 prior to engaging in solicitation. (Ord. 02-27, 02-32) (Ord. 07-09)

5-6-7. Application Form.

The City Licensing Officer shall provide a standard application form for use for registration of solicitors. Upon request to the Licensing Officer, or as otherwise provided, any person or entity may obtain in person, by mail, email, website, or facsimile, a copy of this application form. Each Application form shall require disclosure and reporting by Applicant of the following information, documentation, and fee:

(a) **Review of Written Disclosures.** An affirmation that 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 (10) years;
- (2) Applicant's telephone number, home, address, and mailing address, if different;
- (3) If different from Applicant, the name, address, and telephone number of the responsible person or entity; and
- (4) The address by which all notices are to be sent to Applicant, as required under this Chapter.

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

- (1) Valid driver's license issued by any state;
- (2) Valid identification card issued by any state;
- (3) Valid passport of the United States; or
- (4) 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 Applicant; however, a photocopy may be retained for the City's files.

(d) **Proof of Registration with Department of Commerce.** Applicant shall provide proof that either the Applicant or responsible person or entity has registered with the Utah State Department of Commerce.

(e) **Special Events Sales Tax Number.** Applicant shall provide a special events sales tax number for either the Applicant or responsible person or entity for which Applicant will be soliciting.

(f) **Marketing Information.** Applicant shall provide a brief description of:

- (1) The goods or services offered by Applicant, including any commonly known, registered, or trademarked names.
- (2) Whether 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.** Applicant shall provide:

(1) An original copy of a BCI background check as defined in 5-6-3;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.

(h) Responses to Questions Regarding “Disqualifying Status”. Applicant shall be required to affirm or deny each of the following statements on the application form:

(a) Has Applicant been criminally convicted of:

- (i) Felony homicide,
- (ii) Physically abusing, sexually abusing, or exploiting a minor,
- (iii) The sale or distribution of controlled substances, or
- (iv) Sexual assault of any kind.

(b) Are any criminal charges currently pending against Applicant for:

- (i) Felony homicide,
- (ii) Physically abusing, sexually abusing, or exploiting a minor,
- (iii) The sale or distribution of controlled substances, or
- (iv) Sexual assault of any kind.

(c) Has Applicant been criminally convicted of a felony within the last ten (10) years;

(d) Has Applicant been incarcerated in a federal or state prison within the last five (5) years;

(e) Has Applicant been criminally convicted of a misdemeanor within the past five (5) years involving a crime of:

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

(f) 6. Has a final civil judgment been entered against Applicant within the last five (5) years indicating:

- (i) Applicant has either engaged in fraud or an intentional misrepresentation,
- (ii) Applicant had engaged in willful and malicious activity causing injury to another person or entity or to the property of another person or entity, or
- (iii) A debt of Applicant’s was non-dischargeable in bankruptcy pursuant to 11 U.S.C § 523(a)(2), (a)(4), (a)(6), or (a)(19).

(g) Is Applicant currently on parole or probation to any court, penal institution, or government entity, including being under house arrest or subject to a tracking device.

(h) Does Applicant have an outstanding arrest warrant from any jurisdiction; or

(i) Is Applicant currently subject to a protective order, based on physical or sexual abuse, issued by a court of competent jurisdiction.

(i) Fee. Applicant shall pay such fees as established by resolution of the City Council, which shall not exceed the reasonable cost of processing the application and issuing the Certificate and/or identification badge.

(j) Execution of Application. Applicant shall execute the application form stating, upon oath or affirmation under penalty or perjury, that, based on the present knowledge and belief of Applicant, the information provided is complete, truthful, and accurate. (Ord. 02-27, 02-32) (Ord. 07-09)

5-6-8. Written Disclosures.

The application form shall be accompanied by written disclosures notifying 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) Applicant's address;

(2) Applicant's and/or responsible person's or entity's state tax identification and special use tax numbers, if any.

(3) Validity of Applicant's proof of identity.

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

(c) Establishing proof of identity is required before registration is allowed.

(d) Identified fee amount must be submitted by Applicant with a completed application.

(e) Applicant must submit a BDI background check with completed application.

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

(g) The City will maintain copies of 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 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) A request for a temporary Certificate will be granted or denied on the same business day a completed application is submitted. (Ord. 07-09)

5-6-9. When Registration Begins.

The Licensing Officer shall not begin the registration process unless Applicant has submitted a completed application. The original identification submitted to establish proof of identity shall be returned after the Licensing Officer verifies Applicant's identify. A cop of the identification may be retained by the Licensing Officer. If an original BCI background check is submitted by Applicant, the Licensing Officer shall make a copy of the BDI and return the original to Applicant. (Ord. 07-09)

5-6-10. Issuance of Certificates.

The Licensing Officer shall review the completed application submitted by Applicant and issue a Certificate in accordance with the following: (Ord. 02-27, 02-32) (Ord. 07-09)

(a) Temporary Certificate. If the annual certificate is not issued within ten (10) calendar days of registration, the Licensing Officer shall issue a temporary Certificate. Issuance of a temporary Certificate shall allow Applicant to immediately begin door-to-door solicitation upon the following conditions.

(1) Applicant has submitted a completed application.

(2) Applicant has made payment of required fee.

(3) Applicant has established proof of identity.

(4) Applicant's representations on the application form do not affirmatively show a disqualifying status.

(5) The BCI does not affirmatively show a disqualifying status; and

(6) 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. A temporary Certificate will automatically expire after twenty-five (25) calendar days from issuance, or upon the granting 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 Applicant including, but not limited to, those disclosed with the application form.

(2) Issue written notice to Applicant and the responsible person or entity, if any, that Applicant either:

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

(ii) Will not be issued an annual Certificate for reasons cited in Section 5-6-15 of this Chapter.

(c) Renewal Certificate. An annual Certificate shall be valid for one year from date of issuance of the temporary Certificate and expire at midnight on the anniversary date of issuance. Any annual Certificate not suspended, revoked, or expired may be renewed upon the request of the registered Solicitor and submission of a new completed application with payment of the fee, unless any of the conditions for denial, suspension, or revocation of a Certificate are present, as set forth in Section 5-6-15, or a disqualifying status is present. (Ord. 02-27, 02-32) (Ord. 07-09)

5-6-11. Form of Certificate and Identification Badge.

(a) Certificate Form. The Licensing Officer shall issue a Certificate to Applicant after determining that the criteria of this Chapter have been met. 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 licensing 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 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 provided,
- (3) A recent photograph of the registered Solicitor; and
- (4) The date on which the Certificate expires. (Ord. 02-27, 02-32) (Ord. 07-09)

5-6-12. 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. Applicant's BCI background check shall remain a confidential, protected, private record not available for public inspection, except as disclosure is required by law. The Licensing Officer may furnish to the head of the City's law enforcement agency a listing of all applicants, including those denied and those issued a Certificate. (Ord. 02-27,02-32) (Ord. 07-09)

5-6-13. Non- Transferability of Certificates.

Certificates shall be issued only in the name of applicants and list the responsible party or entity, if any. The Certificate shall be non-transferable. A registered Solicitor desiring to facilitate or attempt to facilitate home solicitation sales with different goods or services or a 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 be issued for the balance of time remaining on the solicitors 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, as necessary to correct revised information, after payment of the fee for the identification badge. (Ord. 02- 27,02-32) (Ord. 07-09)

5-6-14. 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:
 - (1) The name of the Solicitor
 - (2) The Solicitor's name and address or the name and address of the entity with whom the Solicitor is associated.

(3) 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. (Ord. 02-27,02-32) (Ord. 07-09)

5-6-15. Denial, Suspension, or Revocation of a Certificate of Registration.

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

(1) Denial of Temporary Certificate.

(i) Application form is not complete.

(ii) Applicant fails to
A. Establish proof of identity.
B. Provide a BCI, or
C. Pay the fees.

(iii) Completed application of BCI indicates Applicant has a disqualifying status; or 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, Renewal of Annual Certificate.

(i) Information submitted by Applicant at the time of the granting of the temporary Certificate, or when seeking renewal of annual Certificate, is found to be incomplete or incorrect.

(ii) Since submission of the completed or renewal application, Applicant is subject to previously undisclosed or unknown disqualifying status.

(iii) Failure to complete payment of fees.

(iv) Since submission of the application, the City has received a substantiated report regarding the past or present conduct of Applicant;

(v) Since submission of the application, the City or other governmental entity has either criminally convicted or obtained a civil injunction against Applicant for violating this Chapter or similar federal, state, or municipal laws in a manner rising to the level of a disqualifying status; or

(vi) Since submission of the application, a final civil judgment has been entered against Applicant indicating that;

A. Applicant had either engaged in fraud or an intentional misrepresentation;

B. Applicant had engaged in willful and malicious activity causing injury to another person or entity or the property of another person or entity; or

C. A debt of Applicant's 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 any applicant's completed application or suspend a registered Solicitor's Certificate, the City shall cause written notice to be sent to Applicant or registered Solicitor. The notice shall specify the grounds for denial or suspension, documentation or information on which the City relied to make the decision, availability of the documentation for review by Applicant upon two (2) business days notice to the City, and date upon which the denial or suspension of the Certificate shall take effect. It shall further state that Applicant or registered Solicitor shall have twelve (12) business days from receipt of the notice of denial or suspension to appeal the same. The denial or suspension of the Certificate shall be effective no sooner than two (2) calendar days from the date notice is sent, unless that suspension is because of exigent circumstances outlined in Section 5-6-3(HH)(2)(d), in which case, the suspension is effective immediately. The denial or suspension shall remain effective unless and until the order is rescinded by the licensing Officer upon finding of mistake or other good cause, overturned on appeal, or determined by a court to be contrary to equity or law. Failure to appeal the suspension of a Certificate automatically results in its revocation. (Ord. 02-27, 02-32) (Ord. 07-09)

5-6-16. Appeal.

An Applicant or registered Solicitor whose Certificate has been denied or suspended shall have the right to appeal the decision to the City Council or its designee. Any appeal must be submitted by either the Applicant, responsible person or entity, or legal counsel, for either who:

(a) Documents the relationship with the Applicant or responsible person or entity; or

(b) Is licensed or authorized by the State of Utah to do so, and makes the assertion of an agency relationship. The following procedures and requirements shall apply:

(1) Any appeal must be submitted in writing to the City Recorder with a copy to the Licensing Officer within twelve (12) business days of the decision from which the appeal is taken. Such appeal shall describe in detail the nature of the appeal, the action complained of, and the grounds for appeal.

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

(3) The Appeals Officer shall review, de novo, all written information submitted by 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 to the Appeals Officer by the City, Applicant, or registered Solicitor. Any additional information submitted by any party to the appeal shall be simultaneously submitted to the opposing party. If desired, any party shall have five (5) business days to submit rebuttal documentation to the Appeals Officer regarding the additional information submitted by the opposing party.

(4) The Appeals Officer will render a decision no later than fifteen (15) calendar days from the date the appeal was taken, unless an extension of time is agreed upon by the parties. In the event any party to the appeal submits rebuttal information as allowed in 5-6-13(3), the fifteen (15) calendar days shall be extended to include the additional five (5) days for rebuttal.

(i) 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 the Licensing Officer made a material mistake of law or fact in denying or suspending the Applicant's or registered Solicitor's Certificate.

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

(iii) The decision of the Appeals Officer shall be delivered to Applicant or registered Solicitor in writing, by mail or in person.

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

(6) Nothing herein shall impede or interfere with Applicant's Solicitor's or City's right to seek relief in a court of competent jurisdiction. (Ord. 02-27,02-32) (Ord. 07-09)

5-6-17. "No Soliciting" 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 to Solicitors who are exempt from registration pursuant to the provisions of Section 5-6-5 of this Chapter. (Ord. 02-27,02-32) (Ord. 07-09)

5-6-18. 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" or similar sign or placard, for the purpose of engaging in or attempting to advocate a home solicitation sale, door-to-door solicitation, or Soliciting.

(c) Any solicitor who is at any time asked by the occupant of a residence or dwelling to leave shall immediately and peacefully depart.

(d) 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.

(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. (Ord. 02-27,02-32) (Ord. 07-09)

5-6-19. 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 expressed prior permission from the resident to do so. (Ord. 02-27,02-32) (Ord. 07-09)

5-6-20. Buyers 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 of Solicitor shall present to Buyer and obtain Buyer's signature to a written statement which informs Buyer of the right to cancel within the third business day after signing an agreement to purchase. Such notice of "buyers right to cancel" shall be in the form required by § 70C-5-103, Utah Code Annotated, 1953, or a current version thereof or any state or federal law modifying or amending such provision. (Ord. 07-09)

5-6-21. 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 not to exceed \$1,000.00 and/ and/or jail sentence not to exceed six (6) months. (Ord. 02-27,02-32) (Ord.07-09)