ORDINANCE NO. R 93-1

TITLE: AN ORDINANCE REGULATING BUSINESS LICENSES

 BEIT ORDAINE BY THE RANDOLPH CITY COUNCIL

**SECTION 1.** The following terms shall be defined as indicated for purpose of this ordinance.

 A. BUSINESS includes every trade, occupation, profession or activity engaged in within the city with the object of gain or economic profit, excluding however the acts of employees rendering service to employers.

 B. EMPLOYEE includes all natural persons who work for an employer for salary or commission or wages and who are subject to the discretion and control of such employer and who do not share the profits and losses of such employer. It includes all full-time officers of public agencies.

 C. ENGAGING IN BUSINESS means one or more transactions where gross receipts are in excess of $500 during any 12 months period. The term also includes but is not limited to, engaging in selling any tangible property either at retail or wholesale. Installation of goods, engaging in manufacture of goods or property and rending of any personal services for others for consideration by persons engaged in any profession, trade, craft, business, occupation or other calling, except the rendering or personal services by an employer of his employer under contract of personal employment.

 D. PERSON means any individual, receiver, assignee, trustee in bankruptcy, trust, firm or partnership, joint venture, corporation, club, company, business trust, association, society or other group of individuals acting as a unit, whether mutual, cooperative fraternal, non-profit or otherwise.

 E. PLACE OF BUSINESS means a place maintained or occupied by the licensee for the transaction of business. It does not include a place in which goods of the licensee are kept for storage or display only if no services are rendered, business transacted, or sales consummated at such place.

 F. SOLICITOR means any person selling, soliciting the sale of, offering for sale, or taking orders for merchandise door to door within the city. Merchandise shall include goods, foods, wares, photographs, subscriptions to any kind of publication, tickets, coupons, or receipts representing value. The term “SOLICITOR” also includes, but is not limited to, photographers, sellers of magazines, cosmetics, home care products, etc., and any other person engaged in direct sales, but specifically excludes newspaper carriers and any person who obtains orders for or sells goods solely for resale.

 G. TEMPORARY BUSINESS means a business conducted on a lot for a period of no more than 95 consecutive days within a single calendar year (with or without a permanent building) and which not associated with any other business conducted on the same lot.

**SECTION 2. LICENSE REQUIRED.** Every person engaged in business in the city shall secure a license from the city for such business. Such license shall be issued upon written application therefore in such form as the city may prescribe and upon payment of the fees in prerequisites for the issuance of each such license have been satisfied and fulfilled.

**SECTION 3. UNLAWFUL TO OPERATE WITHOUT LICENSE.** It shall be unlawful for any person to engage in business without first obtaining a license therefore in accordance with the provisions of this ordinance.

**SECTION 4. EXEMPTIONS.** The following businesses, ventures of activites are exempt from the licensing the fee requirements of this Ordinance:

 A. Any organization carried on or managed wholly for the benefit of charitable purposes or from which profit is not derived, directly or indirectly, by any person.

 B. Any activity the receipts from which are to be appropriated entirely to any church, public school, religious or benevolent purpose.

 C. Any activity conducted by a religious, charitable, fraternal, educational, military or governmental organization so long as the receipts from such activity are appropriated for the purpose and objects for which such organization is formed and no person directly or indirectly derives a profit therefrom.

 D. Any person conducting a business, venture or activity which is exempted from the licensing and fee requirements pursuant to this section shall still be required to pay nay fee required to cover the costs of necessary inspections done by the City, which shall include all inspections done by the City, which shall include al inspections to determine compliance with applicable codes. The inspection fees shall be in an amount determined by resolution of the City Council.

 E. Nothing in this ordinance shall apply to any public utility business holding a franchise from the city under which the city is to be paid a franchise fee or tax in lieu of all other license fees or taxes.

 F. If any person shall furnish such evidence as shall satisfy the City Council that he, by reason of his misfortune or physical infirmities, merits exemption from the payment of any license fee require in this ordinance, the mayor may remit such license with consent of the City Council.

**SECTION 5. APPLICATION – SUBMITAL – CONTENTS OF LICENSE.** All applications for license shall be made in writing. Upon granting a license, the city shall issue a certificate of license which shall contain the name of the licensee, the business, calling, trade or profession to be carried on thereunder, the class of the license, if such licenses are divided into classes, and the place where the licensed business is to be carried on, giving the street number if such business is to be carried on at a fixed location, and the date of expiration of such license.

**SECTION 6. APPLICATION CONTENTS.** The application shall contain:

 A. The date of application;

 B. The name of the person, firm or corporation desiring the license;

 C. The kind of license desired, stating the business, calling, trade or profession to be performed, practiced or carried on;

 D. The class of license desired if licenses are divided into classes;

 E. Proof of such applicant’s compliance or qualifications under applicable federal, state and local regulatory laws before issuing the city revenue license;

 F. The period of time for which the license may be issued;

 G. Any other matter or thing which may be required and necessary for the purpose of enabling the city to fix the amount of the license fee.

**SECTION 7. BONDS REQUIRED FOR PARTICULAR BUSINESS.** All applicants for business licenses for the following business licenses for the following businesses shall be required to give bonds in favor of the city for the purpose indicated in such amounts as may be set by resolution. All aggrieved person shall have a right to bring action under such bond against the licensee and sureties. Such bonds shall be executed to corporate sureties only unless otherwise authorized by the City Council. No license shall be issued until the bonds required herein have been filed and approved by the mayor.

 A. Employment agencies, conditioned upon the faithful observance of the ordinances of the city, and the payment of all damages occasioned to any person by reason of misstatement, misrepresentation, fraud or deceit practiced by the licensee, his agents or employees.

 B. persons lending money upon personal securities,evidence of indebtedness, assignements of salary, salary warrants or any personal property, other than banks and other regulated financial institutions, conditioned upon the faithful observance of the ordinances of the city and laws of the state respecting money brokers, loan agencies and pawnbrokers and usuary laws.

 C. Messenger or special delivery services conditioned upon faithful observance of all ordinances of the city and the payhment of all damages arising from any negligence in the conducting of such business.

**SECTION 8. TENDER OF LICENSE FEE.** All licenses shall be payable annually, in advance (unless otherwise provided) and shall date from the first day of January of each year and shall expire on the thirty-first day of December each year.

**SECTION 9. PENALTY FOR LATE PAYMENT OF FEES.** If any license fee or tax is not paid within forty-five days of the due date, a penalty of twenty-five percent the amount of the license fee or tax shall be added to the original amount thereof, and if not paid within three months of the due date, and additional penalty of within three months of the due date, and additional penalty of twenty-five percent shall be added to the original amount thereof. All penalties provided for in this section shall be collected by the city and the payment thereof enforced in the same manner as the license fees are collected and payment thereof enforced. No license shall be issued until all penalties legally assessed have been paid in full.

**SECTION 10. MULTIPLE BUSINESS – HIGHEST LICENSE FEE TO GOVERN.** Except as may be otherwise specifically provided in this ordinance, whenever more than one business, trade, profession, calling or occupation is being carried on by one licensee under on roof, such licensee shall for all of such businesses, trades, professions, callings, or occupations pay only the highest of the license fees provided in the ordinance applicable to any of such business, trades, professions callings, or occupations.

**SECTION 11. NEW BUSINESS LICESE FFES.** The license fee for new businesses shall be due and payable on the date that business is first commenced. The provisions of this section apply only to new businesses, nothing contained herein shall be construed as exempting a late applicant from payment of the full license fee, or permitting the refund of any portion of a license fee already paid.

**SECTION 12. LICENSE FEE DEEMED DEBT TO CITY – RECOVERY.** Every license fee tax or assessment levied by any ordinance of the city and all interest accruing thereon after the date of the delinquency and all penalties lievied or assessed thereon by any ordinance of the city for failure to pay the same within the time required constitutes a debt to a city, and the city may maintain an action to recover the same and allcosts associated therewith, including a reasonable attorney’s fee, in any curt of competent jurisdiction, which remedy shall be in addition to any and all other remedies which may be provided.

**SECTION 13. NO REBATE ALLOWED.** No rebate shall be allowed upon any license unless the licensee has been damaged by fire or other unavoidable accident or property. In all such cases the City Council shall have discretionary power as to what amount, if any, shall be rebated.

**SECTION 14. CITY COUNCIL DEEMED BOARD OF EQUALIZATION.** The City Council is hereby constituted a board of equalization for the equalization of license rates. The board shall have authority to examine the assessment roles, to hear complaints of persons, firms or corporations aggrieved by their license assessments, and to make corrections of any such assessments deemed to be illegal, unequal or unject; provided however, that any corrections made by the board shall be entered in detail in a record of license abatements and the members of the board shall approve the entires in writing before the accounts are adjusted. The board shall meet at the call of the mayor to hear any complaints and authorize any adjustments which it may deem proper in the assessments made by the city all complaints pertaining to licenses due on the first day of January must be presented to the board prior to the first day of March, and all complaints pertaining to licesnses due at any other time must be presented to the board within sixty days from the date such licneses are due. All complaints not presented before such deadlines shall be barred.

SECTION 15. ISSUANCE AND REVOCATION OF LICENSES.

 A. All applications for licenses are/or licenses which have been issued or which may hereafter be issued are subject to any expiration date on said license as issued.

 B. Whenever, in the opinions of the Mayor or City Counil, the public interest will be best served by refusing to issue or by revocation or any license or any licenses issued by the City., the City Council or Mayor may direct that notice be sent to the applicant or the h9older(s) of such licenses directing said parties to appear before the City Council at a definite date and hour to be stated in such notice and to show cause, if any, why such license or licenses should be issued or should not be revoked, provided however that the time set for such appearance by said licensee shall not be less than five (5) days after the date of mailing such notice; provided further that such notice shall be mailed to said licensee by regular mail, postage pre-paid, and addressed to the address of such license as shown on the application for each notice, or at any subsequent address which has been given to the city by such licensee. Notice may also be given to the licensee by personally delivering to the licensee said notie.

 C. At the hour and date stated in such notice, the icensee shall have opportunity to appear before the City Council and to show cause why a license should be issued or why such license should not be revoked or canceled, and may appear in person or by persons interested in the matter and determine whether or not said license shold be issued or should be revoked.

 D. In the event that the City Council on such hearing shall determine any of the following, the City council may refuse to issue a license or order such license canceled or revoked and thereupon such license shall beom enull and void:

 (1) the applicant or licensee has failed to conform with Randolph City’s zoning code;

 (2) the applicant or licensee has failed to conform with Randolph City’s or Rich County City’s or Rich County’s uniform building code;

 (3) the applicant or licensee has failed to conform with Randolph City’s or Rich County’s code of professional ethics for licenses licensing a particular profession;

 (4) the applicant or licensee has been convicted of a felony or crime involving moral turpitude;

 (5) the applicant or licensee has admitted to conduct which is tantamount to violating laws relating to feolonious conduct or moral turpitude;

 (6) the applicant or licensee has violated any laws relating to sale display or distribution of pornographic materials;

 (7) the moral character of the applicant or the nature of the business to be licensed is such as to be contrary to the public good;

 (8) the business activity constitutes a public nuisance;

 (9) the business has been or will be conducted in a manner which will constitute a breach of the peace or constitute a menace to the health, safety or general welfare of the public;

 (10) the business has been or will be conducted in violation or any of the Federal, State, County or City ordinances and/or in an unlawful manner.

 (11) the operation of the business would not be in the best interest and welfare of the citizens of Randolph.

 E. In the event of revocation as herein provided, there shall be no refund or rebate of any part of the original license fee paid by the licensee.

 F. In the even the licensee shall fail, neglect or refuse to appear at thehour and date set for such hearing, the City Council may proceed to determine the matter in absence of the license, or may in its sole discretion, continue the date of such hearing ot some later date and at said later date to proceed to acton the matter without further notice to the licensee.

**SECTION 16. OFFENSE.** It shall be unlawful for any person to carry on, conduct or operate any business, trade or profession for which a city license is required, after such person’s license has been revoked, canceled or not issued in accordinance with provisions of this ordinance.

**SECTION 17. INTERESTATE COMMERCE.** It shall be unlawful for any person to engage in any business, occupation, calling or profession which is solely in interstate commerce without first registering with the city and paying the registration fee prescribed by the resolution, and filing with the City such information as may be required by the City Council.

**SECTION 18. TEMPORARY BUSINESSES.**

 A. All temporary business must be located on improved property contatining improvements such as adequate parking, drainage, access and egress and other measures deemed necessary by City Council or Mayor.

 B. All temporary businesses must be located within Commercial Zones.

 C. Review and approval of the site and the proposed temporary business by the following departments must occur prior to conducting any sale or rendering any service:

 (1) Health Department for the purpose of ensuring adequate sanitary facilities;

 (2) Building Inspector for the purpose of examining the construction of temporary shelters, electrical, plumbing and heating installation, traffic flow and potential hazards, off street parking and general site standards.

 D. The applicant for a temporary business license must submit a site plan showing the type of building or shelter from which sales are to be made, as well as its location on the lot. Temporary structures shall be so constructed as to withstand a 70 mile perhour velocity force and to comply with Section 2311 of the uniform Building Code and, where the temporary business is conducted between November 15th and March 15th of any year, a roof of substantial strength and design to support a snow load of not less than 30 puonds. If the business is conducted from a vehicle, its license number must be given. The location and sizes of all egress to the site from the street, the location and sizes of all proposed signs, and the number and size of off-street parking stalls must also be shown. In addition, the following is required:

 (1) the porposed hours of operation;

 (2) the dates upon which the sales are to be conducted;

 (3) a general description of the goods offered for sale;

 (4) a letter from the property owner granting permission to the temporary business to use his lot together with any conditions for approval;

 (5) a revenue and regulatory license fee for each location, the same to be established by resolution;

 (6) a refundable deposit in a sum to be estrablished by resolution which shall accompany the application and which shall be returned within 14 days from the date of termination of the temporary business so long as the area is cleaned and placed in the pre-business condition and order.

 E. Every license issued shall contain on the face thereof the date upon which the license period ends. Every temporary business shall immediately cease doing business at the conclusion of the license period ends. Every temporary business shall immediately cease doing business at the conclusion of the license period and shall vacate the temporary business site within five days thereof, leaving the same in its pre-business condition. In the event the city elects or dems it necessary to utilize city manpower or equipment or expend public funds to replace the site of a temporary business in its pre-business condition, the icty shall have and be quthorized to maintain a cause of action against the applicant, its officers, and employees, for the payment of all may arise or accrue in cleaining or reparining said premises, or in pursuing any remedy necessitates or results in filing of a lawsuit or not. Said applicant further grants unto the city a ien against all property of applicant located, brought, or kept upon said premises for the foregoing costs, expenses and fees.

**SECTONI 19. SALE OF CHRISTMAS TREES.** The sale of Christmas trees is subject to the licensing and other requirements for a temporary business. Any non-profit organization submitting an application for the conduct of a temporary business shall not be required to pay the license fee but shall be subject to toerh application and use standards set forth herein.

**SECTION 20. GENERAL PROCEDURES.**

 A. SOLICITORS. It shall be unlawful for any person to engage in the activities of a solicitor without first complying with the following requirements:

 (1) Submit a completed business application which shall contain the following;

 a. The name and address of the applicant, and if the applicant is an employee or agent of a corporation or other entity, the name and address of the corporation or entity.

 b. A brief description of the nature of the business and the goods to be sold.

 c. The length of tiem for which the applicant desires to engage in business within the city.

 d. The place or places within the city where the applicant has engaged in business within the six month period preceding the date of the application proposes to carry on his or her business or engage in soliciting.

 e. A list of other municipalities in which the applicant has engaged in business within the six month period preceding the date of the application.

 f. A statement as to whether or not the applicant or any of his employees have been convicted of a felony or a misdemeanor involving moral turpitude.

 g. If the applicant is employed by another person, documents whoing that the person for which the applicant proposes to o business is authorized to do business within the State of Utah.

 (2) Furnish the City with two photographs no tlarger than two inches by three inches or the applicant taken within the last twelve months, one o whih shall be affixed to the license issued to the licensee and the other to be retained in the files and records of the City.

 (3) Sign his or her name to the registration card tob e kept by the City.

 (4) Submit a corporate surety bond or cash depositconditioned upon the faithful observance of all aws and ordinances of the City and conditions agreed to by the liceensee. The amount of such deposit or bond shall be set by resolution.

 (5) Keep on his or her person at all times the license with the photograph attached and display the same upon demand of any person.

 (6) Pay a license fee establishe dyb resolution.

 B. INVESTIGATION AND ISSUANCE OF LICENSE.

 (1) On receiving the application the Mayor, Chief of Police or other arty designated by the Mayor shall cause such investigation of the applican’t business and moral character tob e made as he deem sreasonble and necessary for the protection of the public good. Said investigation shall include the requirements of Section 15d herein.

 (2) If as a result of the investigation the applicant’s character or business responsibility is found to be unsatisfactory, the Mayor, Chief of Police or party designed by the Mayor shall endorse such upon the application together with a statement of his reasons therefore. The applicant thereupon shall be notified that his application ahs been disapproved and that no permit or license will be issued.

 (3) If as result of such investigation the character and business responsibility of the applicant is found to be satisfactory, the Mayor, Chief of Police or party designated by the Mayor shall endorse such upon the application. Upon payment of the prescribed license fee, the City may deliver the applicant his or her license. Such license shall show name, address, type of business or goods sold, expiration date and photograph all pursuant to the application.

 C. REVOCATION OF LICENSE

 (1) Licenses issued pursuant to this Section may be revoked by the City Council, after notice and hearing for any of the following causes;

 a. Fraud, misrepresentation or a false statement contained in the application for the license.

 b. Fraud, misrepresentation or a false statement made in the course of arrying on business or soliciting.

 c. Any violation of this ordinance.

 d. Conviction of any felony or misdemeanor involving moral turpitude.

 e. Conducting the business of soliciting in an unlawful manner as to constitute a breach of the peace or to constitute a menace to the health, safety to general welfare of the public.

 f. Failure to comply with any of the terms and conditions set forth in Section 15D herein.

 (2) Notice of the hearing for revocation shall be given in writing setting forth specifically the grounds of compliaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address or at the address shown on his application, or may be mad eby personal communication by any city officer or employee.

 (3) Any duly appointed license inspector may temporarily revoke the license of any solicitor when he has reasonable cause to a breach of the peace, a public nuisance or menace to the health, safety or general welfare of the public.

 D. SURRENDER OF LICENSE, RETURN OF BOND. Upon the surrender by a licensee of his license to the City, the licensee’s bond or cash shall be returned provided ther have been no violations by the licensee of any of the conditions ofr which the bond or cash deposit was made. If the licensee applies for renewal of his license, the bond or deposit shall be renewed or retained for the license, the bond or deposit shall be renewed or retained for the term of such newly acquired license.

 E. EXPIRATION OF LICENSE. Any license issued purusnat to this section shall expire on the thirty-first day of December in the year it is issued.

 F. EXEMPTIONS.

 (1) Persons already licensed pursuant to the provisions of this ordinance but who also engage in soliciting activites, are exempt from the foregoing licensing requirements provide such solicitation is for the sale of merchandise from a location or business already licensed. All other solicitors doing business within the city are non-exempt and shall comply with the foregoing licensing provisions.

 (2) Solicitors who reside in and do business in the City from their homes are exempted from the provisions of this ordinance but shall be licensed and regulated under provisions of the Randolph City Zoning Ordinances relating to Home Occupations.

**SECTION 21. INSPECTION DUTY.** The Mayor, all police officers, building inspector and other party designated by the Mayr are appointed license inspectors and shall examine all the places of business or persons required ot obtina businesss licenses. All business licenses shall be displayed in a visible and conspicuous manner during all business hours. Inspecting parties shall report to the Mayor and/or City Council all businesses or persons that have failed to obtain or display business licenses as required by this ordinance. It shall be the duty and power of all license inspectors:

 A. To cause complaints to be filed against all persons violating any of the provisions of this ordinance.

 B. To have and exercise the power to enter free of charge during business hours any place of business for which a license is required by this ordinance and to demand the exhibition of a current license from any person or persons engaged or employed int eh transaction of such business.

**SECTION 22. REPEALING CLAUSE.** All existing ordinance in conflict with this ordinance are hereby repealed; specifically Sections 20 through 35 of the Revised Ordinance of the Town of Randolph, Utah are hereby repealed.

**SECTOIN 23. PENALTY.** Any person violating any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction, shall be punished by a fine up to $1,000 or by term of imprisonment up to six months, or by both such fine and term of imprisonment.

**SECTOIN 24. EFFECTIVE DATE.** This ordinance shall become effective upon passage of lawful posting.

 PASSED AND ORDERED POSTED this 14th day of July 1993.

Mayor Douglas J. Bingham

Lonie K. Cornia, Council member

Flora Lamborn, Council member

ATTEST:

Gwenda H. Batty, Clerk Recorder

J. Kevin Kearl, Council member

Laurel Telford, Council member

Ken whatcott, Council member

SEAL

(original document and signatures may be located in the town office.)