

**Title 5, A General Ordinance
BUSINESS LICENSES AND REGULATIONS**

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**Chapter 05.02.
BUSINESS LICENSING**

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05.02.010. Unlawful to operate a business without a license.

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

05.02.020. Definitions.

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

1. Apartment: Apartment means a habitable residential unit that was duly approved by the municipality that is rented by its owner for residential occupation. For the purposes of this title, this definition does not apply to an apartment consisting of two units or less where the property owner occupies one of the units or the same premise as the tenant(s), notwithstanding that the owner complies with the other applicable relevant portions of the land use ordinances.

2. **Appeal Authority:** Appeal authority means the land use Appeal Authority (an official or board), acting as a business licensing Appeal Authority, and charged with hearing and acting upon either:
 - a. an appeal of a final action or decision of the municipal licensing authority (which is a final action or decision by the Community Development Director); or
 - b. an appeal of a final action or decision of a “review authority” (which is a final action or decision by the City Council or Special Uses and Appeals Board).
3. **Ceremonial Authority:** Ceremonial authority means the Mayor’s role in signing each temporary, standard, or special business license, certifying that each process is complete and that it complies with the City’s ordinances.
4. **City or Municipality:** City or municipality means the municipal boundaries constituting the City limits of Perry City, Utah.
5. **Home Occupation:** Home occupation means any income-producing use conducted within the home and carried on by persons residing in the home, which use is clearly incidental and secondary to the use of the dwelling and does not change the residential character. The home occupation typically allows the home to be used for maintaining a business telephone and receiving mail. In addition to the licensing provisions of this title for a home occupation, the applicant shall also comply with the applicable requirements of the land use ordinances.
6. **Inspecting and Enforcement Authority:** Any federal, state, county, or local authority that may inspect, investigate, or enforce upon a business compliance with any governing law. The inspection and enforcement authority has the ability to issue citations or seek other remedy for a violation of law under its respective jurisdiction. Any law enforcement officer of any jurisdiction shall be considered an ex-officio inspection and enforcement authority under this title.
7. **Licensing Authority:** Licensing authority means the City authority designated to administer this title, issue a business license, or review and/or revoke the license of a business operating in the City. The “licensing authority” shall include (1) a “licensing officer” designated by and operating under the direction of the Community Development Director, and (2) the Community Development Director who, in consultation with the City Attorney, may overrule any action or decision of the “licensing officer.” The “licensing officer” shall be a City Planner, Assistant City Planner, or a member of the Community Development Department Staff (unless otherwise designated). The licensing authority shall take final action on all business licenses, other than those for which a “review authority” is designated (in which case, the licensing authority takes initial action and recommends, and the review authority reviews and takes final action).
8. **Municipal Services:** Municipal services is defined by *Utah Code Annotated* §10-1-203(5)(b)(i).
9. **Regulating Authority:** Regulating authority means any federal authority, state authority, local authority, or professional organization that must first license an individual or business prior to receiving a business license. The regulating authority includes such entities as the Utah Division of Occupational and Professional Licensing, the local health department, the Utah State Bar, the fire Marshall or related designee, the local planning commission, any land use authority, and similar authorities.
10. **Person:** Person means any individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, partnership, joint venture, club, company, business trust, corporation,

association, society or other group of individuals acting as a unit, whether mutual, cooperative, fraternal, non-profit, or otherwise.

11. **Review Authority:** Review authority means the City authority designated to render final review and action on certain new, temporary, or special business licenses, after a recommendation from (and initial action by) the licensing authority.
12. **Special License:** Special license means any business license issued for a home occupation with visiting clientele, excavation operation, any other business requiring a conditional use permit, a sexually oriented business, a business engaging in the sale of alcohol or beer, a business engaging in the handling or use of hazardous material or explosives (and/or engaging in ultra-hazardous activities), a business leasing or renting residential apartment building(s) or house(s), or any other type of business designated in the municipal code as a “special business.”
13. **Temporary License:** Temporary license means any business license issued for a period of forty five (45) calendar days or less. “First class temporary license” means any temporary license for which twenty (20) or more people are likely to be present at any given time. “Second class temporary license” means any temporary license for which less than twenty (20) people are likely to be present at any given time. Each residential solicitor is required to:
 - a. Obtain a second-class temporary license; and
 - b. Meet the requirements of Chapter 05.32.

05.02.030. Uniform Business License Regulations.

The following regarding uniform business license regulations:

1. **Applicability:** The following types of businesses are required to obtain a license before engaging in such business within the City:
 - a. Any business, with license fees to be based upon the classification of the business.
 - b. Any temporary business.
 - c. Any home occupation.
 - d. A residential solicitor.
 - e. A business leasing or renting residential apartment building(s) or house(s).
2. **Classification:** All businesses shall be classified by the licensing authority, and any license fees shall be uniform in respect to the class upon which they are imposed.
3. **Disproportionate and Enhanced fees:** Before adopting a resolution imposing disproportionate and/or enhanced fees, the City shall determine what constitutes the basic level of municipal services in the municipality and what amounts constitute:
 - a. Disproportionate costs relating to each class of business.
 - b. Reasonably related costs of providing an enhanced level of municipal services in the municipality for the applicable business.
4. **Applicability of other Laws:** The issuance of a business license to a business does not warrant that the business has conforms of all applicable laws, it is the continuing duty of the business owner to ensure that the business is operating within the law. Businesses in the City shall comply with the other applicable laws and ordinances that govern the business, including:
 - a. The applicable federal, state, and local law.
 - b. Applicable regulations enforced by any regulating authority.
 - c. Land use ordinances.

- d. Applicable building and fire codes.
- 5. Posting License Required: It shall be the duty of any person conducting a licensed business in the City to display the business license issues by the City. Such license shall be posted in a prominent place on the premises used for such business at all times.
- 6. Unlawful Uses of a License: It is unlawful to do any of the following with a business license certificate:
 - a. Counterfeit a license certificate.
 - b. Deface or mutilate a license certificate that is required to be posted
 - c. Steal or otherwise remove a license certificate.
 - d. To sell or otherwise transfer any license certificate to another.
 - e. To use a license beyond the scope for the business for which it was issued.
- 7. License Period: All licenses will be issued on a calendar year basis and shall expire as of December 31 of the issuing year. Licenses, except for solicitors, temporary licenses, and newly established businesses, shall be due and payable on or before January 1 of the current calendar year in which the license has been applied for. Late fees shall be assessed after January 1. Solicitors and temporary licensees must obtain a license upon conducting their first job or business transaction within the City for the current year. New businesses must obtain a license before conducting such business.
- 8. Branch Establishments: A separate license must be obtained for each branch establishment or separate location of a business engaged within the City, as if such branch establishment or location were a separate business. Each license authorizes the licensee to engage only in the business licensed at the location and in the manner designated in such license.
- 9. Separate Businesses on Same Premises: Where two or more persons conduct separate businesses at the same location, each such person shall obtain a separate license for each such business and must pay the required license fee for such business.

05.02.040. Business License Application.

The following regarding business license applications:

- 1. Application Form and Filing: An application for a business license shall be made in the form and manner provided by the licensing authority and shall be filed with the City's licensing authority.
- 2. Application Contents: The application shall include the following:
 - a. Provide the name and location of the business.
 - b. State the name of the applicant.
 - c. State the type of entity under which the business is organized.
 - d. If an entity registered, incorporated or organized with the Utah Department of Commerce, specify the name and address of the registered agent with Utah Department of Commerce who is authorized to receive service of process and any communication regarding the applicant's license.
 - e. Provide the state sales tax reporting number and federal tax identification number, as applicable.
 - f. Provide the state contractor's license number, state real estate broker's license number, or other professional license number issued by the state or a regulating authority, if applicable.
 - g. Provide information relating to the purpose and general operation of the business,

including:

- i. Its primary operation and function.
 - ii. The number of employees.
 - i. Building square footage, site frontage, and dimensions of its building and grounds, as needed.
 - ii. Whether is engages in the sale of alcohol or beer.
 - iii. Whether it is a home occupation.
 - iv. Whether is engages in the handling or use of hazardous material or explosives (and/or engaging in ultra-hazardous activities).
 - v. Emergency contact numbers and related information.
 - h. Any additional information required by the licensing authority on the application to assist in the regulation of a business or as may be needed for the purpose of issuing the license.
3. Business to Provide Updated Information: The applicant or his designee is responsible to provide to the licensing authority, in writing, updated information relating to any change in the information in the application within ten (10) days of the change.

05.02.050. Business License Fees.

The following regarding business license fees:

1. Any business license fees imposed and levied shall be on a annual basis by the classifications of businesses specified the Business License Fee Schedule, in the amounts described therein, and shall administered as follows:
2. Fees may be established by Resolution: The Business License Fee Schedule may be adopted by resolution based upon the basic level of services, disproportionate costs, and enhanced costs of regulating each class of business.
3. Applicant to Pay License Fee: Any applicant must include the fee with any application upon filing of an application. The fee shall be in an amount equal to the fee designated on the Business License Fee Schedule for the classification of the business as assigned by the licensing authority. Annual renewal fees shall be made in the same manner. No license shall issue until all fees are paid. The applicant of a new business starting after January 1 shall be issued a business license for the unexpired portion of the calendar year and may request the license fees be prorated according to the remainder of the calendar year if such a request for prorated fees is made contemporaneous with filing the application and license fee.
4. Late Fees: The following late fees apply to any person who engages in business prior to submitting a completed application and payment of all fees or fails to renew a license after such expires:
 - a. Within thirty (30) days of the fee due date, the late fee shall be the license fee plus twenty five (25%) percent of the total specified fee for said license.
 - b. After thirty (30) days of the fee due date, the license or renewal fee shall be double the total specified fee for said license. This fee and late fee shall continue to accrue for each year the business operates without a license, except where such accrual is waived for good cause.
 - c. Any license fee due and unpaid under this Title, and all penalties thereon, shall constitute a debt to the City and may be collected by court proceedings in the same manner as any other debt or may be turned over to a collection agency,

which remedy shall be in addition to all other existing remedies.

- d. Any license fee, and all late fees and penalties thereon, shall constitute a debt to the City and may be collected by court proceedings in the same manner as any other debt or may be turned over to a collection agency, which remedy shall be in addition to all other existing remedies.
 - e. The payment of late fees does not relieve any person from fully complying with all other requirements of law, nor from any other prescribed penalties.
5. Refund Policy: Unless otherwise provided herein, no business license fee is refundable for any reason whatsoever, once the license has been issued. If a license is denied or the application is withdrawn by applicant before approval, the applicant shall be entitled to a refund of the amount paid in excess of \$75.00 which shall be retained to offset application processing costs.
 6. Grandfather Clause: If no study has been conducted for the purpose of basis of setting a disproportionate and/or enhanced fee schedule, then the fee schedule in place prior to the adoption of this ordinance shall remain effective until such study is adopted by the City Council.

05.02.060. Exceptions to the Business License Fee.

No business license fee shall be imposed under this Chapter upon the following persons or businesses:

1. Any person engaged in business for solely religious, charitable, eleemosynary, or other types of strictly non-profit purposes who is tax exempt in such activities under the laws of the United States and the State of Utah, nor shall any business license fee be imposed on any person engaged in a business specifically exempted from municipal taxation and fees by the laws of the United States or the State of Utah; nor shall any business license fee be imposed on any non-profit corporation duly incorporated according to the provisions of the Utah Non-Profit Corporation and Cooperative Association Act.
2. Any business or person exempted by state law.
3. Any contractor holding a valid license issued or exempt in the local jurisdiction in which the licensee has its principal place of business, and regulated by the state in accordance with Part 3, Chapter 55, Title 58 of the *Utah Code Annotated*.
4. Any alarm company holding a valid business license issued by the local jurisdiction in which the licensee has its principal place of business.
5. Any tow truck motor carrier holding a valid business license to perform tow truck service issued by the local jurisdiction in which the licensee has its principal place of business unless the tow truck business is also physically located in the City.
6. Any person selling surplus household goods or furnishings at a private residence in the garage or yard, if such sales are held infrequently.

05.02.070. Licensing Authority, Review Authorities, and Other Authorities.

The City Council hereby designates the following (business) licensing authority and (business licensing) review authorities:

1. Licensing Authority: As defined in Section 05.02.020(7) herein, the licensing authority consists of a licensing officer and the Community Development Director. The licensing authority is required to administer the provisions of this title, and shall:
 - a. Receive initial license applications and fees files with the City and forward to the

- Mayor for action with fees being forwarded to the appropriate financial officer.
- b. Classify the business within the appropriate fee schedule based upon the information supplied in the application, and as such information may be supplemented by the inspection and enforcement authority.
 - c. Request that the applicant provide additional information when questions arise or to verify the accuracy of information offered in an application or relating to an existing business license.
 - d. Coordinate initial inspections, investigations and enforcement with the inspection and enforcement authority.
 - e. Bill and collect renewal license information and fees and forward all fees to the designated financial officer.
 - f. Maintain municipal records and information regarding business licenses.
 - g. Forward any information or matters involving action on a business license to the appropriate authority.
 - h. Issue business license certificates. Also included:
 - i. Following license approval a certificate shall be prepared and signed by the Mayor and/or licensing officer of business licenses.
 - ii. The certificate shall:
 1. Be issues under the seal of the City.
 2. Specify by name the person, firm, or corporation to whom it is issued.
 3. Designate the location where the business shall be conducted.
 4. Specify the classification of the business and license number.
 - iii. Signed licenses shall be mailed to the address indicated on the application within a reasonable time after approval.
 - i. Communicate matters involving business licenses and related concerns to the “review authorities” (New Business License Review Authority and Special Business License Review Authority), as applicable.
 - j. Forward enforcement matters to an inspection and/or enforcement authority.
 - k. Notify the applicant, licensee, or other interested party of the status or any action relating to an application or license.
2. Business License Review Authorities: As defined in Section 05.02.020(11) herein, the review authority for a business license is the City authority designated to render final review and action on certain new, temporary, or special business licenses, after a recommendation from (and initial action by) the licensing authority.
- a. New Business License Review Authority (City Council): Each new application for a “standard business license” filed with the licensing officer shall be such submitted to the City Council for final review and action (approval or denial) within a reasonable time. Annual license renewals for “standard business licenses” do not require the City Council’s approval. The City Council also provides final review and action for “first class temporary licenses.” “Second class temporary licenses” do not require the City Council’s approval.
 - b. Special Business License Review Authority (Special Uses and Appeals Board): Each new application or annual renewal for a “special business license” filed with the licensing officer shall be such submitted to the Special Uses and Appeals Board for final review and action (approval or denial) within a reasonable time.

- c. Appeal Authority: As defined in Section 05.02.020(2), “Appeal Authority” means the land use Appeal Authority (an official or board), acting as a business licensing Appeal Authority, and charged with hearing and acting upon either: (a) an appeal of a final action or decision of the licensing authority; or (b) an appeal of a final action or decision of a “review authority,” as per the chart set forth in Section 5.02.075 herein. See also Section 05.02.110 herein, as well as Section 23 in the Data Base of Land Use Ordinances.
- d. Ceremonial Authority: As defined in Section 05.02.020(3), “Ceremonial Authority” means the Mayor’s role in signing each temporary, standard, or special business license, certifying that each process is complete and that it complies with the City’s ordinances.

05.02.075. Procedures for Business License Approval.

Type of Business License Application* (Administrative Action)	Initial Business License Authority	Final Business License Authority	Appeal Authority (Quasi-Judicial)
1. Second Class Temp. Bus. Licenses; Standard Business License Renewals	_____	Licensing Authority (C.D.Dep./ Staff)	Special Uses and Appeals Board
2. New Standard Business Licenses; First Class Temporary Bus. Licenses	Licensing Authority (C.D.Dep./ Staff)	Review Authority City Council	Special Uses and Appeals Board
3. New Special Business Licenses; Special Business License Renewals	Licensing Authority (C.D.Dep./ Staff)	Review Authority Special Uses and Appeals Board	Administrative Law Judge
4. Business License Reviews, Suspensions, or Revocations (outside of regular annual renewal or temporary process)	Same as Annual Renewal Process or Temporary Process	Same as Annual Renewal Process or Temporary Process	Same as Annual Renewal Process or Temporary Process
* Or for an amendment, modification, enlargement, or revocation of said type of application, unless otherwise indicated. The Mayor shall sign each temporary, standard, or special business license, certifying that each process is complete.			

05.02.080. Inspection and Enforcement Authority.

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

- 1. Conduct Code Inspections: Inspections may be conducted by the inspection authority as follows:
 - a. Prior to the issuance of a new business license at a given location, or a business with a change to its application, the applicant shall permit inspection of the business premise by any regulating authority and by the inspection and enforcement authority to ensure compliance with the law and the municipal code.
 - b. Ongoing inspection of any business or business premises may be conducted by any regulating authority or by the inspection and enforcement authority any time during business hours, or as otherwise arranged, in ensure ongoing compliance with the municipal code and other applicable law.

2. Conduct Investigations: Investigations may be conducted relating to any proposed business to verify the accuracy of the information relating to its application, or responding to issues and complaint relating to any existing business operation.
3. Coordination: Coordinate investigations and enforcement with the licensing authority.
4. Violations and remedies: Any regulating authority or inspecting and enforcement may:
 - a. Issue a notice of violation to the business in the City for a violation of law.
 - b. Issue a certificate of non-compliance and require a corrective action plan for any business in the City for a violation of the law.
 - c. Issue a citation to the business or any person at the business who has allegedly violated the law.
 - d. Seek administrative, injunctive, or other relief allowed by law.
5. Recommend to the licensing review authority that a business license be suspended or revoked.
6. Cause for suspension or revocation. It is cause for business license suspension or revocation for any business to:
 - a. Violate local building, fire, and health codes.
 - b. Violate occupational and safety laws and regulations.
 - c. Violate applicable provisions of federal law, state law, or the municipal code.
7. Suspension or Revocation: Forward matters involving business license suspension or revocation to the appropriate review authority.

05.02.090. License Denial and Revocation.

The City's licensing authority and review authorities have cause to deny, suspend, or revoke a business license if the applicant:

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

05.02.100. Notice of Issuance or Denial.

The licensing authority shall notify the applicant of:

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

05.02.110. Appeal Authority.

As defined in Section 05.02.020(2), the designated Appeal Authority shall hear and decide the appeal of any final action or decision of any licensing authority or review authority, including any matter involving the denial, revocation, suspension, disputed classification, or other unresolved issue relating to a business license, as per Sections 05.02.070(3) and 05.02.075

herein. An appeal shall:

1. Not be heard by an Appeal Authority until after the Community Development Director or review authority has taken a final decision or action.
2. Be filed by a written notice of appeal filed with the licensing authority within ten (10) days of the notice of a classification, denial, suspension, or revocation, or any other decision or action by a licensing authority or review authority.
3. Have a nominal \$25.00 fee, unless not allowed by law (all applicable license fees should have already been paid as a pre-requisite).
4. Be heard by the Appeal Authority within a reasonable time after the filing of the notice of appeal.
5. Require that the designated Appeal Authority shall follow the same applicable rules and regulations used as a land use Appeal Authority, as such appropriately apply, as set forth in the Perry Municipal Code, Title 43, Rules of the Perry City Land Use Authorities and Appeal Authorities).
6. Require that decisions of an Appeal Authority become effective immediately (assuming the Appeal Authority issues an oral decision at a public meeting); otherwise, decisions of an Appeal Authority become effective as soon as they are made available in writing or to the public.
7. Require that no lawsuit may be filed in District Court by any business or applicant for any denial, suspension, or revocation of a business license, or any other decision or action by a licensing authority, review authority, or Appeal Authority, until the administrative appeal remedies of this section are exhausted. An appeal to District Court may only be made within 30 calendar days of the final decision or action of the appropriate Appeal Authority (or as otherwise allowed by law), which is the final decision or action of the City. If the thirtieth day is a Saturday, Sunday, or holiday, then an appeal can be made on the next day the Court Clerk's office is open.

05.02.120. Penalties.

In addition to the other penalties provided by law for a violation of this title, the following penalties apply:

1. Civil penalties: Engaging in business activities in violation of this title there is imposed a warning for first offenses, \$100 fine for second offenses, \$500 fine for third offenses, and \$1,000 for each subsequent offense.
2. Criminal Penalties: Engaging in business activities in violation of this title is a class B misdemeanor, and each day a violation continues constitutes a separate offense.

05.02.130. Severability.

In the event that any provision of this chapter is declared invalid for any reason by a court of competent jurisdiction, then the remaining provisions shall remain in full effect.

Chapter 05.28.
ALCOHOLIC BEVERAGES

- 05.28.010. License to Sell Light Beer at Retail.**
- 05.28.020. Definitions.**
- 05.28.030. License Privileges.**
- 05.28.040. Application.**
- 05.28.050. Qualification of Licensee.**
- 05.28.060. Bond Required.**
- 05.28.070. Restrictions.**
- 05.28.080. License Denied: Revocation of License.**
- 05.28.090. Inspections.**
- 05.28.100. Violation and Penalty.**

05.28.110. Fees.

05.28.010. License to Sell Light Beer at Retail.

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 therefore from the City Council as hereinafter provided. 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 licenses shall comply with the Liquor Control Act of Utah and the regulations of the Liquor Control Commission of the state.

05.28.020. Definitions.

The meanings of the following words and phrases used in this chapter are given in Section 05.02.020, Definitions.

05.28.030. License Privileges.

The following regarding license privileges:

1. Retail licenses issued hereunder shall be of the following kind and shall carry the following privileges and be numbered commencing from the number one:
 - a. Class "A" retail license shall entitle the licensee to sell beer on the premises licensed in original containers for consumption off the premises in accordance with the Liquor Control Act of Utah.
2. It is unlawful for any licensee to purchase or acquire, or to have or possess for the purpose of sale or distribution, any beer except that which he shall have lawfully purchased from a brewer or wholesaler licensed under the privileges of the Liquor Control Act of Utah.

05.28.040. Application.

All applications for licenses authorized by this chapter shall be verified and filed with the City Council and shall state the applicant's name in full, and that he has complied with the requirements

and possesses the qualifications specified in the Liquor Control Act, and if the applicant is a co-partnership, the names and addresses of all partners, and if a corporation, the names and addresses of all officers and all directors, and must be subscribed by the applicant who must state under oath that the facts stated therein are true. Applicants must furnish such other information, including a certificate of at least five residents of the City to the effect that the licensee bears a good moral character and is a fit and proper person to be granted a license, as and when the City Council shall require. Any license issued pursuant to this chapter shall be available only to the person specified therein and only for the promises described in the license, and shall not be transferable to any other person or to any other premises.

05.28.050. Qualification of Licensee.

No person shall be granted a retail license unless he shall be qualified as provided in the Liquor Control Act and under the privileges of Section 86 thereof.

05.28.060 Bond Required.

Each licensee shall post the cash or corporate surety bond required by UCA Section 32A-10-205.

05.28.070. Restrictions.

The following restrictions regarding this Chapter:

1. No person shall sell beer at any public dance or to any person intoxicated, or under the influence of an intoxicating beverage. No license shall be granted to sell beer in any dancehall, theater, or in the proximity of any church or school. No person shall sell beer to any person under the age of twenty-one (21) years.
2. It is unlawful to sell beer in the City between the hours of one a.m. and ten a.m.
3. No licensee shall violate the terms of the license issued, nor permit any beer to be consumed on the premises.

05.28.080. License Denied: Revocation of License.

No license shall be issued and any license shall be revoked if the applicant or licensee does not possess or shall cease to possess all of the qualifications required by the Liquor Control Act of Utah, or such applicant or licensee fails to comply with the ordinances of the City or the rules, regulations and orders of the Box Elder County board of health relating to health matters. All licenses shall have incorporated therein the statement that they are granted subject to revocation for cause. Any license granted herein may with or without a hearing, at the discretion of the City Council, be revoked or denied if the licensee has not complied with any reasonable order, rule or regulation of the City or any appropriate entity regulating the sale or distribution of alcoholic beverages.

05.28.090. Inspections.

All licensed premises shall be subject to inspection by any officer, agent, or peace officer of the City or the Liquor Control Commission.

05.28.100. Violation and Penalty.

It is unlawful for any person to violate any provision in this chapter and any person convicted of violating any provisions of any ordinance contained herein, shall be deemed guilty of a misdemeanor (Power to license sale of beer, UCA Sections 32-4-17 and 32-4-18.)

05.28.110. Fees.

The license fee for any beer license shall be set by the City Council by resolution as described in Chapter 05.40.

**Chapter 05.32.
RESIDENTIAL SOLICITATION**

05.32.010. Purpose.**05.32.020. No Other City License or Approval Required.****05.32.030. Definitions.****05.32.040. Exemptions from Chapter.****05.32.050. Solicitation Prohibited.****05.32.060. Registration of Solicitors.****05.32.070. Application form.****05.32.080. Written Disclosures.****05.32.090. When Registration Begins.****05.32.100. Issuance of Certificates.****05.32.110. Form of Certificate and Identification Badge.****05.32.120. Maintenance of Registry.****05.32.130. Non-Transferability of Certificates.****05.32.140. Denial, Suspension, or Revocation of a Certificate of Registration.****05.32.150. Appeal.****05.32.160. Deceptive Soliciting Practices Prohibited.****05.32.170. "No Soliciting" Notice.****05.32.180. Duties of Solicitors.****05.32.190. Time of Day Restrictions.****05.32.200. Buyer's Right to Cancel.****05.32.210. Penalties.****05.32.010. Purpose.**

The following regarding the purpose of this Chapter:

1. General Statement of Purpose: Residents of the City have an inalienable interest in their personal safety, well-being, and privacy in their residences, as well as their ability to provide or receive information regarding matters of personal belief, political or charitable activities, and goods and services lawfully in commerce. The City has a substantial interest in protecting the well-being, tranquility, personal safety, and privacy of its citizens, which includes the ability to protect citizens from unwanted intrusions upon residential property. The City also has a substantial interest in protecting citizens from fraud or otherwise unfair consumer sales practices as well as criminal activity.
2. General Statement of Policy: There must be a balance between these substantial interests of the City and its citizens, and the effect of the regulations in this chapter on the rights of

those who are regulated. Based on the collective experiences of City officials derived from regulating business activity, protecting persons and property from criminal conduct, responding to the inquiries of citizens regarding door-to-door solicitation, the experience of its law enforcement officers and those affected by door-to-door canvassing and solicitation, as well as judicial decisions outlining the boundaries of constitutional protections afforded and denied persons seeking to engage in door-to-door solicitation, the City adopts this chapter to promote the City's substantial interests in:

- a. Respecting citizen's decisions regarding privacy in their residences;
 - b. Protecting persons from criminal conduct;
 - c. Providing equal opportunity to advocate for and against religious belief, political position, or charitable activities; and
 - d. Permitting truthful and non-misleading door-to-door solicitation regarding lawful goods or services in intrastate or interstate commerce.
3. The City finds that the procedures, rules and regulations set forth in this Chapter are narrowly tailored to preserve and protect the City interests referred to herein while at the same time balancing the rights of those regulated.

05.32.020. No other City License or Approval Required.

The following exemptions are:

1. Registered and Exempt Solicitors: Registered solicitors and persons exempt from registration by law need not apply for, nor obtain, any other license, permit, or registration from the City to engage in door-to-door solicitation in addition to the requirements of this chapter.
2. General Business License does not Authorize Solicitation: 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, is required to have its solicitors obtain a certificate, unless otherwise exempt.
3. No General Business License if not in City: Those responsible persons or entities associated with registered solicitors need not apply for, nor obtain, any other license, permit, or registration from the City, provided they do not establish a temporary or fixed place of business in the City.
4. Licensing Required by Another Governmental Authority: Nothing herein is intended to interfere with or supplant any other requirement of federal, state, or other local government laws regarding any license, permit, or certificate that a registered solicitor is otherwise required to have or maintain.

05.32.030. Definitions.

For the purposes of this chapter, the following definitions shall apply:

1. Advocating: Speech or conduct intended to inform, promote, or support religious belief, political position, or charitable activities.
2. Appeals Officer or "Appeal Authority: The local appeal authority or hearing officer designated or responsible for hearing and deciding any appeal relating regarding the denial or suspension of a certificate and issuing a decision as required by this chapter. Unless otherwise designated, the Appeal Authority shall be the Administrative Law Judge (identified in the City's Land Use Ordinances, particularly in Section 23 thereof).

3. 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.
4. 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.
5. Application Form: A standardized form provided by the City to an applicant to be completed and submitted as part of registration.
6. BCI or BCI report: An original or copy, dated no older than 180 days prior to the date of the application, of either:
 - a. A Utah Department of Public Safety Bureau of Criminal Identification verified criminal history report personal to the applicant; or
 - b. Verification by the Utah Department of Public Safety Bureau of Criminal Identification that no criminal history rising to the level of a disqualifying status exists for the applicant.
7. Business: A commercial enterprise licensed by the City as a person or entity under this title, having a fixed or temporary physical location within the City.
8. Certificate: A temporary, annual, or renewal certificate permitting door-to-door solicitation in the City applied for or issued pursuant to the terms of this chapter.
9. Charitable Activities: Advocating by persons or entities that either are, or support, a charitable organization.
10. Charitable Organization: Charitable organization includes any person, joint venture, partnership, limited liability company, corporation, association, group, or other entity that is:
 - a. A benevolent, educational, voluntary health, philanthropic, humane, patriotic, religious or eleemosynary, social welfare or advocacy, public health, environmental or conservation, or civic organization;
 - b. For the benefit of a public safety, law enforcement, or firefighter fraternal association; or
 - c. Established for any charitable purpose; and
 - d. 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.
 - e. Charitable organization, within the meaning of the “Charitable Solicitation Act” set forth in *Utah Code Annotated* §13-22-2(1)(a) and (b), including a chapter, branch, area, or office, or similar affiliate or any person soliciting contributions within the state for a charitable organization that has its principal place of business outside the City or the state of Utah.
11. Competent Individual: A person claiming or appearing to be at least eighteen (18) years of age and of sufficiently sound mind and body to be able to engage in rational thought, conversation, and conduct.
12. Completed Application: A fully completed application form, a B.C.I, two copies of the original identification relied on by the applicant to establish proof of identity, and the tendering of the applicable fees.
13. Criminally Convicted: Criminally convicted means the final entry of a conviction, whether by a plea of no contest, guilty, entry of a judicial or jury finding of guilt, which

has not been set aside on appeal or pursuant to a writ of habeas corpus. The criminal conviction is that offense of which the applicant or registered solicitor was convicted, without regard to the reduced status of the charge after completion of conditions of probation or parole, and charges dismissed under a plea in abeyance or diversion agreement.

14. Disqualifying Status: Anything specifically defined in this chapter as requiring the denial or suspension of a certificate, and any of the following:
 - a. The applicant or registered solicitor has been criminally convicted of:
 - i. Felony homicide;
Physically abusing, sexually abusing, or exploiting a minor;
The sale or distribution of controlled substances, or
Sexual assault of any kind.
 - b. Criminal charges currently pending against the applicant or registered solicitor for:
 - i. Felony homicide;
 - ii. Physically abusing, sexually abusing, or exploiting a minor;
 - iii. The sale or distribution of controlled substances, or;
 - iv. Sexual assault of any kind.
 - c. The applicant or registered solicitor has been criminally convicted of a felony within the last ten (10) years.
 - d. The applicant or registered solicitor has been incarcerated in a federal or state prison within the past five (5) years.
 - e. The applicant or registered solicitor has been criminally convicted of a misdemeanor within the past five (5) years involving a crime of:
 - i. Moral turpitude, or
 - ii. Violent or aggravated conduct involving persons or property.
 - f. A final civil judgment been entered against the applicant or registered solicitor within the last five (5) years indicating that:
 - i. The Applicant or Registered Solicitor had either engaged in fraud, or intentional misrepresentation, or
 - ii. That a debt of the Applicant or Registered Solicitor was non-dischargeable in bankruptcy pursuant to 11 U.S.C. § 523(a)(2), (a)(4), (a)(6), or (a)(19).
 - g. The applicant or registered solicitor currently on parole or probation to any court, penal institution, or governmental entity, including being under house arrest or subject to a tracking device.
 - h. The applicant or registered solicitor has an outstanding arrest warrant from any jurisdiction.
 - i. The applicant or registered solicitor is currently subject to a protective order based on physical or sexual abuse issued by a court of competent jurisdiction.
15. Door-to-door Solicitation: The practice of engaging in or attempting to engage in conversation with any person at a residence, whether or not that person is a competent individual, while making or seeking to make or facilitate a home solicitation sale, or attempting to further the sale of goods and or services.
16. Entity: Entity includes a corporation, partnership, limited liability company, or other lawful entity, organization, society or association.

17. Fees: The cost charged to the applicant or registered solicitor for the issuance of a certificate and/or identification badge, which shall not exceed the reasonable costs of processing the application and issuing the certificate and/or identification badge.
18. Final Civil Judgment: A civil judgment that would be recognized under state law as a judgment to which collateral estoppels would apply.
19. General Business License: A business license required to operate a business in the City under any other chapter of this title.
20. Goods: One or more tangible items, wares, objects of merchandise, perishables of any kind, subscriptions, or manufactured products offered, provided, or sold.
21. Home Solicitation Sale: Home solicitation sale means to make or attempt to make a sale of goods or services by a solicitor at a residence by means of door-to-door solicitation, regardless of:
 - a. The means of payment or consideration used for the purchase;
 - b. The time of delivery of the goods or services; or
 - c. The previous or present classification of the Solicitor as a solicitor, peddler, hawker, itinerant merchant, or similar designation.
22. Licensing Officer or Licensing Authority: The City official or authority responsible for receiving from an applicant or registered solicitor the completed application and either granting, suspending, or denying the applicant's certificate. Unless otherwise designated, this shall be an individual designated by the Community Development Director, who is subject to the direction of the Community Development Director.
23. No solicitation sign: A reasonably visible and legible sign that states: "No Soliciting," "No Solicitors," "No Salespersons," "No Trespassing," or words of similar import.
24. Political Position: Any actually held belief, or information for, against, or in conjunction with any political, social, environmental, or humanitarian belief or practice.
25. Registered Solicitor: Any person who has been issued a current certificate by the City.
26. 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.
27. 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.
28. Residence: Any living unit contained within any building or structure that is occupied by any person as a dwelling consistent with the zoning laws of the City, together with the lot or other real property on which the living unit is located. This does not include the sidewalk, public street, or public rights of way.
29. Responsible Person or Entity: That person or entity responsible to provide the following to an applicant, registered solicitor, and the competent individual in a residence to whom a sale of goods or services is made or attempted to be made by means of a home solicitation sale:
 - a. Maintaining a state sales tax number, a special events sales tax number, computing the sales taxes owing from any sale of goods or services, paying the sales taxes, and filing any required returns or reports;
 - b. Facilitating and responding to requests from consumers who desire to cancel the sale pursuant to applicable contractual rights or law; and

- c. Refunding any monies paid or reversing credit card charges to those persons who timely rescind any sale pursuant to applicable contractual rights or law.
- 30. Sale of Goods or Services: The conduct and agreement of a solicitor and the competent individual in a residence regarding a particular good(s) or service(s) that entitles the consumer to rescind the same within three days under any applicable federal, state, or local law.
- 31. Services: Those intangible goods or personal benefits offered, provided, or sold to a competent individual of a residence.
- 32. Soliciting, Solicit, or Solicitation: Any of the following activities:
 - a. Seeking to obtain sales or orders for the exchange of goods, wares, merchandise or perishables of any kind, for any kind of remuneration or consideration, regardless of whether advance payment is sought;
 - b. Seeking to obtain prospective customers to apply for or to purchase insurance, subscriptions to publications, or publications;
 - c. Seeking to obtain contributions of money or any other thing of value for the benefit of any person or entity;
 - d. Seeking to obtain orders or prospective customers for goods or services.
 - e. Seeking to engage an individual in conversation at a residence for the purpose of promoting or facilitating the receipt of information regarding religious belief, political position, charitable conduct, or a home solicitation sale; or
 - f. Other activities falling within the commonly accepted definition of soliciting, such as hawking or peddling.
- 33. Solicitor or Solicitors: A person(s) engaged in door-to-door solicitation.
- 34. 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 or delivery confirmation mail, facsimile, or hand delivery.
- 35. Substantiated Report: An oral, written, or electronic report:
 - a. Submitted to and documented by the City by a:
 - i. A competent individual who is willing to provide law enforcement or other City employees with publicly available identification of their name, address, and any other reliable means of contact;
 - ii. City law enforcement or licensing officer; or
 - iii. Any other regularly established law enforcement agency at any level of government.
 - b. That provides any of the following information regarding a registered solicitor:
 - i. Documented verification of a previously undisclosed disqualifying status of a registered solicitor;
 - ii. Probable cause that the registered solicitor has committed a disqualifying status which has not yet been determined to be a disqualifying status;
 - iii. Documented, eye-witness accounts that the registered solicitor has engaged in repeated patterns of behavior that demonstrates failure by the registered solicitor to adhere to the requirements of this chapter; or
 - iv. Probable cause that continued licensing of the registered solicitor creates exigent circumstances that threaten the health, safety, or welfare of any individuals or entities within the City.

36. Waiver: The written form provided to applicant by the City wherein applicant agrees that the City may obtain a name/date of birth BCI background check on the applicant for licensing purposes under this chapter, and which contains applicant's notarized signature.

05.32.040. Exemptions.

The following regarding exemptions:

1. Except as provided herein, the following are exempt from registration under this Chapter:
 - a. Invitee: Persons specifically invited to a residence by a competent individual prior to the time of the person's arrival at the residence.
 - b. Licensee: Persons whose license, permit, certificate or registration with the State of Utah permits them to engage in door-to-door solicitation to offer goods or services to an occupant of the residence.
 - c. Delivery service: Persons delivering goods to a residence pursuant to a previously made order, or persons providing services at a residence pursuant to a previously made request by a competent individual.
 - d. Non-profit: Persons advocating or disseminating information for, against, or in conjunction with, any religious belief, or political position regardless of whether goods, services, or any other consideration is offered or given, with or without any form of commitment, contribution, donation, pledge, or purchase.
 - e. Charity: Persons representing a charitable organization. The charitable exemption shall apply to students soliciting contributions to finance extracurricular social, athletic, artistic, scientific or cultural programs, provided that the solicitation has been approved in writing by the school administration, and that such student solicitors carry current picture student identification from the educational institution for which they are soliciting.
2. Limitations: Those persons exempt from registration are not exempt from the duties and prohibitions outlined in Sections 05.32.170, 05.32.180 and 05.32.190 while advocating or soliciting.

05.32.050. Solicitation Prohibited.

Unless otherwise authorized, permitted, or exempted pursuant to the terms and provisions of this chapter, being in or upon a private residence within the City by solicitors, for the purpose of home solicitation sales or to provide goods or services, is prohibited and is punishable as set forth in this Chapter.

05.32.060. Registration of Solicitors.

Unless otherwise exempt under this chapter, all persons desiring to engage in door-to-door solicitation within the City, prior to doing so, shall submit a completed application to the licensing officer and obtain a certificate (which is a particular type of second-class temporary license).

05.32.070. Application Form.

The licensing officer shall provide a standard application form for use for the registration of solicitors. Upon request to the licensing officer, or as otherwise provided, any person or entity may obtain in person, by mail or facsimile, a copy of this application form. Each application

form shall require disclosure and reporting by the applicant of the following information, documentation, and payment of the appropriate fee:

1. Review of Written Disclosures: An affirmation that the applicant has received and reviewed the disclosure information required by this chapter.
2. Contact Information: The following information shall be provided by applicant:
 - a. Applicant's true, correct and legal name, including any former names or aliases used during the last ten (10) years;
 - b. Applicant's telephone number, home address and mailing address, if different;
 - c. If different from the Applicant, the name, address, and telephone number of the responsible person or entity; and
 - d. The address by which all notices to the applicant required under this chapter are to be sent.
3. Proof of Identity: An in-person verification by the licensing officer of the Applicant's true identity by use of any of the following which bear a photograph of said Applicant:
 - a. A valid driver's license issued by any state.
 - b. A valid passport issued by the United States.
 - c. A valid identification card issued by any state.
 - d. A valid identification issued by a branch of the United States military.
4. Return Original: Upon verification of identity, the original identification submitted to establish proof of identity shall be returned to the applicant.
5. Proof of Registration with Department of Commerce: The applicant shall provide proof that either the applicant, or the responsible person or entity, has registered with the Utah State Department of Commerce.
6. Special Events Sales Tax Number: The applicant shall provide a special events sales tax number for either the applicant, or for the responsible person or entity for which the applicant will be soliciting.
7. Marketing Information: The following documentation shall be provided by applicant:
 - a. The goods or services offered by the Applicant, including any commonly known, registered or trademarked names.
 - b. Whether the applicant holds any other licenses, permits, registrations, or other qualifications required by federal or state law to promote, provide, or render advice regarding the offered goods or services.
8. BCI Background Check: The applicant shall provide:
 - a. An original or a copy of a BCI background check as defined in this chapter.
 - b. A signed copy of a waiver whereby applicant agrees to allow the City to obtain a name/date of birth BCI background check on applicant for purposes of enforcement of this chapter as set forth in *Utah Code Annotated* §53-10-108(1)(b).
 - c. Responses to questions regarding disqualifying status. The applicant shall be required to affirm or deny each of the following statements on the application form:
 - i. Has the applicant been criminally convicted of:
 1. Felony homicide.
 2. Physically abusing, sexually abusing, or exploiting a minor.
 3. The sale or distribution of controlled substances.
 4. Sexual assault of any kind.

- ii. Are any criminal charges currently pending against the Applicant for:
 - 1. Felony homicide.
 - 2. Physically abusing, sexually abusing, or exploiting a minor.
 - 3. The sale or distribution of controlled substances.
 - 4. Sexual assault of any kind.
 - iii. Has the Applicant been Criminally Convicted of a felony within the last ten (10) years.
 - iv. Has the Applicant been incarcerated in a federal or state prison within the past five (5) years.
 - v. Has the Applicant been Criminally Convicted of a misdemeanor within the past five (5) years involving a crime of:
 - 1. Moral turpitude.
 - 2. Violent or aggravated conduct involving persons or property.
 - vi. Has a final civil judgment been entered against the applicant within the last five (5) years indicating that:
 - 1. Applicant had either engaged in fraud, or intentional misrepresentation.
 - 2. That a debt of the applicant was non-dischargeable in bankruptcy pursuant to 11 U.S.C. ' 523(a)(2), (a)(4), (a)(6), or (a)(19).
 - vii. Is the applicant currently on parole or probation to any court, penal institution, or governmental entity, including being under house arrest or subject to a tracking device.
 - viii. Does the applicant have an outstanding arrest warrant from any jurisdiction.
 - ix. Is the applicant currently subject to a protective order based on physical or sexual abuse issued by a court of competent jurisdiction.
9. Fee: The Applicant shall pay such fees as determined applicable by the City, which shall not exceed the reasonable cost of processing the application and issuing the certificate and/or identification badge.
10. Execution of Application: The applicant shall execute the application form, stating upon oath or affirmation, under penalty of perjury, that based on the present knowledge and belief of the applicant, the information provided is complete, truthful and accurate.

05.32.080. Written Disclosures.

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

- 1. Authorization: Applicant's submission of the application authorizes the City to verify information submitted with the completed application including:
 - a. Applicant's address.
 - b. Applicant's and/or responsible person or entity's state tax identification and special use tax numbers, if any.
 - c. Validity of the applicant's proof of identity.
- 2. Research: The City may research any publically available sources for information on the applicant, including but not limited, to databases for any outstanding warrants, protective orders, or civil judgments.
- 3. Identity: Establishing a valid proof of identity is required before registration is made.

4. Fee: Payment of the applicable fee amount must be submitted by applicant with any completed application.
5. BCI Report: Applicant must submit a BCI background check with a completed application. To the extent permitted by state and/or federal law, the applicant's BCI background check shall remain a confidential, protected, private record not available for public inspection.
6. Public Record: The City will maintain copies of the applicant's application form, proof of identity, and certificate and/or identification badge. These copies will become public records available for inspection on demand at the City office whether or not a certificate is denied, granted, or renewed.
7. Supporting Documentation: Applicant shall provide any additional supporting documentation relating to the criteria pertaining to disqualifying status.
8. Temporary Certificate: A request for a temporary certificate will be granted or denied the same business day that a completed application is submitted.

05.32.090. When Registration Begins.

The licensing officer shall not begin the registration process unless the applicant has submitted a completed application. The original identification submitted to establish proof of identity shall be returned after the licensing officer verifies the applicant's identity. A copy of the identification may be retained by the licensing officer. If an original BCI background check is submitted by the applicant, the licensing officer shall make a copy of the BCI and return the original to the applicant.

05.32.100. Issuance of Certificates.

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

1. Temporary Certificate:
 - a. A temporary certificate shall issue allowing the Applicant to immediately begin door-to-door solicitation upon all the following conditions being met:
 - i. Applicant's submission of a completed application.
 - ii. Applicant's submission of the required fee.
 - iii. Applicant establishes proof of identity;.
 - iv. The applicant's representations on the application form do not affirmatively show a disqualifying status.
 - v. BCI does not affirmatively show a disqualifying status.
 - vi. Applicant has not previously been denied a certificate by the City, or had a certificate revoked for grounds that still constitute a disqualifying status under this chapter.
 - b. Expiration: A temporary certificate will automatically expire after twenty-five (25) calendar days from issuance, or upon grant or denial of an annual certificate, whichever period is shorter.
2. Annual Certificate: Within twenty-five (25) calendar days of the issuance of a temporary certificate the City licensing officer shall:
 - a. Take any and all actions it deems appropriate to verify the truthfulness and completeness of the information submitted by the applicant, including, but not limited to those disclosed with the application form.

- b. Issue written notice to the applicant and the responsible person or entity, if any, that the applicant either:
 - i. Will be issued an annual certificate, eligible for renewal one year from the date of issuance of the temporary certificate; or
 - ii. Will not be issued an annual certificate for reasons cited in Section 05.32.140 of this chapter.
- 3. Renewal Certificate: An annual certificate shall be valid for one year from the date of issuance of the temporary certificate and shall expire at midnight on the anniversary date of issuance. Any annual certificate that is not suspended, revoked, or expired may be renewed upon the request of the registered solicitor and the submission of a new completed application and payment of the fee, unless any of the conditions for the denial, suspension or revocation of a certificate are present as set forth in Section 05.32.140, or a disqualifying status is present.

05.32.110. Form of Certificate and Identification Badge.

The following regarding the form of certificate and identification badge:

- 1. Certificate Form: Should the licensing officer determine that the applicant is entitled to a certificate, the licensing officer shall issue a certificate to the applicant. The certificate shall list the name of the registered solicitor and the responsible person or entity, if any, and the date on which the certificate expires. The certificate shall be dated and signed by the license officer. The certificate shall be carried by the registered solicitor at all times while soliciting in the City.
- 2. Identification Badge: If the City issues an identification badge, with a certificate, the identification badge shall be worn prominently on his or her person while soliciting in the City. The identification badge shall bear the name of the City and shall contain:
 - a. The name of the registered solicitor.
 - b. Address and phone number of the registered solicitor, or the name, address, and phone number of the responsible person or entity is provided.
 - c. A recent photograph of the registered solicitor.
 - d. The date on which the certificate expires.

05.32.120. Maintenance of Registry.

The licensing officer shall maintain and make available for public inspection a copy or record of every completed application received and the certificate or written denial issued by the City. The applicant's BCI background check shall remain a confidential, protected, private record not available for public inspection. The licensing officer may furnish to the head of the City's law enforcement agency a listing of all applicants, those denied, and those issued a certificate.

05.32.130. Non-transferability of Certificates.

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

registered solicitor may be required to pay any amendment fees, update any the identification badge, and provide any additional updated information to the registered solicitors' original application.

05.32.140. Denial, Suspension, or Revocation of a Certificate of Registration.

The following regarding denial, suspension, or revocation of a certificate of registration:

1. Denial: Upon review, the licensing officer is prohibited from issuing a certificate to an applicant as provided in this section.
 - a. Denial of Temporary Certificate: Any of the following is a basis for denial of a temporary certificate:
 - i. The application form is incomplete.
 - ii. Applicant fails to:
 1. Establish proof of identity;
 2. Provide a BCI report; or
 3. Applicant does not pay the required fees.
 - iii. The completed application or BCI report indicates that the applicant has a disqualifying status.
 - iv. The applicant has previously been denied a certificate by the City, or has had a certificate revoked for grounds that still constitute a disqualifying status under this chapter.
 - b. Denial of Annual Certificate: Any of the following is a basis for denial of issuance of an annual certificate:
 - i. The information submitted by the applicant at the time of the granting of the temporary certificate is found to be incomplete or incorrect.
 - ii. Since the submission of the completed application, the applicant is subject to a previously undisclosed or unknown disqualifying status.
 - iii. Applicant fails to make payment of the required fees.
 - iv. Since the submission of the application, the City has received a substantiated report regarding the past or present conduct of the applicant for a violation of this chapter.
 - v. Since the submission of the application, the City or other governmental entity has either criminally convicted or obtained a civil injunction against the applicant for violating federal, state, or municipal laws in a manner rising to the level of a disqualifying status.
 - vi. Since the submission of the application, a final civil judgment has been entered against the applicant indicating that:
 1. The applicant had either engaged in fraud, or intentional misrepresentation; or
 2. That a debt of the applicant was non-dischargeable in bankruptcy pursuant to 11 U.S.C. § 523(a)(2), (a)(4), (a)(6), or (a)(19).
 - c. Denial of Annual Certificate Renewal: Any of the following is a basis for denial of an annual certificate renewal:
 - i. The information submitted by the applicant when seeking renewal of a certificate is found to be incomplete or incorrect.
 - ii. Since the submission of the renewal application, the applicant is subject to a previously undisclosed or unknown disqualifying status.

- iii. Failure to make payment of any required fee.
 - iv. Since the submission of the application or granting of a certificate, the City has received a substantiated report regarding the past or present conduct of the solicitor in violation of this chapter.
 - v. The City or other governmental entity has either criminally convicted or obtained a civil injunction against the applicant for violating federal, state, or municipal laws in a manner rising to the level of a disqualifying status.
 - vi. Since the submission of the application, a final civil judgment has been entered against the applicant indicating that:
 - 1. Applicant had either engaged in fraud, or intentional misrepresentation, or;
 - 2. That a debt of the applicant was non-dischargeable in bankruptcy pursuant to 11 U.S.C. § 523(a)(2), (a)(4), (a)(6), or (a)(19).
2. Suspension or Revocation: The City shall either suspend or revoke a certificate when any of the basis warranting the denial of a certificate occurs.
3. Notice of Denial or Suspension: Upon determination of the licensing officer to deny an applicant's completed application or to suspend a registered solicitor's certificate, the City shall cause written notice to be sent to the applicant or registered solicitor by the method indicated in the completed application. The notice shall specify the grounds for the denial or suspension, the documentation or information the City relied on to make the decision, the availability of the documentation for review by applicant upon one (1) business day notice to the City, and the date upon which the denial or suspension of the certificate shall take effect. It shall further state that the applicant or registered solicitor shall have ten (10) business days from the receipt of the notice of denial or suspension to appeal the same. The denial or suspension of the certificate shall be effective no sooner than two (2) calendar days from the date the notice is sent, unless that suspension is because of exigent circumstances outlined in section 05.32.030, in which case, the suspension is effective immediately. The denial or suspension shall remain effective unless and until the order is rescinded, overturned on appeal, or determined by a court to be contrary to equity or law. Failure to appeal the suspension of a certificate automatically results in its revocation.

05.32.150. Appeal.

An applicant or registered solicitor whose certificate has been denied or suspended shall have the right to appeal to the Appeal Authority (also known as the "Appeals Officer"). The following is also included:

- 1. Standing: Any appeal must be submitted by the applicant, the responsible person or entity, or authorized legal counsel.
- 2. Procedure: The following procedures and requirements shall apply to all appeals:
 - a. The appeal must be submitted in writing to the City Recorder or designee within ten (10) business days of the decision from which the appeal is taken.
 - b. The appeal shall describe in detail the nature of the appeal, the action complained of, and the grounds for appeal.
 - c. Upon request of the applicant or registered solicitor, within one business day, the City will make available any information upon which it relied in making the determination to either deny or suspend the certificate.

3. **Standard of Review:** The Appeals Officer shall review, de novo, all written information submitted by the applicant or registered solicitor to the licensing officer, any additional information relied upon by the licensing officer as the basis for denial, suspension or revocation, and any additional information supplied by the City, applicant or registered solicitor. Any additional information submitted by any party to the appeal to the Appeals Officer shall be simultaneously submitted to the opposing party. If requested, any party shall have three (3) business days to submit rebuttal documentation to the Appeals Officer regarding the additional information submitted by the opposing party.
4. **Decision:** The Appeals Officer will render a decision no later than fifteen (15) calendar days from the date the appeal was taken, unless an extension of time is agreed upon by the parties. In the event that any party to the appeal submits rebuttal information as allowed in Section 05.32.150, the fifteen (15) calendar days shall be extended to include the additional three (3) days for rebuttal.
 - a. The denial or suspension of the certificate shall be reversed by the Appeals Officer if upon review of the written appeal and information submitted, the Appeals Officer finds that the licensing officer made a material mistake of law or fact in denying or suspending the applicant or registered solicitor's certificate.
 - b. If the written appeal and information submitted indicates that the licensing officer properly denied or suspended the certificate of the applicant or registered solicitor, the denial or suspension of the certificate shall be affirmed and constitute a determination that the suspended certificate is revoked.
 - c. The decision of the Appeals Officer shall be delivered to the applicant or registered solicitor by the means designated in the completed application, or as otherwise agreed during the appeal process.
5. **Exhaust Administrative Remedies Required:** The applicant is required to exhaust all administrative remedies relating to an application before filing suit or initiating a proceeding in any court.
 - a. After the ruling of the Appeals Officer, the applicant or solicitor is deemed to have exhausted all administrative remedies with the City.
 - b. Nothing herein shall impede or interfere with the Applicant's, Solicitor's, or City's right to seek relief in a court of competent jurisdiction after exhausting all administrative remedies.

05.32.160. Deceptive Soliciting Practices Prohibited.

The following activities are prohibited:

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

05.32.170. Notice of “No Solicitation.”

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

05.32.180. Duties of Solicitors.

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

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

05.32.190. Time of Day Restrictions.

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

05.32.200. Buyer’s Right to Cancel.

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

05.32.210. Penalties.

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

**Chapter 05.36.
APARTMENT HOUSES, DUPLEXES AND
MOBILE HOME PARKS**

05.36.010. Definitions.

05.36.020. License Requirement.

05.36.030. License: Inspection Required Prior to Issuance.

05.36.040. License: Application.

05.36.050. License: Contents.

05.36.060. License: Fee.

05.36.070. License: Revocation.

05.36.080. Violation: Misdemeanor.

05.36.010. Definitions.

For the purposes of this title:

1. Apartment House: An apartment house shall consist of three or more rented units upon a plot of property.
2. Duplex: A building arranged or designed to be occupied by two families, the structure having only two dwelling units.
3. Mobile Home, Mobile Home Park, and Mobile Home Space as used in this Chapter are defined in Section 05.02.020., Definitions.

05.36.020. License Requirement.

It is unlawful for any person or party to engage in or carry on the business of operating an apartment house, duplex or mobile home park, as defined, without first procuring a business license for the same.

05.36.030. License: Inspection Required Prior to Issuance.

Each apartment house, duplex and mobile home within the City shall be inspected by the City building inspector or his agents to ascertain the condition of safety and sanitation thereof prior to the issuance of such license. Any such apartment house, duplex, mobile home park shall be inspected annually prior to the issuance of each annual business license therefore.

05.36.040. License: Application.

Each apartment house, duplex, and mobile home park owner shall submit an application in writing on forms furnished by the City for an apartment house, duplex or mobile home park business license. The application forms shall grant to the City the right to make an inspection of the apartment house, duplex or mobile home park premises prior to the issuance of the initial and each subsequent annual apartment house, duplex and mobile home park license. Upon receipt of an approved inspection of the apartment house, duplex or mobile home park premises by the City building inspector or his agents, said application shall be submitted to the City Council for its approval; upon approval by the City Council said license shall be issued to applicant under the signatures of the Mayor and City Recorder.

05.36.050. License: Contents.

Every license shall specify by name, the person, and firm or party to whom it is issued, and shall designate the number of apartment units or mobile home park spaces and the place at which the apartment house, duplex or mobile home park business shall be carried on.

05.36.060. License: Fee.

The annual license fees for apartment houses, duplexes and mobile home parks shall be set from time to time by resolution of the City Council. All license fees shall be due and payable annually on or before February 16th of each calendar year. The license fees for newly constructed apartment houses will be due and payable forty-five (45) days after the certificate of occupancy is issued by the City. If a license fee is paid after the times specified above, a fifty (50%) percent penalty will be added.

05.36.070. License: Revocation.

The City Council reserves the right to revoke any apartment house, duplex or mobile home park license as issued hereunder for just cause, after proper notice to and right to hearing by the holder thereof, according to law.

05.36.080. Violation: Misdemeanor.

Any person who shall engage in the operation of an apartment house, duplex or mobile home park as defined in this title, without first obtaining a license as provided in this chapter shall be deemed guilty of a misdemeanor.

**Chapter 05.40.
FEES**

- 05.40.010. Assessment Generally.**
- 05.40.020. Fees.**
- 05.40.030. Time of Payment and Term of License.**

05.40.010. Assessment Generally.

The license fee levied and assessed upon any business, profession, or calling engaging in business with the City, shall be assessed as hereinafter set forth. The City may modify the amounts chargeable as license fees from time to time by resolution, and upon enacting said resolution the ordinance codified in this chapter shall be considered modified, as set forth therein.

05.40.020. Fees.

License fees for businesses other than professional services as previously described in this title, and excluding specifically designated activities for which a specific business license fee is hereafter designated, shall be computed as follows:

1. Home business (if gross receipts are less than \$5,000.00)	\$10.00
2. Professional services	\$25.00
3. Wholesale business	\$25.00
4. Retail business	\$25.00
5. Contractors	\$25.00
6. Class A beer license	\$200.00
7. Peddlers, Solicitors, and transient merchants	\$100.00
8. Separate business selling Christmas trees	\$25.00
9. Public exhibitions (per day)	\$25.00
10. Pinball, music, video, mechanical amusement machines (each)	\$25.00
11. Candy, food, cigarette vending machines (each)	\$5.00
12. Building inspection fee	\$60.00

*If license is paid after February 1st or business is conducted before purchasing license, add penalty fee of fifty (50%) percent of total license fee.

**Businesses not listed will be assessed fees by comparative use of those which are listed.

05.40.030. Time of Payment and Term of License.

All licenses as referred to in this title shall be payable in advance for the current calendar year, or part thereof, without pro-ration for any partial year. All licenses are due and payable on or before the first day of January of the current calendar year for which the license has been applied for, for year-around continuing business or the forty-fifth day after commencing business for new or seasonable businesses, professions or activities. A fifty (50%) percent penalty of the regular license fee shall be added for any license fee paid after February 1st.

Legislative History

Chapters 05.28, 05.36, and 05.40 were adopted in 1983 by Ord. 124.

Previous ordinance adopted 1/24/08 which adopted Chapter 05.02 and repealed Chapter 05.04, Chapter 05.08, Chapter 05.12, Chapter 05.16, Chapter 05.20, and Chapter 05.24.

Previous ordinance adopted 2/28/08, which adopted Chapter 05.32.

New numbering system and codification into 2008 Perry Municipal Code: 12/11/2008